State of Iowa

1987

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1987 REGULAR SESSION

And The

1987 FIRST AND SECOND EXTRAORDINARY SESSIONS

Of The

Seventy-Second General Assembly

Of The

State Of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED FORTY-FIRST YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE TWELFTH DAY OF JANUARY AND ENDED ON THE TENTH DAY OF MAY, A.D. 1987

FIRST EXTRAORDINARY SESSION BEGUN ON THE TWENTY-FIRST DAY OF MAY
AND ENDED ON THE TWENTY-THIRD DAY OF MAY, A.D. 1987

SECOND EXTRAORDINARY SESSION HELD ON THE TWENTY-SEVENTH DAY OF OCTOBER, A.D. 1987

JO ANN BROWN
CODE EDITOR

PHYLLIS BARRY
DEPUTY CODE EDITOR

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GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

July 1987

STATE OF IOWA
Office of Code Editor

CERTIFICATION

We, Donovan Peeters, Director, Legislative Service Bureau; JoAnn Brown, Code Editor of the Code of Iowa; and Phyllis Barry, Deputy Code Editor, certify that, to the best of our knowledge, the Acts and Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the Statutes of this State; and constitute the Acts and Resolutions of the 1987 Regular Session and the 1987 First and Second Extraordinary Sessions of the Seventy-second General Assembly of the State of Iowa.

STATUTES AS EVIDENCE

Iowa Code section 622.59 is as follows:

622.59 Printed copies of statutes. 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.

EXPLANATORY NOTES

Court rules. This volume includes the Rules and Forms of the Supreme Court submitted to the Legislative Council as provided in Iowa Code section 602.4202.

Typographic style. The Acts and Resolutions in this volume are printed exactly as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlines indicate new material added to existing statutes; strike-through type indicates deleted material. Italics and asterisks in appropriation Acts indicate material vetoed by the Governor. The asterisks are placed where the brackets initialed by the Governor appear on the original enrolled Acts on file in the office of the Secretary of State.

Temporary Code numbers. CODE NUMBERS ASSIGNED TO NEW SECTIONS AND SUBSECTIONS IN THE ACTS ARE TEMPORARY AND MAY BE CHANGED WHEN THE 1987 CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts at the back of the 1987 Iowa Code Supplement.

Effective dates. The Acts took effect on or before July 1, 1987, unless otherwise provided. See chapter 1, Senate File 68. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

Resolutions. Concurrent resolutions and Senate and House resolutions are not listed this year. See bound Senate and House Journals for adopted resolutions.

Orders for legal publications should be addressed to the Printing Division, Grimes Building, Des Moines, Iowa 50319.

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STATE ROSTER

List of elective state officers and deputies, Supreme Court justices, judges of the Court of Appeals, and members of the Seventy-second General Assembly of the State of Iowa, inserted in accordance with the requirements of Section 14.10(4) of the 1987 Code of Iowa.

ELECTIVE OFFICERS

Name and Office	County from which originally chosen
GOVERNOR	
TERRY E. BRANSTAD	Winnebago
Douglas E. Gross, Executive Assistant	Polk
LIEUTENANT GOVERNOR	
JO ANN ZIMMERMAN	Dallas
Julie Stone, Administrative Assistant	Polk
Brett Toresdahl, Administrative Assistant	Story
SECRETARY OF STATE	
ELAINE BAXTER	Des Moines
Sandra Steinbach, Director of Elections	Polk
Harry Davis, Director of Uniform Commercial Code	Polk
Marilyn Larson, Director of Corporations/Deputy Secretary of State	Des Moines
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
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	
DALE M. COCHRAN	Webster
Shirley Danskin-White, Deputy Secretary	Polk
Greg Cusack, Administrative Division Director	Polk
Ed Lowe, Agriculture Marketing Division Director	Polk
Daryl Frey, Laboratory Division Director	Polk
Teresa Hay, Regulatory Division Director	Polk
James Gulliford, Soil Conservation Division Director	Polk
William H. Greiner, Agriculture Development Authority Director	Polk
ATTORNEY GENERAL	
THOMAS J. MILLER	Clayton
Earl Willits, Deputy Attorney General	Polk
Gordon Allen, Deputy Attorney General	Polk
Elizabeth Osenbaugh, Deputy Attorney General	Polk
John Perkins, Deputy Attorney General	Polk

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
W. Ward Reynoldson, C.J.	Des Moines	Dec. 31, 1988
David Harris	Jefferson	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
Louis Lavorato	Des Moines	Dec. 31, 1988
Linda K. Neuman	Davenport	Dec. 31, 1988

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

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Boswell, Leonard L. Davis City	Farmer, Small Businessman	46th—Adair, Adams, Cass, Clarke, *Decatur*, Ringgold, Taylor, Union	71
Bruner, Charles H. Ames		37th—*Story*	68, 69, 69X, 69XX, 70, 71
Carr, Bob Dubuque	Securities Broker	18th—*Dubuque*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Coleman, C. Joseph Clare	Farmer, Businessman	7th—Humboldt, *Webster*	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Corning, Joy Cedar Falls	Homemaker	12th—*Black Hawk*	71
Deluhery, Patrick J. Davenport	College Teacher	21st—*Scott*	68, 69, 69X, 69XX, 70, 71
Dieleman, Wm. W. (*Bill*) Pella	Life Insurance Underwriter	35th—Jasper, *Marion*, Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Doyle, Donald V. Sioux City	Lawyer	2nd—Ida, Monona, *Woodbury*	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Drake, Richard F. Muscatine	General Farming	28th—Des Moines, Louisa, *Muscatine*, Washington	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Fraise, Eugene S. Fort Madison	Farmer	31st—Des Moines, *Lee*, Van Buren	71(2nd)
Fuhrman, Linn Aurelia	Farmer	5th—*Buena Vista*, Calhoun, Pocahontas, Sac, Webster	None
Gentleman, Julia Des Moines	Housewife	41st—*Polk*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Gettings, Donald E. Ottumwa	Retired—Deere & Co.	33rd—Appanoose, Davis, *Wapello*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71
Goodwin, Norman J. DeWitt	Retired County Extention Director	19th—Cedar, *Clinton*	68, 69, 69X, 69XX, 70, 71
Gronstal, Michael E. Council Bluffs		50th—*Pottawattamie*	70, 71
Hall, Hurley W. Marion	Retired Telephone Engineer, Farmer	24th—Buchanan, Delaware, *Linn*	68, 69, 69X, 69XX, 70, 71
Hannon, Beverly A. Anamosa	Homemaker, Student	22nd—Cedar, *Jones*, Linn	71
Hester, Jack W. Honey Creek	Farmer	49th—Cass, Harrison, *Pottawattamie*, Shelby	68, 69, 69X, 69XX, 70, 71
Holden, Edgar H. Davenport	Entrepreneur	20th—*Scott*	62, 63, 64, 65, 67(2nd), 68, 69, 69X, 69XX, 70, 71
Holt, Lee W. Spencer	Automobile Dealer	6th—*Clay*, Dickinson, Emmet, Palo Alto	68, 69, 69X, 69XX, 70, 71

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Horn, Wally E. Cedar Rapids	Teacher	25th—*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Hultman, Calvin O. Red Oak	Businessman	47th—Fremont, Mills, *Montgomery*, Page, Pottawattamie	65, 66, 67, 67X, 68, 69, 69X 69XX, 70, 71
Husak, Emil J. Toledo	Farmer	38th—Benton, Black Hawk, Marshall, *Tama*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Hutchins, Bill Audubon	Businessman	48th—*Audubon*, Carroll, Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Jensen, John W. Plainfield	Farmer	11th—Black Hawk, *Bremer*, Butler, Grundy	68, 69, 69X, 69XX, 70, 71
Kinley, George R. Des Moines	Owner, Driving Range & Golf Sales	40th—*Polk*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Lind, Jim Waterloo	Service Station Owner-Operator	13th—*Black Hawk*	71(2nd)
Lloyd Jones, Jean Iowa City	Legislator	23rd—*Johnson*	68, 69, 69X, 69XX, 70, 71
Mann, Thomas, Jr. Des Moines	Attorney	43rd—*Polk*	70, 71
Miller, Alvin V. Ventura	Insurance Agency	10th—*Cerro Gordo*, Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Miller, Charles P. Burlington	Doctor of Chiropractic	30th—*Des Moines*, Henry	60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Murphy, Larry Oelwein	Printing Broker, Writer	14th—Black Hawk, Buchanan, Chickasaw, *Fayette*	71
Nystrom, John N. Boone	Legislator	44th—*Boone*, Carroll, Greene, Story	64, 65, 66, 67, 67X, 68, 69, 69X 69XX, 70, 71
Palmer, William D. Des Moines	Insurance Executive	39th—*Polk*	61, 62, 63, 64, 65, 66, 67, 67X 68, 69, 69X, 69XX, 70, 71
Peterson, John A. Albia	Livestock Market Owner	34th—Clarke, Lucas, *Monroe*, Warren, Wayne	71(2nd)
Priebe, Berl E. Algona	Farmer, Businessman	8th—Hancock, Humboldt, *Kossuth*, Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Readinger, David M. Des Moines	Sales	42nd—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Rensink, Wilmer Sioux Center	Farmer	6—Plymouth, *Sioux*, Woodbury	70, 71
Rife, Jack Moscow	Farmer	29th—*Muscatine*, Scott	70, 71
Riordan, James R. Waukee	Nursery Owner	45th—Adair, *Dallas*, Guthrie, Madison	71(2nd)
Schwengels, Forrest V. Fairfield	Legislator, Public Service Consultant	32nd—*Jefferson*, Keokuk, Mahaska, Wapello	65, 66, 67, 67X, 68, 69, 69X 69XX, 70, 71
Scott, Kenneth D. Clear Lake	Realtor, Farmer, Auctioneer	15th—*Cerro Gordo*, Chickasaw, Floyd, Howard, Mitchell	64, 65, 66
Soorholtz, John E. Melbourne	Farmer-Pork Producer	36th—Jasper, *Marshall*	70(2nd), 71
Sturgeon, Al Sioux City	Legislator	1st—*Woodbury*	69, 70, 71
Taylor, Ray Steamboat Rock	Farmer, Business	9th—Franklin, Hamilton, Hancock, *Hardin*, Wright	65, 66, 67, 67X, 68, 69, 69X 69XX, 70, 71
Tieden, Dale L. Elkader	Retired	16th—Allamakee, *Clayton*, Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X 68, 69, 69X, 69XX, 70, 71
Vande Hoef, Richard Harris	Farmer	4th—Cherokee, Clay, Lyon, O'Brien, *Osceola*, Sioux	69, 69X, 69XX, 70, 71
Varn, Richard Solon	Law Student	54th—Iowa, *Johnson*, Poweshiek	70, 71
Wells, James D. Cedar Rapids	Cereal Company Employee	26th—*Linn*	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Welsh, Joe J. Dubuque	Businessman, Private Investigator	17th—*Dubuque*, Jackson, Jones	68, 69, 69X, 69XX, 70, 71

Name and Residence	Occupation	Representative District	Former Legislative Service
Adams, Janet Webster City	Teacher	14th—*Hamilton*, Webster	None
Arnould, Robert C. Davenport	Legislator	42nd—*Scott*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71
Avenson, Donald D. Oelwein	Tool & Die Maker	28th—Chickasaw, *Fayette*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Beaman, Jack Osceola	Self-employed	91st—Adair, Adams, Cass, *Clarke*, Union	None
Beatty, Linda Indianola	Homemaker	68th—*Warren*	71
Bennett, Wayne Galva	Farmer	4th—*Ida*, Monona, Woodbury	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Bisignano, Tony Des Moines	Local Union President	80th—*Polk*	None
Black, Dennis Grinnell	Jasper County Conservation Board Director	71st—*Jasper*, Marshall	70, 71
Blanshan, Eugene Scranton	Farmer	88th—Boone, Carroll, *Greene*	70, 71
Brammer, Philip E. Cedar Rapids	Insurance Agent	50th—*Linn*	70, 71
Branstad, Clifford O. Thompson	Farmer	16th—Hancock, Kossuth, *Winnebago*	68, 69, 69X, 69XX, 70, 71
Buhr, Florence D. Des Moines	Legislator	85th—*Polk*	70, 71
Carpenter, Dorothy F. West Des Moines	Legislator	82nd—*Polk*	69, 69X, 69XX, 70, 71
Chapman, Kay Cedar Rapids	Lawyer	49th—*Linn*	70, 71
Clark, Betty Jean Rockwell	Legislator	29th—*Cerro Gordo*, Floyd, Mitchell	67, 67X, 68, 69, 69X, 69XX, 70, 71
Cohoon, Dennis Burlington	Teacher	60th—*Des Moines*	None
Connolly, Michael W. Dubuque	Teacher	35th—*Dubuque*	68, 69, 69X, 69XX, 70, 71
Connors, John H. Des Moines	Retired Fire Captain and Labor Arbitrator	79th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Cooper, James J. Russell	Farmer	67th—Clarke, Monroe, *Lucas*, Wayne	70, 71
Corbett, Ron J. Cedar Rapids	Insurance Representative	52nd—*Linn*	None
Corey, Virgil E. Morning Sun	Farmer	55th—Des Moines, *Louisa*, Washington	68, 69, 69X, 69XX, 70, 71

Name and Residence	Occupation	Representative District	Former Legislative Service
Daggett, Horace C. Kent	Farmer	92nd—*Adams*, Decatur, Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
De Groot, Kenneth R. Doon	Farmer	8th—*Lyon*, O'Brien, Osceola, Sioux	68, 69, 69X, 69XX, 70, 71
Diemer, Marvin E. Cedar Falls	Retired	23rd—*Black Hawk*	68, 69, 69X, 69XX, 70, 71
Doderer, Minnette F. Iowa City	Legislator	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71
Dvorsky, Robert E. Coralville	Legislator	54th—Iowa, *Johnson*	None
Eddie, Russell J. Storm Lake	Hog Producer-Farmer	10th—*Buena Vista*, Pocahontas	None
Fey, Thomas H. Davenport	Legislator	41st—*Scott*	69(2nd), 70, 71
Fogarty, Daniel P. Cylinder	Farmer	11th—Clay, *Palo Alto*	70, 71
Fuller, Robert D. Steamboat Rock	Farmer	18th—Franklin, Hamilton, *Hardin*	None
Garman, Teresa Ames	Farmer	87th—Boone, *Story*	None
Groninga, John Mason City	College Instructor	20th—*Cerro Gordo*	70, 71
Gruhn, Josephine Spirit Lake	Farm Owner/ Operator	12th—*Dickinson*, Emmet	70, 71
Halvorson, Rod Fort Dodge	Real Estate Salesman, Political Consultant	13th—*Webster*	68, 69, 69X, 69XX, 70, 71
Halvorson, Roger A. Monona	Insurance-Real Estate Broker	32nd—Allamakee, *Clayton*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Hammond, Johnie Ames	Legislator	74th—*Story*	70, 71
Hansen, Steve D. Sioux City	Director, Woodbury Co. Juvenile Detention Center	1st—*Woodbury*	None
Hanson, Darrell R. Manchester	Insurance Adjuster	48th—Buchanan, *Delaware*, Linn	68, 69, 69X, 69XX, 70, 71
Harbor, William H. Henderson	Grain Elevator Owner-Operator	94th—*Mills*, Montgomery, Pottawattamie	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX, 70, 71

Name and Residence	Occupation	Representative District	Former Legislative Service
Harper, Patricia M. Waterloo	Educator	26th—*Black Hawk*	None
Hatch, Jack Des Moines	Owner, Research Consulting Firm	81st—*Polk*	71
Haverland, Mark Polk City	College Teacher	77th—*Polk*	70, 71
Hermann, Donald F. Bettendorf	Retired Industrial Relations Manager	40th—*Scott*	70, 71
Hester, Joan L. Honey Creek	Farm Wife	98th—Harrison, *Pottawattamie*	71
Holveck, Jack Des Moines	Attorney	84th—*Polk*	70, 71
Hummel, Kyle Vinton	Real Estate Broker, Appraiser	76th—*Benton*, Black Hawk	68, 69, 69X, 69XX, 70, 71
Jay, Daniel Centerville	Attorney	66th—*Appanoose*, Davis, Wapello	68, 69, 69X, 69XX, 70, 71
Jochum, Thomas J. Dubuque	Legislator	36th—*Dubuque*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Johnson, Paul W. Decorah	Farmer	31st—Allamakee, *Winneshiek*	71
Knapp, Donald J. Cascade	Legislator	33rd—*Dubuque*, Jones	69(2nd), 70, 71
Koenigs, Deo A. McIntire	Farmer	30th—Chickasaw, Howard, *Mitchell*	70, 71
Kremer, Joseph M. Jesup	Farmer	27th—Black Hawk, *Buchanan*	71
Lageschulte, Raymond Waverly	Farm Manager, Insurance Adjuster	22nd—Black Hawk, *Bremer*, Butler	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Lundby, Mary A. Marion	Legislator	47th—*Linn*	None
Maulsby, Ruhl Rockwell City	Owner Operator Livestock Farm	9th—*Calhoun*, Sac, Webster	68, 69, 69X, 69XX, 70, 71
May, Dennis Kensett	Farmer, Real Estate Broker	19th—Cerro Gordo, Winnebago, *Worth*	None
McKean, Andy Anamosa	Lawyer, College Instructor	44th—*Jones*, Linn	68, 69, 69X, 69XX, 70, 71
McKinney, Wayne H., Jr. Waukee	Lawyer, Farmer	89th—*Dallas*	None
Metcalf, Janet S. Des Moines	Self-employed	83rd—*Polk*	71
Miller, Tom H. Cherokee	Journalist	7th—*Cherokee*, Clay, O'Brien	71

Name and Residence	Occupation	Representative District	Former Legislative Service
Muhlbauer, Louis J. Manilla	Agriculture, Business	96th—*Crawford*, Shelby	70, 71
Mullins, Sue Corwith	Farmer	15th—Humboldt, *Kossuth*, Palo Alto, Pocahontas	68, 69, 69X, 69XX, 70, 71
Neuhauser, Mary Iowa City	Attorney	46th—*Johnson*	None
Norrgard, Clyde L. Danville	Administrator, Clergyman	59th—*Des Moines*, Henry	None
Ollie, C. Arthur Clinton	Teacher	38th—*Clinton*	70, 71
Osterberg, David Mt. Vernon	Economic Consultant	43rd—Cedar, *Linn*	70, 71
Parker, Edward G. Mingo	Contractor	70th—*Jasper*, Marion, Polk, Warren	70, 71
Paulin, Donald J. Le Mars	Independent Manufacturers Representative, Kitchen Retailer	5th—*Plymouth*, Woodbury	70, 71
Pavich, Emil S. Council Bluffs	Cereal Co. Employee	100th—*Pottawattamie*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Pellett, Wendell C. Atlantic	Farmer	97th—*Cass*, Harrison, Pottawattamie, Shelby	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Peters, Michael R. Sioux City	Legislator	2nd—*Woodbury*	None
Petersen, Daniel F. Muscatine	Farmer	57th—*Muscatine*, Scott	71(2nd)
Peterson, Michael K. Carroll	Legislator	95th—Audubon, *Carroll*, Shelby	71
Plasier, Lee Sioux Center	Manager Wholesale Co.	6th—Plymouth, *Sioux*	None
Platt, Donald R. Muscatine	Legislator	56th—Louisa, *Muscatine*	71
Poncy, Charles N. Ottumwa	Retired Public School Teacher	65th—*Wapello*	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71
Renaud, Dennis L. Altoona	Fire Medic, D.M. Fire Dept., Barber Business	78th—*Polk*	69, 69X, 69XX, 70, 71
Renken, Robert H. Aplington	Farmer	21st—Butler, *Grundy*	68(2nd), 69, 69X, 69XX, 70, 71
Rosenberg, Ralph Ames	Attorney	73rd—*Story*	69(2nd), 70, 71
Royer, Bill D. Essex	Real Estate Broker, Appraiser	93rd—Fremont, Mills, *Page*	70, 71

Name and Residence	Occupation	Representative District	Former Legislative Service
Running, Richard V. Cedar Rapids	Quality Control Technologist	51st—*Linn*	69, 69X, 69XX, 70, 71
Schnekloth, Hugo Eldridge	Farmer	39th—*Scott*	67, 67X, 68, 69, 69X, 69XX, 70, 71
Schrader, David Monroe	Businessman, Vending Route Operator	69th—*Marion*	None
Sherzan, Gary Des Moines	Parole Officer	86th—*Polk*	70, 71
Shoning, Don Sioux City	Legislator	3rd—*Woodbury*	71
Shoultz, Don Waterloo	Teacher	25th—*Black Hawk*	70, 71
Siegrist, J. Brent Council Bluffs	Teacher	99th—*Pottawattamie*	71
Skow, Bob Guthrie Center	Insurance, Real Estate Broker	90th—Adair, Dallas, *Guthrie*, Madison	70, 71
Spear, Clay Burlington	Retired Postal Service Employee	61st—*Des Moines*, Lee	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Stromer, Delwyn Garner	Farmer, Legislator	17th—Franklin, *Hancock*, Wright	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71
Stueland, Vic Grand Mound	Farmer, Businessman	37th—Cedar, *Clinton*	69, 69X, 69XX, 70, 71
Svoboda, E. Jane Clutier	Homemaker, Farmwife	75th—Black Hawk, Marshall, *Tama*	None
Swartz, Thomas E. Marshalltown	Legislator	72nd—*Marshall*	69, 69X, 69XX, 70, 71
Swearingen, George R. Sigourney	Retired Vocational Agriculture Instructor, Self-employed, Legislator	63rd—Jefferson, *Keokuk*, Wapello	68, 69, 69X, 69XX, 70, 71
Tabor, David M. Baldwin	Farmer	34th—Dubuque, *Jackson*	70, 71
Teaford, Jane Cedar Falls	Legislator	24th—*Black Hawk*	71
Tyrrell, Phil North English	Owner-Operator Independent Insurance Agency	53rd—*Iowa*, Poweshiek	68, 69, 69X, 69XX
Van Camp, Mike Davenport	Electrician	58th—*Scott*	70, 71
Van Maanen, Harold Oskaloosa	Farmer	64th—Keokuk, *Mahaska*, Wapello	68, 69, 69X, 69XX, 70, 71
Wise, Philip Keokuk	Teacher	62nd—*Lee*, Van Buren	None

IOWA CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

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(202) 224-3254

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(319) 393-6374

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Davenport, Iowa 52801
(319) 322-1338

Senator Charles Grassley (R)
135 Hart Senate Office Bldg.
Washington, D.C. 20510
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721 Federal Building
Des Moines, Iowa 50309
(515) 284-4890

210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701
(319) 232-6657

206 Federal Building
101 First Street, S.E.
Cedar Rapids, Iowa 52401
(319) 399-2555

103 Federal Courthouse Bldg.
320 6th Street
Sioux City, Iowa 51101
(712) 233-3331

116 Federal Building
131 E. 4th Street
Davenport, Iowa 52801
(319) 322-4331

UNITED STATES REPRESENTATIVES

First District

Congressman Jim Leach (R)
1514 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-6576

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Davenport, Iowa 52801
(319) 326-1841

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107 E. 2nd Street
Ottumwa, Iowa 52501
(515) 682-8549

Second District

Congressman Thomas J. Tauke (R)
2244 Rayburn Office Building
Washington, D.C. 20515
(202) 225-2911

698 Central Avenue
Dubuque, Iowa 52001
(319) 557-7740

1756 First Avenue N.E.
Cedar Rapids, Iowa 52402
(319) 366-8709

116 South 2nd Street
Clinton, Iowa 52732
(319) 242-6180

Third District

Congressman David Nagel (D)
214 Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-3301

524 Wash Street
Waterloo, Iowa 50701
(319) 234-3623

102 S. Clinton Street
Iowa City, Iowa 52240
(319) 351-0789

Fourth District

Congressman Neal Smith (D)
2373 Rayburn Office Bldg.
Washington, D.C. 20515
(202) 225-4426

544 Insurance Exchange Bldg.
Des Moines, Iowa 50309
(515) 284-4634

215 Post Office Bldg.
P.O. Box 1748
Ames, Iowa 50010
(515) 232-5221

UNITED STATES REPRESENTATIVES — Continued

Fifth District

Congressman James Lightfoot (R)
1609 Longworth House Office Building
Washington, D.C. 20515
(202) 225-3806

Box 1984
Shenandoah, Iowa 51601
(712) 246-1984

105 Pearl Street
Council Bluffs, Iowa 51501
(712) 325-5572

Suite 7
Walden Plaza
Fort Dodge, Iowa 50501
(515)955-5319

220 West Salem
Indianola, Iowa 50125
(515) 961-0591

Sixth District

Congressman Fred Grandy (R)
1711 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-5476

508 Pierce
Sioux City, Iowa 51101
(712) 252-3733

211 North Delaware
Mason City, Iowa 50401
(515) 424-0233

CONDITION OF STATE TREASURY

Receipts, Disbursements and Balances in the Several Funds For the Fiscal Period Ending June 30, 1986

	Balance June 30, 1985	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1986
General Fund	$ 20,357,802	$ 3,029,059,815	$ 3,049,417,617	$ 3,003,433,137	$ 45,984,480
Special Revenue Fund	137,933,906	1,086,548,113	1,224,482,019	603,230,016	621,252,003
Capital Project Fund	1,741,273	16,888,974	18,630,247	16,497,867	2,132,380
Debt Service Fund	455,045,010	32,257,678	487,302,688	484,541,558	2,761,130
Enterprise Fund	465,075	193,010,081	193,475,156	188,172,475	5,302,681
Internal Service Fund	6,223,267	32,605,877	38,829,144	33,867,008	4,962,136
Expendable Trust Fund	7,044,474	250,055,307	257,099,781	218,926,819	38,172,962
Non Expendable Trust Fund	5,492,755	11,949	5,504,704	1,022,679	4,482,025
Pension Fund	2,462,616,558	713,660,117	3,176,276,675	150,694,976	3,025,581,699
Trust and Agency Fund	96,874,344	1,948,799,003	2,045,673,347	1,949,948,805	95,724,542
Totals	$ 3,193,794,464	$ 7,302,896,914	$ 10,496,691,378	$ 6,650,335,340	$ 3,846,356,038

Balance July 1, 1985	$ 3,193,794,464
Receipts and Transfers	$ 7,302,896,914
Total Available	$10,496,691,378
Redemptions and Disbursements	$ 6,650,335,340
Balance June 30, 1986	$ 3,846,356,038

DEPARTMENT OF REVENUE AND FINANCE
SEPTEMBER 11, 1987

ANALYSIS BY CHAPTERS

REGULAR SESSION

1987 Regular Session

Of The

Seventy-Second General Assembly

Of The

State Of Iowa

CHAPTER 1

EFFECTIVE DATES OF ACTS AND RESOLUTIONS

S.F. 68

AN ACT relating to the effective dates of laws and resolutions passed by the general assembly, providing for the applicability of the Act, and providing an effective date.

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

Section 1. Section 3.7, Code 1987, is amended to read as follows:

3.7 ~~ACTS~~ EFFECTIVE ~~JULY 1 OR AUGUST 15~~ DATES OF ACTS AND RESOLUTIONS.

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

2. All Acts and resolutions of a public nature which are passed prior to July 1 at a regular session of the general assembly and which are approved by the governor on or after ~~such~~ July 1, shall take effect ~~on August 15 next~~ forty-five days after approval. However, this ~~section~~ subsection shall not apply to Acts provided for in section 3.12~~,~~ or Acts and resolutions which specify when they take effect~~, or Acts which take effect by publication~~.

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

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

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

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

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

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

Sec. 2. Sections 3.8, 3.9, 3.10, 3.15, and 3.16, Code 1987, are repealed.

Sec. 3. This Act applies to all Acts and resolutions of the 1987 regular session and subsequent sessions of the general assembly.

Sec. 4. This Act takes effect upon enactment.

Approved February 19, 1987

CHAPTER 2

ACKNOWLEDGMENT FORMS

H.F. 129

AN ACT relating to forms of acknowledgements.

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

Section 1. Section 558.39, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 12. In the case of natural persons acting as custodian pursuant to chapter 565B or any other Uniform Transfers to Minors Act:

On this _____ day of _____ , 19_____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that the custodian executed the instrument as custodian for (name of minor) , under the (State) Uniform Transfers to Minors Act, as the voluntary act and deed of the person and of the custodian.

NEW SUBSECTION. 13. In the case of corporations or national banking associations acting as custodians pursuant to chapter 565B or any other Uniform Transfers to Minors Act:

On this _____ day of _____, 19_____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, to me personally known, who, 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 as custodian of (name of minor) , under the (State) Uniform Transfers to Minors Act, to be the voluntary act and deed of the person and of the custodian.

Approved February 26, 1987

CHAPTER 3

MOTOR VEHICLE PRICE DISCRIMINATION

S.F. 18

AN ACT to repeal the prohibition relating to price discrimination in the sale or lease of motor vehicles by a motor vehicle manufacturer, distributor, or wholesaler and providing an effective date.

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

Section 1. Section 551.12, Code 1987, is repealed.

Sec. 2. This Act takes effect immediately upon its enactment.

Approved February 26, 1987

CHAPTER 4

SCHOOL ENROLLMENT COUNTS

S.F. 39

AN ACT relating to the date on which the certified enrollment count is taken for pupils enrolled in public schools in this state.

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

Section 1. Section 282.8, Code 1987, is amended to read as follows:

282.8 ATTENDING SCHOOL OUTSIDE STATE.

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states. Notwithstanding section 282.1, arrangements between districts pursuant to the reciprocal agreements made under this section shall establish tuition and transportation fees in an amount acceptable to the affected boards, but the tuition and transportation fees shall not be less than the lower average cost per pupil for the previous school year of the two affected school districts. For the purpose of this section average cost per pupil for the previous school year is determined by dividing the district's operating expenditures for the previous school year by the number of children enrolled in the district on the ~~second~~ third Friday of September of the previous school year. A person attending school in another state shall continue to be treated as a pupil of the district of residence in the apportionment of the current school fund and the payment of state aid.

Sec. 2. Section 442.4, subsection 1, Code 1987, is amended to read as follows:

1. Basic enrollment for the budget year beginning July 1, ~~1979~~ 1987 and each subsequent budget year is determined by adding the resident pupils who were enrolled on the ~~second~~ third Friday of September in the base year in public elementary and secondary schools of the district and in public elementary and secondary schools in another district or state for which tuition is paid by the district. For the school year beginning July 1, 1975, and each succeeding

school year, pupils enrolled in prekindergarten programs other than special education programs are not included in basic enrollment.

Resident pupils of high school age for which the district pays tuition to attend an Iowa area school are included in basic enrollment on a full-time equivalent basis as of the ~~second~~ third Friday of September in the base year ~~for the budget year beginning July 1, 1979 and each subsequent budget year~~.

Shared-time and part-time pupils of school age, irrespective of the districts in which the pupils reside, are included in basic enrollment as of the ~~second~~ third Friday of September in the base year for the budget year beginning July 1, ~~1979~~ 1987 and each subsequent budget year, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time out-of-district pupil shall be reduced by the amount of any increased state aid occasioned by the counting of the pupil.

Pupils attending a university laboratory school are not counted in any district's basic enrollment, but the laboratory school shall report them directly to the department of education.

A school district shall certify its basic enrollment to the department of education by ~~September 25~~ October 1 of each year, and the department shall promptly forward the information to the department of management. For purposes of determining whether a district is entitled to an advance for increasing enrollment a determination of actual enrollment shall be made on the ~~second~~ third Friday of September in the budget year by counting the pupils in the same manner and to the same extent that they are counted in determining basic enrollment, but substituting the count in the budget year for the count in the base year. In addition, a school district shall determine its additional enrollment because of special education defined in section 442.38, on December 1 of each year and if the district is entitled to an advance for special education, it shall certify its additional enrollment because of special education to the department of education by December 15 of each year, and the department shall promptly forward the information to the department of management.

Sec. 3. Section 442.27, subsection 12, Code 1987, is amended to read as follows:

12. "Enrollment served" means the basic enrollment plus the number of nonpublic school pupils served with media services or educational services, as applicable, except that if a nonpublic school pupil receives services through an area other than the area of the pupil's residence, the pupil shall be deemed to be served by the area of the pupil's residence, which shall by contractual arrangement reimburse the area through which the pupil actually receives services. ~~For the budget year beginning July 1, 1975, the total number of nonpublic pupils served by each area education agency and the number of nonpublic school pupils residing within each school district in the area to be served by the area education agency for media and educational services shall be submitted by the department of public instruction as approved by the state board to the state comptroller within one week after June 10, 1975.~~ For school years subsequent to the school year beginning July 1, ~~1979~~ 1986, each school district shall include in the ~~second~~ third Friday in September enrollment report the number of nonpublic school pupils within each school district for media and educational services served by the area.

Approved February 26, 1987

CHAPTER 5

SCHOOL TREASURER'S ANNUAL REPORT

S.F. 50

AN ACT relating to the annual report of a school district.

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

Section 1. Section 291.15, Code 1987, is amended to read as follows:

291.15 ANNUAL REPORT.

The treasurer shall make an annual report to the board at its regular July meeting, which shall show the amount of the general fund and the schoolhouse fund held over, received, paid out, and on hand, the several funds to be separately stated~~, and the treasurer shall immediately file a copy of this report with the director of the department of education and a copy with the county treasurer~~.

Approved March 2, 1987

CHAPTER 6

SCHOOL TRANSPORTATION REIMBURSEMENT

S.F. 41

AN ACT relating to the reimbursement to a parent or guardian for the cost of transporting the pupil to school when bus transportation is not available, providing for the applicability of the Act, and providing an effective date.

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

Section 1. Section 285.1, subsection 3, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However, a parent or guardian shall not receive reimbursement for furnishing transportation for more than ~~two~~ three family members who attend elementary school and one family member who attends high school.

Sec. 2. NEW SECTION. 285.3 PARENTAL REIMBURSEMENT FOR NONPUBLIC SCHOOL PUPIL TRANSPORTATION.

The portion of the amount appropriated under section 285.2 to pay claims to reimburse parents or guardians of nonpublic school pupils for furnishing transportation for their children is equal to eighty dollars plus seventy-five percent of the difference between eighty dollars and the previous school year's statewide average per pupil transportation cost as determined by the department of education multiplied by the total number of nonpublic school pupils for which the parent or guardian furnishes transportation, except that all elementary pupils and two members of a family who attend a nonpublic high school shall be included in the total number.

The amount of an approved claim to a parent or guardian for furnishing transportation shall include a base payment, and may include a supplemental payment, determined under this section. The base payment is equal to the amount of the reimbursement determined under section 285.1, subsection 3.

The difference between the amount appropriated under this section for reimbursement of parents and guardians of nonpublic school pupils and the amount paid to parents and guardians of nonpublic school pupils pursuant to section 285.1, subsection 3, shall be used for supplemental payments to the parents and guardians of nonpublic school pupils who transport

one or more family members more than four miles to a school of attendance. The department of education shall add together the number of parents and guardians who transport one or more family members more than four miles to their nonpublic schools of attendance and divide that number into the amount available for supplemental payments to determine a supplemental payment amount per parent or guardian. That supplemental payment amount per parent or guardian shall be paid to each eligible parent or guardian transporting nonpublic school pupils in addition to the base payment.

The supplemental payment amount calculated under this section for nonpublic school parents shall be paid by the school district of residence to parents and guardians transporting eligible resident pupils attending public school.

Sec. 3. Notwithstanding section 285.1, subsection 3, for the school year beginning July 1, 1986 only, a parent or guardian shall not receive reimbursement for furnishing transportation for more than two family members who attend elementary school and one family member who attends high school.

Notwithstanding section 285.2, for the school year beginning July 1, 1986, the portion of the amount appropriated for approved claims under section 285.1, subsection 3, shall be determined under this section and the amount of a claim under that subsection shall be determined under this section regardless of the average transportation costs of the district per pupil transported.

Notwithstanding section 285.3, for the school year commencing July 1, 1986 only, the portion of the amount appropriated under this section to pay claims to reimburse parents or guardians of nonpublic school pupils for furnishing transportation for their children is equal to eighty dollars plus seventy-five percent of the difference between eighty dollars and the previous school year's statewide average per pupil transportation cost as determined by the department of education multiplied by the total number of nonpublic school pupils for which the parent or guardian furnishes transportation, except that all elementary pupils and two members of a family who attend a nonpublic high school shall be included in the total number.

For the school year beginning July 1, 1986, the amount of an approved claim to a parent or guardian for furnishing transportation to a nonpublic school shall include a base payment, and may include a supplemental payment, determined under this section. The base payment is equal to the amount of the reimbursement for furnishing transportation for not more than two family members who attend elementary school and one family member who attends high school.

For the school year beginning July 1, 1986, the difference between the amount appropriated under this section for reimbursement of parents and guardians and the amount paid to parents and guardians pursuant to this section shall be used for supplemental payments to the parents and guardians of nonpublic school pupils who transport one or more family members more than four miles to a school of attendance. The department of education shall add together the number of parents and guardians who transport one or more family members more than four and less than eight miles to their schools of attendance and two times the number of parents and guardians who transport one or more family members eight or more miles to their schools of attendance and divide that total number of parents and guardians into the amount available for supplemental payments to determine a supplemental payment amount. Parents and guardians who transport one or more family members more than four but less than eight miles to their schools of attendance shall receive an amount equal to the supplemental payment amount. Parents and guardians who transport one or more family members eight or more miles to their schools of attendance shall receive an amount equal to two times the supplemental payment amount. The supplemental payment amount calculated under this section for nonpublic school parents and guardians shall be paid by the school district of residence to parents and guardians transporting eligible resident pupils attending public school.

Sec. 4. This Act being deemed of immediate importance takes effect upon its enactment.

Sec. 5. This Act is applicable to reimbursements made for nonpublic school transportation provided on or after July 1, 1986.

Approved March 2, 1987

CHAPTER 7

CRIME VICTIM REPARATION APPLICATIONS

S.F. 158

AN ACT relating to the time within which an application for crime victim reparation may be filed.

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

Section 1. Section 912.4, subsection 1, Code 1987, 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. The commissioner may extend the time limit for the filing of an application to up to one year after the date of the crime, the discovery of the crime, or the death of the victim upon a finding of good cause. Lack of awareness of the crime victim reparations program by a prospective applicant alone shall not constitute good cause.

Approved March 17, 1987

CHAPTER 8

HEALTH-RELATED DUTIES AND POWERS

H.F. 163

AN ACT relating to health-related duties within the department of inspections and appeals and the Iowa department of public health.

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

Section 1. Section 125.9, subsection 8, Code 1987, is amended to read as follows:

8. Employ a deputy director who shall be exempt from the merit system ~~and shall serve at the pleasure of the director~~. The director may employ other staff necessary to carry out the duties assigned to the director.

Sec. 2. Section 135.11, subsection 17, Code 1987, is amended to read as follows:

17. Administer chapters 125, 135A, ~~135B, 135C,~~ 135D, 136A, 136C, 139, 140, 142, 144, and 147A.

Sec. 3. Section 135.96, Code 1987, is amended to read as follows:

135.96 RULES.

Except as otherwise provided in this division, the ~~director~~ department shall adopt rules pursuant to chapter 17A necessary to implement this division, subject to approval of the state

board of health. Formulation of the rules shall include consultation with Iowa hospice organization representatives and other persons affected by the division.

Sec. 4. Section 135B.11, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

To review and approve rules and standards authorized under this chapter prior to their approval by the state board of health and adoption by the department of inspections and appeals.

Approved March 20, 1987

CHAPTER 9

PROFITING FROM INTENTIONAL HOMICIDE

H.F. 168

AN ACT to prohibit a person who intentionally and unjustifiably causes or procures the death of another from receiving any property, benefit, or other interest by reason of the death.

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

Section 1. Section 633.535, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

633.535 PERSON CAUSING DEATH.

1. A person who intentionally and unjustifiably causes or procures the death of another shall not receive any property, benefit, or other interest by reason of the death as an heir, distributee, beneficiary, appointee, or in any other capacity whether the property, benefit, or other interest passed under any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person causing death died before the decedent.

2. A joint tenant who intentionally and unjustifiably causes or procures the death of another joint tenant thereby affecting their interests so that the share of the decedent passes as the decedent's property and the person causing death has no rights by survivorship. This provision applies to joint tenancies and tenancies by the entireties in real and personal property, joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions, and any other form of co-ownership with survivorship rights.

3. A named beneficiary of a bond, life insurance policy, or any other contractual arrangement who intentionally and unjustifiably causes or procures the death of the principal obligee or person upon whose life the policy is issued or whose death generates the benefits under any other contractual arrangement is not entitled to any benefit under the bond, policy, or other contractual arrangement, and the benefits become payable as though the person causing death had predeceased the decedent.

Sec. 2. Section 633.536, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

633.536 PROCEDURE TO DENY BENEFITS TO A PERSON CAUSING DEATH.

A determination under section 633.535 may be made by any court of competent jurisdiction by a preponderence of the evidence separate and apart from any criminal proceeding arising from the death. However, such a civil proceeding shall not proceed to trial, and the person causing death is not required to submit to discovery in such a civil proceeding until the criminal proceeding has been finally determined by the trial court, or in the event no criminal charge has been brought, until six months after the date of death. A person convicted of murder or voluntary manslaughter of the decedent is conclusively presumed to have intentionally and unjustifiably caused the death for purposes of this section and section 633.535.

Sec. 3. Section 633.537, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

633.537 THIRD PARTY NONLIABILITY.

Any insurance company, bank, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of section 633.535 unless prior to payment it has received at its home office or principal address written notice of the claimed applicability of section 633.535.

Approved March 30, 1987

CHAPTER 10

FIRE EXTINGUISHERS IN PUBLIC BUILDINGS

H.F. 194

AN ACT repealing the prohibition of use of toxic halogenated fire extinguishers in public buildings.

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

Section 1. Section 100.36, Code 1987, is repealed.

Approved March 30, 1987

CHAPTER 11

INDUSTRIAL LOAN COMPANIES

H.F. 265

AN ACT relating to the regulation of industrial loan companies.

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

Section 1. Section 536A.12, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Each such license ~~shall remain~~ remains in full force and effect until surrendered, revoked, or suspended. ~~Every~~ A licensee shall, on or before the second day of January, pay to the superintendent the sum of fifty dollars as an annual license fee for the succeeding calendar year. When a licensee ~~shall change~~ changes its place of business from one location to another in the same city it shall at once give written notice ~~thereof~~ to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date ~~thereof~~ of the change, which ~~shall be~~ is authority for the operation of ~~such~~ the business under ~~such~~ that license at the new place of business.

Sec. 2. Section 536A.12, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph.

Sec. 3. Section 536A.15, Code 1987, is amended to read as follows:

536A.15 EXAMINATION OF LICENSEES.

The superintendent or the superintendent's duly authorized representative shall, at least once each year without previous notice, examine ~~and audit~~ the books, accounts, and records of each licensee engaged in the industrial loan business as defined by this chapter. ~~Any~~ A licen-

~~see, in lieu of such examination and audit by the superintendent or the superintendent's duly authorized representative, at the option of the superintendent, may~~ issuing senior debt to the general public shall be audited at the expense of the licensee by a certified public accountant licensed to practice in the state of Iowa. A licensee not issuing senior debt to the general public may provide an audited statement of the licensee's parent corporation which includes the Iowa licensee. After receiving such an audit or audited statement, the superintendent may make ~~such~~ further examination of the licensee as the superintendent ~~may deem~~ deems necessary. A record of each examination shall be kept in the superintendent's office. ~~Such~~ The examinations and reports, and other information connected ~~therewith~~ with them, shall be kept confidential in the office of the superintendent and shall not be subject to publication or disclosure to others except as in this chapter provided. Any evidence of criminal acts committed by officers, directors, or employees of ~~any~~ an industrial loan ~~association~~ company shall be reported by the superintendent to the proper authorities. The licensee shall be charged and shall pay the actual costs of the examination.

Approved March 30, 1987

CHAPTER 12

OBSTRUCTION OF EMERGENCY COMMUNICATIONS

H.F. 314

AN ACT relating to the obstruction of emergency communications and making a penalty applicable.

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

Section 1. Section 727.5, Code 1987, is amended to read as follows:

727.5 ~~OBSTRUCTING~~ OBSTRUCTION OF EMERGENCY ~~TELEPHONE CALLS~~ COMMUNICATIONS.

An emergency ~~call is any call~~ communication is any telephone call or radio transmission to a fire department or police department for aid, or a call or transmission for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. ~~Any~~ A person who fails to relinquish ~~any~~ a telephone or telephone line which the person is using when informed that ~~such~~ the phone or line is needed for an emergency call or knowingly and intentionally obstructs or interferes with an emergency call or transmission commits a simple misdemeanor.

Approved March 30, 1987

CHAPTER 13

LAWS RELATING TO CRIMES AFFIRMED AND REENACTED

S.F. 269

AN ACT affirming and reenacting certain provisions affecting the criminal laws, and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS. It is the finding of the general assembly that certain recent court cases have raised questions in regard to the proper enactment of certain provisions contained in Code editor's bills. It is the intent of the general assembly to resolve any doubt as to the validity of provisions enacted in the Code editor's bills of prior years. It is the position of the general assembly that all of the following provisions contained in Code editor's bills and all other provisions of the Code editor's bills were properly enacted in the Code editor's bills. Passage of an Act by the general assembly necessarily includes a finding by the general assembly that the Act embraced but one subject, and matters properly connected therewith; and that the subject is properly expressed in the title.

Sec. 2. Section 232.75, subsection 3, Code 1987, is affirmed and reenacted in accordance with the amendment to section 232.75, Code 1985, in 1986 Iowa Acts, chapter 1238, section 11, and including any other 1986 amendments and editorial changes.

Sec. 3. Section 246.702, Code 1987, is affirmed and reenacted in accordance with the amendment to section 217A.47, Code 1985, in 1985 Iowa Acts, chapter 21, section 24, and chapter 195, section 24, and including the transfer of section 217A.47 to section 246.702, and subsequent amendments and editorial changes.

Sec. 4. Section 708.7, Code 1987, is affirmed and reenacted in accordance with the amendment to section 708.7, Code 1985, in 1986 Iowa Acts, chapter 1238, section 28, and including any other 1986 amendments and editorial changes.

Sec. 5. Section 724.4, subsection 6, Code 1987, is affirmed and reenacted in accordance with the amendment to section 724.4, subsection 6, Code 1979, in 1980 Iowa Acts, chapter 1015, section 68, and including subsequent amendments and editorial changes.

Sec. 6. Section 809.13, subsection 5, paragraph "b", Code 1987, is affirmed and reenacted in accordance with the amendment to section 809.13, subsection 5, paragraph "b", as enacted by 1986 Iowa Acts, chapter 1140, section 15, in 1986 Iowa Acts, chapter 1238, section 32, and including any other 1986 amendments and editorial changes.

Sec. 7. Section 809.21, Code 1987, is affirmed and reenacted in accordance with its enactment in 1986 Iowa Acts, chapter 1238, section 33, and including any other 1986 amendments and editorial changes.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 2, 1987

CHAPTER 14

MOTOR VEHICLE FINANCIAL RESPONSIBILITY REQUIREMENTS

S.F. 141

AN ACT relating to relief under bankruptcy for a judgment debtor from suspension of license, registration, or nonresident operating privilege under the motor vehicle financial responsibility requirements.

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

Section 1. Section 321A.14, subsection 2, Code 1987, is amended by striking the subsection.

Approved April 2, 1987

CHAPTER 15

RAILROAD BOILER INSPECTIONS

S.F. 434

AN ACT relating to issuance of certificates of inspection for boilers used on tourist railroads or tourist trains and providing an effective date.

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

Section 1. Section 89.7, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 5. The failure of a boiler to have affixed an American Society of Mechanical Engineering tag does not in itself disqualify a boiler used on a tourist railroad or tourist train from being issued a certificate of inspection.

Sec. 2. This bill, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 1987

CHAPTER 16

VALUING EQUITY INTERESTS IN COOPERATIVE ASSOCIATIONS

S.F. 303

AN ACT relating to the merger and consolidation of cooperative associations, by defining the fair market value of assets held by an association and providing for determining the fair value of an equity interest held by a dissenting member.

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

Section 1. Section 499.66, subsection 1, paragraph e, Code 1987, is amended to read as follows:

e. "Fair market value" means the ~~lesser of the~~ cash price that would be paid by a willing buyer to a willing seller, neither being under any compulsion to buy or sell~~, or the issue price of the dissenting member's membership or common stock, deferred patronage dividends, and preferred stock~~.

Sec. 2. Section 499.66, subsection 2, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The fair value of a dissenting member's interest in the old association shall be determined as of the day preceding the merger or consolidation by taking the lesser of either the issue price of the dissenting member's membership, common stock, deferred patronage dividends, and preferred stock, or the amount determined by subtracting the old association's debts from the fair market value of the old association's assets, ~~and~~ dividing the remainder by the total issue price of all memberships, common stock, preferred stock, and revolving funds. ~~The~~, and then multiplying the quotient from this division ~~shall be multiplied~~ by the total issue price of a dissenting member's membership, common stock, preferred stock, and revolving fund interest ~~to determine the fair value of that dissenting member's interest in the old association~~.

Approved April 17, 1987

CHAPTER 17

LAWS RELATING TO PUBLIC BODIES AFFIRMED AND REENACTED

S.F. 271

AN ACT affirming and reenacting certain provisions of law concerning the powers and procedures of public bodies and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS. It is the finding of the general assembly that certain recent court cases have raised questions in regard to the proper enactment of certain provisions contained in Code editor's bills. It is the intent of the general assembly to resolve any doubt as to the validity of provisions enacted in the Code editor's bills of prior years. It is the position of the general assembly that all of the following provisions contained in Code editor's bills and all other provisions of the Code editor's bills were properly enacted in the Code editor's bills. Passage of an Act by the general assembly necessarily includes a finding by the general assembly that the Act embraced but one subject and matters properly connected therewith, and that the subject is properly expressed in the title.

Sec. 2. Section 15.104, subsection 2, Code 1987, is affirmed and reenacted in accordance with the amendment to section 15.104, subsection 2, Code 1985, in 1986 Iowa Acts, chapter 1238, section 43, and including any subsequent amendments and editorial changes.

Sec. 3. Section 28.27, Code 1987, is affirmed and reenacted in accordance with the amendment to Senate File 362, 1979 Iowa Acts, chapter 27, section 4, subsection 3, in 1980 Iowa Acts, chapter 1015, section 70, and including subsequent amendments and editorial changes.

Sec. 4. Section 79.3, Code 1987, is affirmed and reenacted in accordance with the amendment to section 79.3, Code 1979, in 1980 Iowa Acts, chapter 1015, section 11, and including subsequent amendments and editorial changes.

Sec. 5. Section 113.18, subsection 5, Code 1987, is affirmed and reenacted in accordance with the amendment to section 113.18, subsection 5, Code 1985, in 1985 Iowa Acts, chapter 195, section 11, and including subsequent amendments and editorial changes.

Sec. 6. Section 113.20, subsection 3, Code 1987, is affirmed and reenacted in accordance with the amendment to section 113.20, subsection 3, Code 1985, in 1985 Iowa Acts, chapter 195, section 12, and including subsequent amendments and editorial changes.

Sec. 7. Section 260.9, Code 1987, is affirmed and reenacted in accordance with the amendment to section 260.9, Code 1979, in 1980 Iowa Acts, chapter 1012, section 33, and including subsequent amendments and editorial changes.

Sec. 8. Section 303.16, subsections 3 through 8, Code 1987, are affirmed and reenacted in accordance with the amendment to section 303.16, Code 1985, in 1986 Iowa Acts, chapter 1238, section 54, and including any other 1986 amendments and editorial changes.

Sec. 9. Section 327H.18, Code 1987, is affirmed and reenacted in accordance with the amendment to section 327H.18, Code 1985, in 1986 Iowa Acts, chapter 1238, section 16, and including any other 1986 amendments and editorial changes.

Sec. 10. Section 467A.62, subsection 2, Code 1987, is affirmed and reenacted in accordance with the amendment to section 467A.62, subsection 2, Code 1985, in 1986 Iowa Acts, chapter 1238, section 22, and including any other 1986 amendments and editorial changes.

Sec. 11. 1986 Iowa Acts, chapter 1238, section 35, is affirmed and reenacted.

Sec. 12. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 1987

CHAPTER 18

LAWS RELATING TO TAXES AFFIRMED AND REENACTED

S.F. 270

AN ACT affirming and reenacting certain provisions affecting the tax laws, and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS. It is the finding of the general assembly that certain recent court cases have raised questions in regard to the proper enactment of certain provisions contained in Code editor's bills. It is the intent of the general assembly to resolve any doubt as to the validity of provisions enacted in the Code editor's bills of prior years. It is the position of the general assembly that all of the following provisions contained in Code editor's bills and all other provisions of the Code editor's bills were properly enacted in the Code editor's bills. Passage of an Act by the general assembly necessarily includes a finding by the general assembly that the Act embraced but one subject, and matters properly connected therewith; and that the subject is properly expressed in the title.

Sec. 2. Section 422.61, subsection 4, Code 1987, is affirmed and reenacted in accordance with the amendment to section 422.61, subsection 4, Code 1979, in 1980 Iowa Acts, chapter 1012, section 50, and including subsequent amendments and editorial changes.

Sec. 3. Section 422.45, subsection 2, Code 1987, is affirmed and reenacted in accordance with its enactment in 1986 Iowa Acts, chapter 1238, section 21, and including any other 1986 amendments and editorial changes.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 17, 1987

CHAPTER 19

LAWS RELATING TO PUBLIC EMPLOYEES AFFIRMED AND REENACTED

S.F. 268

AN ACT relating to the affirmation and reenactment of certain provisions of law concerning public employees, including provisions relating to state employee discipline and grievances, the public employment relations board, reprisals against state employees, and the public employees' retirement system, and providing an effective date.

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

Section 1. It is the finding of the general assembly that certain recent court cases have raised questions in regard to the proper enactment of certain provisions contained in Code editor's bills. It is the intent of the general assembly to resolve any doubt as to the validity of provisions enacted in the Code editor's bills of prior years. It is the position of the general assembly that all of the following provisions contained in Code editor's bills and all other provisions of the Code editor's bills were properly enacted in the Code editor's bills. Passage of an Act by the general assembly necessarily includes a finding by the general assembly, that the Act embraced but one subject, and matters properly connected therewith; and that the subject is properly expressed in the title.

Sec. 2. Section 19A.14, Code 1987, is affirmed and reenacted in accordance with the amendment to section 19A.14, Code 1985, enacted by 1986 Iowa Acts, chapter 1238, section 38, and including any other 1986 amendments and editorial changes.

Sec. 3. Section 20.1, Code 1987, is affirmed and reenacted in accordance with the amendment to section 20.1, Code 1985, enacted by 1986 Iowa Acts, chapter 1238, section 39, and including any other 1986 amendments and editorial changes.

Sec. 4. Section 79.28, Code 1987, is affirmed and reenacted in accordance with the enactment of section 79.28, in 1984 Iowa Acts, chapter 1219, section 4, and including any subsequent amendments and editorial changes.

Sec. 5. Section 97B.46, Code 1987, is affirmed and reenacted in accordance with the amendment enacted by 1980 Iowa Acts, chapter 1012, section 76, amending 1979 Iowa Acts, chapter 35, section 4, and including any subsequent amendments and editorial changes.

Sec. 6. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 1987

CHAPTER 20

PUBLICATION PRICES

S.F. 137

AN ACT relating to the pricing of the Code of Iowa and related publications.

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

Section 1. Section 17.22, Code 1987, is amended to read as follows:

17.22 PRICE.

The publications listed in this section shall be sold at a price to be established by ~~dividing the total cost of~~ the legislative council. In determining these prices, the legislative council shall

consider the costs of printing, binding, distribution, ~~and~~ paper stock ~~by the total number printed of each edition, and increasing the figure obtained by an amount, which represents all or any portion of~~ compilation and editing labor costs~~, to be determined by the legislative council in consultation with the state printer~~. The legislative council shall also consider the number of volumes to be printed, sold, and distributed in the determination of these prices.

Approved April 17, 1987

CHAPTER 21

GAS UTILITY REGULATION

S.F. 209

AN ACT exempting gas public utilities having less than two thousand customers from the rate regulation authority of the utilities board and defining the areas in which such utilities remain subject to regulation and providing an effective date.

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

Section 1. NEW SECTION. 476.1C APPLICABILITY OF AUTHORITY – CERTAIN GAS UTILITIES.

1. Gas public utilities having less than two thousand customers are not subject to the regulation authority of the utilities board under this chapter unless otherwise specifically provided. Sections 476.10, 476.20, 476.21, and 476.51 apply to such gas utilities.

Gas public utilities having less than two thousand customers shall keep books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the board. The board may inspect the accounts of the utility at any time.

A gas public utility having less than two thousand customers may make effective a new or changed rate, charge, schedule, or regulation after giving written notice of the proposed new or changed rate, charge, schedule, or regulation to all affected customers served by the public utility. The notice shall inform the customers of their right to petition for a review of the proposal to the utilities board within sixty days after notice is served if the petition contains the signatures of at least one hundred of the gas utility's customers. The notice shall state the address of the utilities board. The new or changed rate, charge, schedule, or regulation takes effect sixty days after such valid notice is served unless a petition for review of the new or changed rate, charge, schedule, or regulation signed by at least one hundred of the gas utility's customers is filed with the board prior to the expiration of the sixty-day period.

If such a valid petition is filed with the board within the sixty-day period, any new or changed rate, charge, schedule, or regulation shall take effect, under bond or corporate undertaking, subject to refund of all amounts collected in excess of those amounts which would have been collected under the rates or charges finally approved by the board. The board shall within five months of the date of filing make a determination of just and reasonable rates based on a review of the proposal, applying established regulatory principles. The board may call upon the gas public utility and its customers to furnish factual evidence in support of or opposition to the new or changed rate, charge, schedule, or regulation. If the gas public utility disputes the finding, the utility may within twenty days file for further review, and the board shall docket the case as a formal proceeding under section 476.6, subsection 7, and set the case for hearing. The gas public utility shall submit factual evidence and written argument in support of the filing.

A gas public utility having less than two thousand customers shall not make effective a new or changed rate, charge, schedule, or regulation which relates to services for which a rate change is pending within twelve months following the date the petition to review the prior proposed

rate, charge, schedule, or regulation was filed with the board or until the board has made its determination of just and reasonable rates, whichever date is earlier, unless the utility applies to the board for authority and receives authority to make a subsequent rate change at an earlier date.

Gas public utilities having less than two thousand customers shall not make or grant any unreasonable preferences or advantages as to rates or services to any person or subject any person to any unreasonable prejudice or disadvantage. Rates charged by a gas public utility having less than two thousand customers for transportation of customer-owned gas shall not exceed the actual cost of such transportation services including a fair rate of return.

2. If, as a result of a review of a proposed new or changed rate, charge, schedule, or regulation of a gas public utility having fewer than two thousand customers, the consumer advocate alleges in a filing with the board that the utility rates are excessive, the disputed amounts shall be specified by the consumer advocate in the filing. The gas public utility shall, within the time prescribed by the board, file a bond or undertaking approved by the board conditioned upon the refund in a manner prescribed by the board of amounts collected after the date of the filing which are in excess of rates or charges finally determined by the board to be lawful. If after formal proceeding and hearing pursuant to section 476.6 the board finds that the utility rates are unlawful, the board shall order a refund, with interest, of amounts collected after the date of filing of the petition that are determined to be in excess of the amounts which would have been collected under the rates finally approved. However, the board shall not order a refund that is greater than the amount specified in the petition, plus interest. If the board fails to render a decision within ten months following the date of filing of the petition, the board shall not order a refund of any excess amounts that are collected after the expiration of that ten-month period and prior to the date the decision is rendered.

Sec. 2. Section 476.6, subsection 7, Code 1987, is amended to read as follows:

7. HEARING SET. After the filing of an application for new or changed rates, charges, schedules, or regulations by a public utility subject to rate regulation, the board, prior to the expiration of thirty days after the filing date, shall docket the case as a formal proceeding and set the case for hearing unless the new or changed rates, charges, schedules, or regulations are approved by the board. In the case of a gas public utility having less than two thousand customers, the board shall docket a case as a formal proceeding and set the case for hearing as provided in section 476.1C. In the case of a rural electric cooperative, the board may docket the case as a formal proceeding and set the case for hearing prior to the proposed effective date of the tariff. The board shall give notice of formal proceedings as it deems appropriate. The docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules, or regulations until the rates, charges, schedules, or regulations are approved by the board, except as provided in subsection 13.

Sec. 3. The utilities board of the utilities division of the department of commerce shall submit copies of its intended action on rules required under section 1 of this Act to the administrative rules coordinator pursuant to chapter 17A within thirty days from the effective date of this Act.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 21, 1987

CHAPTER 22

ALCOHOLIC BEVERAGES AND TREATMENT OF ALCOHOLICS

S.F. 298

AN ACT relating to the sale of alcoholic beverages, by allowing the alcoholic beverages division to assess a split-case charge when alcoholic liquor is sold in quantities which require a case to be split, by lowering the maximum markup on liquor sold by the division to class "E" licensees from sixty to fifty percent, by allowing identifying markers to be affixed on containers of alcoholic liquor in the manner prescribed by the division, by setting the bond for a class "E" license at a maximum of fifteen thousand dollars, by not requiring a bond from class "E" licensees who purchase alcoholic liquor from the division on a cash basis or by means that ensures that the division will receive full payment in advance of delivery, by providing for the issuance of a class "E" liquor control license to a city council in certain circumstances, by allowing the division to deposit all the license fees collected from class "E" licensees in the beer and liquor control fund, by allowing the advertisement of alcoholic liquor for sale, by repealing the fifty percent goods and services test to qualify for Sunday sales of alcoholic beverages or beer under a liquor control license or class "B" beer permit, by providing that a corporation only placing alcoholic liquor in bailment with the division is not doing business in Iowa for the purpose of determining its tax liability and making the provision retroactive, by requiring class "E" licensees to collect and refund the beverage container deposit on containers of alcoholic liquor, by striking a standing appropriation for the treatment of alcoholics, by allowing the division to sell liquor inventories in state stores to class "E" licensees at reduced prices as state stores are closed, and by allowing the division to continue sales of wine to class "A" and "B" wine permittees until inventories are depleted, by providing an appropriation to the department of health for the treatment of alcoholics from funds collected by the division for the deposit on containers of alcoholic liquor which are not disbursed in the payment of the refund, and providing an effective date.

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

Section 1. Section 123.24, subsection 1, Code 1987, is amended to read as follows:

1. The division shall sell alcoholic liquor at wholesale only. The division shall sell alcoholic liquor to class "E" liquor control licensees only. The division shall offer the same price on alcoholic liquor to all class "E" liquor control licensees without regard for the quantity of purchase or the distance for delivery. However, the division may assess a split-case charge when liquor is sold in quantities which require a case to be split.

Sec. 2. Section 123.24, subsection 3, Code 1987, is amended to read as follows:

3. The price of alcoholic liquor sold by the division shall include a markup of up to ~~sixty~~ fifty percent of the wholesale price paid by the division for the alcoholic liquor. The markup shall apply to all alcoholic liquor sold by the division; however, the division may increase the markup on selected kinds of alcoholic liquor sold by the division if the average return to the division on all sales of alcoholic liquor does not exceed the wholesale price paid by the division and the ~~sixty~~ fifty percent markup.

Sec. 3. Section 123.26, Code 1987, is amended to read as follows:

123.26 RESTRICTIONS ON SALES — SEALS — LABELING.

Alcoholic liquor shall not be sold by ~~the division to~~ a class "E" liquor control licensee except in a sealed container with identifying markers as prescribed by the administrator and affixed ~~on the premises of a state warehouse~~ in the manner prescribed by the administrator, and no such container shall be opened upon the premises of a state warehouse. The division shall cooperate with the department of natural resources so that only one identifying marker or mark is needed to satisfy the requirements of this section and section 455C.5, subsection

1. Possession of alcoholic liquors which do not carry the prescribed identifying markers is a violation of this chapter except as provided in section 123.22.

Sec. 4. Section 123.30, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Upon posting bond in the ~~penal~~ required sum ~~of five thousand dollars~~ with surety and conditions prescribed by the administrator, which bond shall be conditioned upon the payment of all taxes payable to the state under the provisions of this chapter and compliance with all provisions of this chapter, a liquor control license may be issued to any person who, or whose officers, in the case of a club or corporation, or whose partners, in the case of a partnership, is of good moral character as defined by this chapter. The bond for a class "E" liquor control license shall be a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensures that the division will receive full payment in advance of delivery of the alcoholic liquor. The bond for all other liquor control licenses issued under this chapter shall be a sum of five thousand dollars.

Sec. 5. Section 123.30, subsection 1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A class "E" liquor control license may be issued to a city council for premises located within the limits of the city if there are no class "E" liquor control licensees operating within the limits of the city and no other applications for a class "E" license for premises located within the limits of the city at the time the city council's application is filed. If a class "E" liquor control license is subsequently issued to a private person for premises located within the limits of the city, the city council shall surrender its license to the division within one year of the date that the class "E" liquor control licensee begins operating, liquidate any remaining assets connected with the liquor store, and cease operating the liquor store.

Sec. 6. Section 123.30, subsection 3, paragraph e, Code 1987, is amended to read as follows:

e. Class "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

Sec. 7. Section 123.36, subsection 6, Code 1987, 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 section 123.49, subsection 2, paragraph "b", may apply for and receive permission to 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 division shall prescribe the nature and the character of the evidence required of the applicant under this subsection.~~

Sec. 8. Section 123.36, subsection 8, Code 1987, is amended to read as follows:

8. The division shall credit all fees to the beer and liquor control fund. The division shall remit to the appropriate local authority, a sum equal to sixty-five percent of the fees collected for each class "A", class "B", or class "C" license except special class "C" licenses or class "E" licenses, covering premises located within the local authority's jurisdiction. The division shall remit to the appropriate local authority a sum equal to seventy-five percent of the fees collected for each special class "C" license covering premises located within the local authority's jurisdiction. Those fees collected for the privilege authorized under subsection 6 and those fees collected for each class "E" liquor control license shall be credited to the beer and liquor control fund.

Sec. 9. Section 123.51, subsection 2, Code 1987, is amended by striking the subsection.

Sec. 10. Section 123.134, subsection 5, Code 1987, is amended to read as follows:

5. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit ~~for whom the sale of goods and services other than 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 apply for and receive permission to sell and dispense beer to patrons on Sunday for consumption on ~~the premises and for consumption of beer~~ or off the premises between the hours of ten a.m. and twelve midnight on Sunday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of ten a.m. and twelve midnight on Sunday. For the privilege of selling beer on Sunday the beer permit fees of the applicant shall be increased by twenty percent of the regular fees prescribed for the permit pursuant to this section and the privilege shall be noted on the beer permit. ~~The division shall prescribe the nature and character of the evidence which shall be required of the applicant under this subsection.~~

Sec. 11. Section 422.33, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For the purpose of this section, a corporation whose sole activity in Iowa is placing liquor in bailment pursuant to section 603 of chapter 1246, 1986 Iowa Acts, is not doing business in this state.

Sec. 12. Section 455C.1, subsection 5, Code 1987, is amended to read as follows:

5. "Distributor" means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales. The alcoholic beverages division of the department of commerce is not a distributor for the purpose of this chapter.

Sec. 13. Section 455C.2, subsection 1, Code 1987, is amended to read as follows:

1. Except purchases of alcoholic liquor as defined in section 123.3, subsection 8, by holders of class "A", "B", ~~and~~ "C", and "E" liquor control licenses, a refund value of not less than five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which a refund value has been paid to the dealer or person operating a redemption center and acceptance of the empty beverage container by the dealer or person operating a redemption center, the dealer or person operating a redemption center shall return the amount of the refund value to the consumer.

Sec. 14. Section 455C.4, subsection 3, Code 1987, is amended to read as follows:

3. A dealer~~, other than a state liquor store,~~ or a distributor may not 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. 15. Section 455C.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A class "E" liquor control licensee may refuse to accept and to pay the refund value on an empty alcoholic liquor container from a dealer or a redemption center or from a person acting on behalf of or who has received empty alcoholic liquor containers from a dealer or a redemption center.

Sec. 16. Section 455C.5, subsection 1, Code 1987, 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. 17. Section 455C.11, Code 1987, is repealed.

Sec. 18. The division may sell liquor inventories in state stores to class "E" liquor control licensees at reduced prices as state liquor stores are closed during the period from March 1, 1987 through June 30, 1987. The division may sell wine in state liquor stores and state warehouses to class "A" and "B" wine permittees until such time as all wine inventories are depleted.

Sec. 19. There is appropriated for the fiscal year commencing July 1, 1987 and ending June 30, 1988, from the beer and liquor control fund to the Iowa department of public health a sum equal to the difference between the funds collected from the deposit required on beverage containers containing alcoholic liquor and the funds dispersed in the payment of the refund value on such containers. The Iowa department of public health shall use the appropriated funds only for the care, maintenance, and treatment of alcoholics under chapter 125. Notwithstanding sections 8.33 and 123.53, those funds collected in the beer and liquor control fund for the fiscal year beginning July 1, 1986 and ending June 30, 1987 which represent the difference between the funds collected from the deposit on beverage containers containing alcoholic liquor and the funds dispersed in payment of the refund value on such containers shall not revert to the general fund or be used for a purpose other than that provided in this section.

Sec. 20. Section 11 of this Act is retroactive to July 1, 1986, and is repealed effective January 1, 1989.

Sec. 21. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 21, 1987

CHAPTER 23

SOIL AND WATER CONSERVATION DISTRICTS

S.F. 382

AN ACT relating to soil conservation districts, by changing the name to soil and water conservation districts.

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

Section 1. Section 25A.2, subsection 1, Code 1987, is amended to read as follows:

1. "State agency" includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue and be sued in their own names. This definition does not include any contractor with the state of Iowa. Soil and water conservation districts as defined in section 467A.3, subsection 1, water resource districts as defined in section 467D.2, subsection 1, judicial district departments of correctional services as established in section 905.2, and regional boards of library trustees as defined in chapter 303B, are state agencies for purposes of this chapter.

Sec. 2. Section 39.21, subsection 3, Code 1987, is amended to read as follows:

3. Soil and water conservation district commissioners as required by section 467A.5.

Sec. 3. Section 108.10, Code 1987, is amended to read as follows:

108.10 ARTIFICIAL LAKES — SOIL CONSERVATION.

In the construction of artificial lakes on intermittent streams, for which funds ~~may hereafter be~~ are appropriated by the general assembly, the commission shall not proceed with actual construction work unless and until soil conservation practices are in effect on at least seventy-five ~~percentum~~ percent of the land comprising the watershed of the proposed impoundment, or a willingness to carry on such practices ~~shall have~~ has been shown by the owners or operators of seventy-five ~~percentum~~ percent of ~~said~~ the land by signing of a soil conservation farm plan and co-operative agreements with the local soil and water conservation district governing body.

Sec. 4. Section 175.3, subsection 1, Code 1987, is amended to read as follows:

1. The agricultural development authority is established within the department of agriculture and land stewardship. The authority is 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, and programs to assist farmers within the state in financing operating expenses and cash flow requirements of farming. The authority shall also develop programs to assist qualified agricultural producers within the state with financing other capital requirements or operating expenses. 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, soil and water conservation district officials, and other persons specially interested in family farm development.

Sec. 5. Section 175.34, subsection 2, paragraphs a, c, and e, Code 1987, are amended to read as follows:

a. Loans made pursuant to the soil conservation loan program shall only be made to the owner or operator of a farm located within the state for which a conservation plan has been developed by the soil and water conservation district and the project for which the loan is to be made has been approved by the district. However, loans under the soil conservation loan program for implementation of a permanent soil and water conservation practice shall not be remitted to the applicant until the applicant provides evidence that payment of the permanent soil and water conservation practice is arranged for and the soil and water conservation district certifies that the practice is completed and approved.

c. The division of soil conservation or any other state agency and the commissioners and staffs of the soil and water conservation districts ~~are authorized to~~ may provide technical and financial assistance to the authority or in connection with the soil conservation loan program to assure the success of this program.

e. If a cooperator of a soil and water conservation district qualifies for cost sharing under a state soil conservation cost share program, the cooperator is eligible for a loan request. In granting these requests the authority shall give preference to those with the lower net worths.

Sec. 6. Section 176B.3, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. Two members appointed by the district soil and water conservation commissioners, one of whom must be a member of the district soil conservation board of commissioners and one must be a person who is not a commissioner, but is actively operating a farm in the county.

Sec. 7. Section 306.50, Code 1987, is amended to read as follows:

306.50 CONSTRUCTION PROGRAM NOTICE.

The appropriate highway authority shall provide copies of its annual construction program to the soil and water conservation district commissioners' office in each county. The soil and water conservation district commissioners' 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. 8. Section 306.51, Code 1987, is amended to read as follows:

306.51 SOIL EROSION IMPACT.

The soil and water 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. 9. Section 306.52, Code 1987, is amended to read as follows:

306.52 REVIEW OF PLANS.

Upon examining the preliminary plans on a road project, the soil and water conservation district commissioners may review each road project for which a drainage structure is required. The soil and water 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 and water conservation commissioners shall also ascertain whether any other aspect of the road construction will affect soil and water conservation.

Sec. 10. Section 306.53, Code 1987, is amended to read as follows:

306.53 SUBMISSION OF RECOMMENDATIONS — CONTRIBUTION TO COST.

The soil and water 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 and water conservation district commissioners and indicate its agreement to the suggested installation or its rejection of the proposal.

Where feasible and cost-sharing funds are available, the soil and water conservation district may contribute in part or in its entirety to any additional cost for the erosion control structure.

Sec. 11. Section 306.54, Code 1987, is amended to read as follows:

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 and water 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 and water conservation district commissioners and the reasons for rejecting the recommendations of the soil and water conservation district commissioners. The report shall be filed with the secretary of the senate and the chief clerk of the house of representatives.

Sec. 12. Section 427.1, subsection 33, Code 1987, is amended to read as follows:

33. Impoundment structures. The impoundment structure and any land underlying an impoundment located outside ~~any~~ an incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil and water conservation district commissioners of the county in which the impoundment structure and the impoundment are located. ~~Any~~ A person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year before the first of July for the exemption. The application shall be made on forms prescribed by the department of revenue and finance. The first application shall be accompanied by a copy of the water storage permit approved by the administrator of the environmental protection division of the department of natural resources and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil and water conservation district commissioners, to the board of supervisors for approval or denial. ~~Any~~ An applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means ~~any~~ a reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in ~~such~~ the area; and "impoundment structure" means ~~any~~ a dam, earthfill, or other structure used to create an impoundment.

Sec. 13. Section 427.1, subsection 36, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Application for this exemption shall be filed with the commissioners of the soil and water conservation district in which the property is located, or if not located in a district, to the board of supervisors, not later than April 15 of the assessment year, on forms provided by the department of revenue and finance. However, in the case of an exemption granted for wetlands an application does not have to be filed for the second and third years of the three-year exemption period. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon

receipt of the application, the commissioners or the board of supervisors, if the property is not located in a soil and water conservation district, shall certify whether the property is eligible to receive the exemption. The commissioners or board shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted.

Sec. 14. Section 427.1, subsection 36, unnumbered paragraph 5, Code 1987, is amended to read as follows:

The board of supervisors does not have to grant tax exemptions under this subsection, grant tax exemptions in the aggregate of the maximum acreage which may be granted exemptions, or grant a tax exemption for the total acreage for which the applicant requested the exemption. Only real property in parcels of two acres or more which is wetlands, recreational lakes, forest cover, river and stream, river and stream banks, or open prairie and which is utilized for the purposes of providing soil erosion control or wildlife habitat or both, and which is subject to property tax for the fiscal year for which the tax exemption is requested, is eligible for the exemption under this subsection. However, in addition to the above, in order for a gully area which is susceptible to severe erosion to be eligible, there must be an erosion control plan for it approved by the commissioners of the soil and water conservation district in which it is located or the state soil and water conservation committee if not located in a district. In the case of an exemption for river and stream or river and stream banks, the exemption shall not be granted unless there is included in the exemption land located at least thirty-three feet from the ordinary high water mark of the river and stream or river and stream banks. Property shall not be denied an exemption because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the real property is located within a city, the approval of the governing body must be obtained before the real property ~~may be~~ is eligible for an exemption. For purposes of this subsection:

Sec. 15. Section 455.135, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. If the estimated cost of ~~any~~ a 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 and water 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 has the right of appeal from such orders in the manner provided in this chapter.

Sec. 16. Section 467A.3, subsection 1, Code 1987, is amended to read as follows:

1. "District" or "soil and water conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized for the purposes, with the powers, and subject to the restrictions ~~hereinafter~~ in this chapter set forth.

Sec. 17. Section 467A.4, subsection 4, paragraphs a, c, and e are amended to read as follows:

a. To offer ~~such~~ assistance as ~~may be~~ appropriate to the commissioners of soil and water conservation districts in carrying out any of their powers and programs.

c. To co-ordinate the programs of the ~~several~~ soil and water conservation districts so far as this may be done by advice and consultation.

e. To disseminate information throughout the state concerning the activities and program of the soil and water conservation districts.

Sec. 18. Section 467A.5, subsection 1, Code 1987, is amended to read as follows:

1. The one hundred soil and water conservation districts established in the manner which was prescribed by law prior to July 1, 1975 shall continue in existence with the boundaries and the names in effect on July 1, 1975. If the existence of ~~any~~ a district so established is discontinued pursuant to section 467A.10, a petition for re-establishment of the district or for annexation of the former district's territory to any other abutting district may be submitted to, and shall be acted upon by, the state soil conservation committee in substantially the manner provided by section 467A.5, Code 1975.

Sec. 19. Section 467A.6, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioners of each soil and water conservation district shall convene on the first day of January that is not a Sunday or holiday in each odd-numbered year. Those commissioners whose term of office begins on that day shall take the oath of office prescribed by section 63.10. The commissioners shall then organize by election of a chairperson and a vice chairperson.

Sec. 20. Section 467A.7, unnumbered paragraph 1, and subsections 14, 15, and 16, Code 1987, are amended to read as follows:

A soil and water conservation district organized under ~~the provisions of~~ this chapter ~~shall have~~ has the following powers, in addition to others granted in other sections of this chapter:

14. Subject to the approval of the state soil conservation committee, to change the name of ~~such~~ the soil and water conservation district.

15. To take notice of the water resource district plan, and conform to the duly promulgated rules of the water resource district or water resource districts in which the soil and water conservation district is located~~; provided that~~. However, this subsection does not grant ~~any~~ authority not otherwise granted by law to the commissioners of soil and water conservation districts.

16. The commissioners shall, as a condition for the receipt of any state cost-sharing funds for permanent soil conservation practices, require the owner of the land on which the practices are to be established to covenant and file, in the office of the soil and water conservation district of the county in which the land is located, an agreement identifying the particular lands upon which the practices for which state cost-sharing funds are to be received will be established, and providing that the project will not be removed, altered, or modified so as to lessen its effectiveness without the consent of the commissioners, obtained in advance and based on guidelines drawn up by the state soil conservation committee, for a period of twenty years after the date of receiving payment. The commissioners shall assist the division in the enforcement of this subsection. The agreement does not create a lien on the land, but is a charge personally against the owner of the land at the time of removal, alteration, or modification if an administrative order is made under section 467A.61, subsection 3.

Sec. 21. Section 467A.10, unnumbered paragraph 1, Code 1987, is amended to read as follows:

At any time after five years after the organization of a district under this chapter, any twenty-five owners of land lying within the boundaries of the district, but in no case less than twenty percent of the owners of land lying within the district, may file a petition with the division asking that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct public meetings and public hearings upon the petition as necessary to assist in the consideration of the petition. Within sixty days after a peti-

tion has been received by the division, the division shall give due notice of the holding of a referendum, shall supervise the referendum, and shall issue appropriate rules governing the conduct of the referendum, the question to be submitted by ballots upon which the words "For terminating the existence of the (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil and water conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions as the voter favors or opposes discontinuance of the district. All owners of lands lying within the boundaries of the district are eligible to vote in the referendum. No informalities in the conduct of the referendum or in any matters relating to the referendum invalidate the referendum or the result of the referendum if notice was given substantially as provided in this section and if the referendum was fairly conducted.

Sec. 22. Section 467A.13, Code 1987, is amended to read as follows:

467A.13 PURPOSE OF SUBDISTRICTS.

Subdistricts of a soil and water conservation district may be formed as ~~hereinafter~~ provided in this chapter for the purposes of co-operating with water resource districts and of carrying out watershed protection and flood prevention programs within the subdistrict but ~~may~~ shall not be formed solely for the purpose of establishing or taking over the operation of an existing drainage district.

Sec. 23. Section 467A.14, Code 1987, is amended to read as follows:

467A.14 PETITION TO FORM.

When the landowners in a proposed subdistrict desire that a subdistrict be organized, they shall file a petition with the commissioners of the soil and water conservation district. The area must be contiguous and in the same watershed but ~~in no event~~ it shall ~~it~~ not include any area located within the boundaries of an incorporated city. The petition shall set forth an intelligible description by congressional subdivision, or otherwise, of the land suggested for inclusion in the subdistrict and shall state whether the special annual tax or special benefit assessments will be used, or whether the use of both is contemplated. The petition shall contain a brief statement giving the reasons for organization, and requesting that the proposed area be organized as a subdistrict, and must be signed by sixty-five percent of the landowners in the proposed subdistrict. Land already in one subdistrict cannot be included in another. The soil and water conservation district commissioners shall review ~~such~~ the petition and if it is found adequate shall arrange for a hearing ~~thereon~~ on it.

Sec. 24. Section 467A.15, Code 1987, is amended to read as follows:

467A.15 NOTICE AND HEARING.

Within thirty days after ~~such~~ a petition has been filed with the soil and water district commissioners, they shall fix a date, hour, and place for a hearing ~~thereon~~ and direct the secretary to cause notice to be given to the owners of each tract of land, or lot, within the proposed subdistrict as shown by the transfer books of the auditor's office, and to each lienholder, or encumbrancer, of any such lands as shown by the county records, and to all other persons whom it may concern, and without naming individuals all actual occupants of land in the proposed subdistrict, of the pendency and ~~prayer~~ purpose of ~~said~~ the petition and that all objections to establishment of ~~said~~ the subdistrict for any reason must be made in writing and filed with the secretary of the soil and water conservation district at, or before, the time set for hearing. The soil and water conservation district commissioners shall consider and determine whether the operation of the subdistrict within the defined boundaries as proposed is desirable, practicable, feasible, and of necessity in the interest of health, safety, and public welfare. All interested parties ~~shall have a right to~~ may attend ~~such~~ the hearing and ~~to~~ be heard. The soil and water district commissioners may for good cause adjourn the hearing to a day certain which shall be announced at the time of adjournment and made a matter of record. If the soil and water district commissioners determine that the petition meets the requirements set forth

~~herein~~ in this section and in section 467A.5, they shall declare that the subdistrict is duly organized and shall record such action in their official minutes together with an appropriate official name~~,~~ or designation for the subdistrict.

Sec. 25. Section 467A.17, Code 1987, is amended to read as follows:

467A.17 SUBDISTRICT IN MORE THAN ONE DISTRICT.

If the proposed subdistrict lies in more than one soil and water conservation district, the petition may be presented to the commissioners of any one of such districts, and the commissioners of all such districts shall act jointly as a board of commissioners with respect to all matters concerning ~~such~~ the subdistrict, including its formation. They shall organize as a single board for such purposes and shall designate its chairperson, vice chairperson, and secretary-treasurer to serve for terms of one year. Such a subdistrict shall be formed in the same manner and ~~shall have~~ has the same powers and duties as a subdistrict formed in one soil and water conservation district.

Sec. 26. Section 467A.18, Code 1987, is amended to read as follows:

467A.18 AUTHENTICATION.

Following the entry in the official minutes of the soil and water district commissioners of the creation of the subdistrict, the commissioners shall certify this fact on a separate form, authentic copies of which shall be recorded with the county recorder of each county in which any portion of the subdistrict lies, and with the division of soil conservation.

Sec. 27. Section 467A.19, Code 1987, is amended to read as follows:

467A.19 GOVERNING BODY.

The commissioners of a soil and water conservation district in which the subdistrict is formed ~~shall be~~ are the governing body of the subdistrict. When a subdistrict lies in more than one soil and water conservation district, the combined board of commissioners ~~shall be~~ is the governing body. The governing body of the subdistrict shall appoint three trustees living within the subdistrict to assist with the administration of the subdistrict.

Sec. 28. Section 467A.21, Code 1987, is amended to read as follows:

467A.21 CONDEMNATION BY SUBDISTRICT.

A subdistrict of a soil and water conservation district may condemn land or rights or interests ~~therein~~ in the subdistrict to carry out the authorized purposes of the subdistrict.

Sec. 29. Section 467A.22, Code 1987, is amended to read as follows:

467A.22 GENERAL POWERS APPLICABLE — WARRANTS OR BONDS.

A subdistrict organized under ~~the provisions of~~ this chapter ~~shall have~~ has all of the powers of a soil and water conservation district in addition to other powers granted to the subdistrict in other sections of this chapter.

The governing body of the subdistrict, upon determination that benefits from works of improvement as set forth in the watershed work plan to be installed will exceed costs thereof, and that funds needed for purposes of the subdistrict require levy of a special benefit assessment as provided in section 467A.23, in lieu of the special annual tax as provided in section 467A.20, shall record its decision to use ~~said~~ its taxing authority and ~~shall have authority~~, upon majority vote of ~~said~~ the governing body and with the approval of the state soil conservation committee, ~~to~~ may issue warrants or bonds payable in not more than forty semiannual installments in connection ~~therewith~~ with the special benefit assessment, and ~~to~~ pledge and assign the proceeds of the special benefit assessment and other revenues of the subdistrict as security ~~therefor~~ for the warrants or bonds. ~~Such~~ The warrants and bonds of indebtedness ~~shall be~~ are general obligations of the subdistrict, exempt from all taxes, state and local, and ~~in no event shall such warrants and bonds constitute an~~ are not indebtedness of the soil and water conservation district or the state of Iowa.

Sec. 30. Section 467A.42, subsections 1, 5, 7, and 8, Code 1987, are amended to read as follows:

1. "Soil loss limit" means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts ~~shall~~ determine is acceptable in order to meet the objectives expressed in section 467D.1.

5. "Farm unit" means a single contiguous tract of agricultural land, or two or more adjacent tracts of agricultural land, located within a single soil and water conservation district, upon which farming operations are being conducted by a person who owns or is purchasing or renting all of ~~such~~ the land, or by that person's tenant or tenants. If a landowner has multiple farm tenants, the land on which farming operations are being conducted by each tenant ~~shall constitute~~ is a separate farm unit. This definition does not prohibit land which is within a single soil and water conservation district and is owned or being purchased by the same person, or is being rented by the same tenant, from being treated as two or more farm units if the commissioners of the soil and water conservation district deem it preferable to do so.

7. "Farm unit soil conservation plan" means a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the commissioners of the soil and water conservation district within which that farm unit is located, based on the conservation folder for that farm unit and identifying those permanent soil and water conservation practices and temporary soil and water conservation practices the use of which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil loss limit or limits. The plan shall if practicable identify alternative practices by which this objective may be attained.

8. "Conservation agreement" means a commitment by the owner or operator of a farm unit to implement a farm unit soil conservation plan or, with the approval of the commissioners of the soil and water conservation district within which the farm unit is located, a portion of a farm unit soil conservation plan. The commitment shall be conditioned on the furnishing by the soil and water conservation district of ~~such~~ technical or planning assistance in the establishment of, and cost sharing or other financial assistance for establishment and maintenance of the soil and water conservation practices necessary to implement the plan, or a portion of the plan.

Sec. 31. Section 467A.44, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioners of each soil and water conservation district shall, with approval of and within time limits set by administrative order of the division, adopt reasonable regulations as are deemed necessary to establish a soil loss limit or limits for the district and provide for the implementation of the limit or limits, and may subsequently amend or repeal their regulations as they deem necessary. The division shall review the soil loss limit regulations adopted by the soil and water conservation districts at least once every five years, and shall recommend changes in the regulations of a soil and water conservation district which the division deems necessary to assure that the district's soil loss limits are reasonable and attainable. The commissioners may:

Sec. 32. Section 467A.45, Code 1987, is amended to read as follows:

467A.45 SUBMISSION OF REGULATIONS TO DIVISION — HEARING.

Regulations which the commissioners propose to adopt, amend, or repeal shall be submitted to the division, in a form prescribed by the division, for its approval. The division may approve the regulations as submitted, or with amendments as it deems necessary. The commissioners shall, after approval, publish notice of hearing on the proposed regulations, as approved, in a newspaper of general circulation in the district, setting a date and time not less than ten nor more than thirty days after the publication when a hearing on the proposed regulations will be held at a specified place. The notice shall include the full text of the proposed regulations or shall state that the proposed regulations are on file and available for review at the office of the affected soil and water conservation district.

Sec. 33. Section 467A.47, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioners of ~~any~~ a soil and water conservation district shall inspect or cause to

be inspected any land within the district, upon receipt of a written and signed complaint, from an owner or occupant of land being damaged by sediment, that soil erosion is occurring ~~thereon~~ on the land in excess of the limits established by the district's soil erosion control regulations. If they find that sediment damages are occurring to property owned or occupied by the person filing the complaint and that ~~such~~ excess soil erosion is ~~so~~ occurring on the land inspected, they shall issue an administrative order to the landowner or landowners of record, and to the occupant of the land if known to the commissioners, describing ~~said~~ the land and stating as nearly as possible the extent to which soil erosion ~~thereon~~ on the land exceeds the limits established by the district's regulations. The order shall be delivered either by personal service or by restricted certified mail to each of the persons to whom it is directed, and shall:

Sec. 34. Section 467A.48, subsection 2, Code 1987, is amended to read as follows:

2. The division shall review these requirements once each year, and may authorize soil and water conservation district commissioners to make the mandatory establishment of any specified soil and water conservation practice in any particular case conditional on a higher proportion of public cost-sharing than is required by this section. When the commissioners have been so authorized, they shall, in determining the amount of cost-sharing for establishment of a specified soil and water conservation practice to comply with an administrative order issued pursuant to section 467A.47, consider the extent to which the practice will contribute benefits to the public in relation to the benefits that will accrue to the individual owner or occupant of the land on which the practice is to be established. Evidence that an application for public or other cost-sharing funds, from a source or sources having authority to pay a portion of the cost of work needed to comply with an administrative order issued pursuant to section 467A.47, has been submitted to the proper officer or agency constitutes commencement of the work within the meaning of sections 467A.43 through 467A.53.

Sec. 35. Section 467A.53, Code 1987, is amended to read as follows:

467A.53 CO-OPERATION WITH OTHER AGENCIES.

Soil and water conservation districts ~~are hereby authorized to~~ may enter into agreements with the federal government or any agency ~~thereof~~ of the federal government, as provided by state law, or with the state of Iowa or any agency ~~thereof~~ of the state, any other soil and water conservation district or water resource district, or other political subdivision of this state, for co-operation in preventing, controlling, or attempting to prevent or control, soil erosion. Soil and water conservation districts may accept, as provided by state law, any money disbursed for soil erosion control purposes by the federal government or any agency ~~thereof~~ of the federal government, and expend ~~such~~ the money for the purposes for which it was received.

Sec. 36. Section 467A.54, Code 1987, is amended to read as follows:

467A.54 STATE AGENCY CONSERVATION PLANS — EXEMPTIONS.

Each state agency shall enter into an agreement with the soil and water 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 and water 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.

Sec. 37. Section 467A.61, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

In addition to the authority granted by section 467A.47, the commissioners of ~~any~~ a soil and water conservation district may inspect or cause to be inspected any land within the district on which they have reasonable grounds to believe that soil erosion is occurring in excess of the limits established by the district's soil erosion control regulations. If the commissioners find from an inspection conducted under authority of either section 467A.47 or this section that soil erosion is occurring on that land in excess of the applicable soil loss limits established by the district's soil erosion control regulations, they shall send notice of that finding to the landowner or landowners of record, and to the occupant of the land if known to the commissioners. The notice shall describe the land affected and shall state as nearly as possible the extent to which soil erosion from that land exceeds the applicable soil loss limits.

Sec. 38. Section 467A.61, subsection 2, Code 1987, is amended to read as follows:

2. Beginning January 1, 1985, or five years after the completion of the conservation folder for a particular farm unit pursuant to this section, whichever date is later, the commissioners of the soil and water conservation district in which that farm unit is located may petition the district court for an appropriate order with respect to that farm unit if its owner or occupant has been sent a notice by the commissioners under subsection 1, paragraph "b" for three or more consecutive years. The commissioners' petition shall seek a court order which states a time not more than six months after the date of the order when the owner or occupant must commence, and a time when the owner or occupant must complete the steps necessary to comply with the order. The time allowed to complete the establishment of ~~any~~ a temporary soil and water conservation practice employed to comply or advance toward compliance with the court's order shall be not more than one year after the date of that order, and the time allowed to complete the establishment of ~~any~~ a permanent soil and water conservation practice employed to comply with the court's order shall be not more than five years after the date of that order. ~~The provisions of section~~ Section 467A.48 ~~shall apply~~ applies to a court order issued under this subsection. The steps required of the farm unit owner or operator by the court order ~~shall be~~ are those which are necessary to do one of the following:

Sec. 39. Section 467A.62, Code 1987, is amended to read as follows:

467A.62 DUTIES OF COMMISSIONERS AND OF OWNERS AND OCCUPANTS OF AGRICULTURAL LAND — RESTRICTIONS ON USE OF COST-SHARING FUNDS.

The commissioners of each soil and water conservation district shall seek to implement or to assist in implementing the following requirements:

1. Each farm unit shall be furnished a conservation folder complying with the rules of the department by the soil and water conservation district in which the farm unit is located, not later than January 1, 1985, or as soon thereafter as adequate funding is available to permit completion of a conservation folder for every farm unit in the state. Technical assistance in the development of the conservation folder may be provided by the United States department of agriculture soil conservation service through the memorandum of understanding with the district or by the department. The department shall provide by rule that an updated farm plan prepared for a particular farm unit within ten years prior to the effective date of this subsection shall be considered an adequate replacement for the conservation folder for that farm unit. Upon completion of the conservation folder for a particular farm unit, the district shall send the owner of that farm unit, and also the operator of the farm unit if known by the commissioners to be other than the owner, a letter offering that person or those persons a copy of the folder. The district shall keep a record of the date the folder is completed and the letter is sent. The folder shall be updated from time to time by the district as it deems necessary.

2. The commissioners of each soil and water conservation district shall complete preparation of a farm unit soil conservation plan for each farm unit within the district, not later than

January 1, 1985, or five years after completion of the conservation folder for that farm unit, whichever date is later, or as soon thereafter as adequate funding is available to permit compliance with this requirement. Technical assistance in the development of the farm unit soil conservation plan may be provided by the United States department of agriculture soil conservation service through the memorandum of understanding with the district or by the department. The commissioners shall make every reasonable effort to consult with the owner and, if appropriate, with the operator of that farm unit, and to prepare the plan in a form which is acceptable to that person or those persons. The plan shall be drawn up and completed without expense to the owner or operator of the farm unit, except that the owner or operator shall not be reimbursed for the value of the owner's or occupant's own time devoted to participation in the preparation of the plan. If the commissioners' plan is unacceptable to the owner or operator of the farm unit, that person or those persons may prepare an alternative farm unit soil conservation plan identifying permanent or temporary soil and water conservation practices which may be expected to achieve compliance with the soil loss limit or limits applicable to that farm unit, and submit that plan to the soil and water conservation district commissioners for their review.

3. Within one year after completion of a farm unit soil conservation plan for a particular farm unit which is acceptable both to the commissioners of the soil and water conservation district within which the farm unit is located and to the owner and, if appropriate, to the operator of that farm unit, the commissioners shall offer to enter into a soil conservation agreement with the owner, and also with the operator if appropriate, based on the mutually acceptable farm unit soil conservation plan.

Sec. 40. Section 467A.63, Code 1987, is amended to read as follows:

467A.63 RIGHT OF PURCHASER OF AGRICULTURAL LAND TO OBTAIN INFORMATION.

A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain from the seller, or from the office of the soil and water conservation district in which the land is located, a copy of the most recently updated conservation folder and of any farm unit soil conservation plan, developed pursuant to section 467A.62, subsection 2, which are applicable to the agricultural land proposed to be purchased. A prospective purchaser of an interest in agricultural land located in this state ~~shall be~~ is entitled to obtain additional copies of either or both of the documents referred to in this subsection from the office of the soil and water conservation district in which the land is located, promptly upon request, at a fee not to exceed the cost of reproducing them. All persons who identify themselves to the commissioners or staff of a soil and water conservation district as prospective purchasers of agricultural land in the district shall be given information, prepared in accordance with rules of the department, which clearly explains the provisions of section 467A.65.

Sec. 41. Section 467A.64, subsections 2 and 4, Code 1987, are amended to read as follows:

2. Prior to initiating a land disturbing activity in a political subdivision which has not adopted sediment control ordinances as described in subsection 1, a person engaged in the land disturbing activity shall file a signed affidavit with the soil and water conservation district that the project will not exceed the soil loss limits. The affidavit shall be in a form prescribed by the department and made available by the district.

4. If the agency authorized under subsection 1 determines that a land disturbing activity is not being conducted in compliance with the soil loss limits, it shall file a written and signed complaint with the soil and water conservation district commissioners. The complaint shall have the same effect and validity as a complaint filed by an owner or occupant of land being damaged by sediment pursuant to section 467A.47. If the affidavit is filed with the district or the political subdivision, the commissioners may proceed on their own complaint. The soil and water conservation district commissioners may issue an administrative order as provided in that section to the person conducting the land disturbing activity.

Sec. 42. Section 467A.65, Code 1987, is amended to read as follows:

467A.65 COST SHARING FOR CERTAIN LANDS RESTRICTED.

1. It is the intent of this ~~Act~~ chapter that, effective January 1, 1981, each tract of agricultural land which has not been plowed or used for growing row crops at any time within fifteen years prior to that date, shall for purposes of this section be considered classified as agricultural land under conservation cover. If ~~any~~ a tract of land so classified is thereafter plowed or used for growing row crops, the commissioners of the soil and water conservation district in which the land is located shall not approve use of state cost-sharing funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-sharing funds which would be available for that land if it were not considered classified as agricultural land under conservation cover. The restriction imposed by this section ~~shall apply~~ applies even if an administrative order or court order has been issued requiring establishment of soil and water conservation practices on that land. The commissioners may waive the restriction imposed by this section if they determine in advance that the purpose of plowing or row cropping land classified as land under conservation cover is to revitalize permanent pasture and that the land will revert to permanent pasture within two years after it is plowed.

2. When receiving an application for state cost-sharing funds to pay a part of the cost of establishing a permanent or temporary soil and water conservation practice, the commissioners of the soil and water conservation district to which the application is submitted shall require the applicant to state in writing whether, to the best of the applicant's knowledge, the land on which the proposed practice will be established is land considered to be classified as agricultural land under conservation cover, as defined in subsection 1. An applicant who knowingly makes a false statement of material facts or who falsely denies knowledge of material facts in completing the written statement required by this subsection commits a simple misdemeanor and, in addition to the penalty prescribed therefor by law, shall be required to repay to the department any cost-sharing funds made available to the applicant in reliance on the false statement or false denial.

Sec. 43. Section 467A.66, Code 1987, is amended to read as follows:

467A.66 PROCEDURE WHEN COMMISSIONER IS COMPLAINANT.

A soil and water conservation district commissioner who is an owner or occupant of land being damaged by sediment has the same right as any other person in like circumstances to file a complaint under section 467A.47, however a commissioner who is the complainant shall not vote on the question whether, on the basis of the inspection made pursuant to the complaint, the commissioners shall issue an administrative order under section 467A.47.

Sec. 44. Section 467A.71, subsection 1, Code 1987, is amended to read as follows:

1. The division 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 for the purpose of establishing on that land any new permanent soil and water conservation practice which the commissioners of the soil and water 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. 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 are 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.

Sec. 45. Section 467B.1, Code 1987, is amended to read as follows:

467B.1 AUTHORITY OF BOARD.

~~Whenever any~~ If a county, soil and water conservation district, subdistrict of a soil and water conservation district, water resource district, political subdivision of the state, or other local agency ~~shall engage~~ engages or ~~participate~~ participates in ~~any~~ a project for flood or erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, in co-operation with the federal government, or any department or agency ~~thereof~~ of the federal government, the counties in which ~~said~~ the project ~~shall be~~ is carried on ~~shall have the jurisdiction, power, and authority~~ may, through the board of supervisors, ~~to~~ construct, operate, and maintain ~~said~~ the project on lands under the control or jurisdiction of the county ~~whenever~~ dedicated to county use, or ~~to~~ furnish financial and other assistance in connection with ~~said~~ the projects. ~~Such flood~~ Flood, soil erosion control, and watershed improvement projects ~~shall be~~ are presumed to be for the protection of the tax base of the county, for the protection of public roads and lands, and for the protection of the public health, sanitation, safety, and general welfare.

Sec. 46. Section 467B.2, Code 1987, is amended to read as follows:

467B.2 FEDERAL AID.

~~Any~~ A county may, in accordance with ~~provisions of~~ this chapter, accept federal funds for aid in ~~any~~ a project for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, and may co-operate with the federal government or ~~any~~ a department or agency ~~thereof~~ of the federal government, a soil and water conservation ~~districts~~ district, subdistrict of a soil and water conservation district, water resource district, political subdivision of the state, or other local agency, and the county may assume ~~such~~ a proportion of the cost of the project as deemed appropriate, and may assume the maintenance cost of the ~~same~~ project on lands under the control or jurisdiction of the county ~~as~~ which will not be discharged by federal aid or grant.

Sec. 47. Section 467B.3, Code 1987, is amended to read as follows:

467B.3 CO-OPERATION.

The counties, and soil and water conservation districts, subdistricts of soil and water conservation districts concerned, and water resource districts, shall advise and consult with each other, upon the request of any of them or any affected landowners, and ~~shall be authorized to~~ may co-operate with each other or with other state subdivisions, or instrumentalities, and affected landowners, as well as with the federal government or ~~any~~ a department or agency ~~thereof~~ of the federal government, to construct, operate, and maintain suitable projects for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water on public roads or other public lands or other land granted county use.

Sec. 48. Section 467B.5, Code 1987, is amended to read as follows:

467B.5 MAINTENANCE COST.

~~Where~~ If construction of projects has been completed by the soil and water conservation district, subdistricts of soil and water conservation districts, water resource districts, political subdivisions of the state, or other local agencies, or the federal government, or any department or agency ~~thereof~~ of the federal government, on private lands under the easement granted to the county, only the cost of maintenance may be assumed by the county.

Sec. 49. Section 467B.10, Code 1987, is amended to read as follows:

467B.10 ASSUMPTION OF OBLIGATIONS.

This chapter contemplates that actual direction of the project, or projects, and the actual work done in connection ~~therewith~~ with them, will be assumed by the soil and water conservation district, subdistrict of a soil and water conservation district, water resource district, or ~~by~~ the federal government and that the county or other state subdivisions or instrumentalities jointly will meet the obligation required for federal co-operation and may make proper commitment for the care and maintenance of the project after its completion for the general welfare of the public and residents of the respective counties.

Sec. 50. Section 467C.5, Code 1987, is amended to read as follows:

467C.5 APPROVAL OF COMMISSIONERS.

A district shall not be established by ~~any~~ a board of supervisors under this chapter unless the organization of the district is approved by the commissioners of ~~any~~ a soil and water conservation district established under ~~the provisions of~~ chapter 467A and which is included all or in part within the district, nor shall ~~any such~~ a district be established without the approval of the state conservation commission and the department of ~~water, air and waste management~~ natural resources.

Sec. 51. Section 467D.17, Code 1987, is amended to read as follows:

467D.17 PLAN PRESENTED TO DIVISION, DEPARTMENT OF NATURAL RESOURCES, AND SOIL AND WATER CONSERVATION DISTRICTS.

The board shall tentatively adopt the plan by resolution and shall present the plan to the division and the department of natural resources for review. The department of natural resources shall within ninety days review the plan as presented and make recommendations it deems necessary to bring the water resource district's plan into conformity with the comprehensive water allocation plan established pursuant to section 455B.263. The recommendations of the department of natural resources shall be submitted to the board for incorporation into the plan. The plan shall then be submitted to the soil and water conservation districts located entirely or partially within the water resource district. The soil and water conservation districts shall review, comment, and record a vote within ninety days indicating their support of or opposition to the plan in the same manner provided in section 467D.5, subsection 1. The division shall inform the soil and water conservation districts of the votes of the districts within the water resource district. The division shall review the plan as presented, give consideration to the comments and votes of the soil and water conservation districts, give final approval or disapproval of the plan within ninety days, and provide a written statement detailing the basis of its decision.

A subsequent major change in the plan, as determined by the water resource board, is not effective until approved by the process provided in this section for approval of the original plan.

Sec. 52. Section 467D.22, subsections 1 and 2, Code 1987, are amended to read as follows:

1. Consultation and co-operation with, and appropriate assistance to, the commissioners of ~~any~~ a soil and water conservation district in the state.

2. Securing the establishment of, or repair or maintenance within, a subdistrict of a soil and water conservation district, a soil conservation and flood control district, a drainage district, a levee district, a sanitary district, or other appropriate special district, in the manner prescribed by law.

Sec. 53. Section 467D.23, Code 1987, is amended to read as follows:

467D.23 EROSION AS NUISANCE – INJUNCTION.

Soil erosion resulting in or contributing to damage by siltation to any internal improvement of a water resource district, or resulting in or contributing to damage to property not owned by the owner or occupant of the land on which ~~such~~ the erosion is occurring, is ~~hereby declared to be~~ a nuisance. The board of the water resource district whose internal improvement is so damaged, the commissioners of the soil and water conservation district within which ~~such~~ the

erosion is occurring, or the owner or owners of any property so damaged, may bring action to enjoin and abate any such nuisance as provided by chapter 657. It ~~shall be~~ is an adequate defense to ~~such an~~ the action that ~~any~~ a defendant, prior to the time the cause of action arose, had submitted application for public cost-sharing funds pursuant to section 467A.48, or had established or maintained soil and water conservation practices or erosion control practices approved by the commissioners of the soil and water conservation district in which the erosion complained of occurred, or had taken other reasonable and prudent measures to prevent excessive soil erosion, and that the erosion complained of was an isolated occurrence caused by a single prolonged or unusually heavy rainfall, unusually rapid melting of accumulated snow, severe windstorm, or other similar event beyond the control of the defendant. The remedy for ~~any~~ soil erosion which constitutes a nuisance under this section ~~shall be~~ is limited to requiring that the owner or occupant of the land on which the erosion is occurring take ~~such~~ measures as ~~are~~ necessary to comply with the regulations of the soil and water conservation district in which the land is located, and the fine and jail sentence provided by section 657.3 ~~shall~~ does not apply in ~~any~~ an action arising under this section.

Sec. 54. Section 467D.24, Code 1987, is amended to read as follows:

467D.24 SURVEYS — SOUNDINGS — DRILLINGS.

The board, the commissioners of a soil and water conservation district, or an engineer or any other authorized person employed by the board or commissioners, may after thirty days' written notice by restricted certified mail addressed to the owner and also to the occupant, enter upon private land for the purpose of making surveys, soundings, drillings, appraisals, and examinations as deemed appropriate or necessary to determine the advisability or practicability of locating an internal improvement on ~~said~~ the land or part ~~thereof~~ of it, or to determine whether soil erosion is occurring ~~thereon~~ on the land which constitutes a nuisance under section 467D.23 or is in violation of the soil and water conservation district's regulations; provided, no soundings or drillings shall be made within twenty rods of the dwelling house or buildings on ~~said~~ the land without the written consent of the owner. ~~Such entry~~ Entry, after notice, ~~shall~~ is not ~~be deemed~~ a trespass, and the board or commissioners may be aided by injunction to insure peaceful entry. The board shall pay actual damages caused by ~~such~~ the entry, surveys, soundings, drillings, appraisals, or examinations. The amount of such damages, if any, shall be determined by agreement or in the manner provided for the award of damages in condemnation of land for water resource district purposes.

Sec. 55. Section 471.4, subsection 5, Code 1987, is amended to read as follows:

5. Subdistricts of soil and water conservation districts. Upon a subdistrict of a soil and water conservation district for ~~such~~ land or rights or interests ~~therein~~ in the land as ~~are~~ reasonable and necessary to carry out the purposes of the subdistrict.

Sec. 56. Section 479.47, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.

Sec. 57. Section 613A.1, subsection 1, Code 1987, is amended to read as follows:

1. "Municipality" means city, county, township, school district, and any other unit of local government except soil and water conservation districts as defined in section 467A.3, subsection 1 and water resource districts as defined in section 467D.2, subsection 1.

Approved April 21, 1987

CHAPTER 24

STATE LIABILITY FOR TORTS BY JUVENILES PERFORMING WORK ASSIGNMENTS
H.F. 630

AN ACT relating to state liability for torts committed by juveniles while performing community service assignments pursuant to an order of the juvenile court.

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

Section 1. Section 232.13, unnumbered paragraph 1, Code 1987, is amended to read as follows:
The state of Iowa is liable, according to and under chapter 25A, for a tortious act committed by a child given a work assignment of value to the state or the public or a community work assignment under this chapter.

Approved April 22, 1987

CHAPTER 25

JUDICIAL MAGISTRATE PROCEEDINGS
H.F. 612

AN ACT relating to appeal of a magistrate's decision.

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

Section 1. Rule of criminal procedure 48, subsection 9, Iowa court rules, second edition, is amended to read as follows:
9. RECORD. The proceedings upon trial shall not be reported, unless a party provides a reporter at such party's expense. ~~By agreement of the parties the~~ The magistrate may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically recorded both parties shall be notified in advance of that recording. If the defendant is indigent and requests that the proceedings upon trial be reported, the judicial magistrate shall cause them to be reported by a reporter, or electronically, at public expense. If the proceedings are not reported electronically, the judicial magistrate shall make minutes of the testimony of each witness and append the exhibits or copies thereof. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate and upon request shall be transcribed only by a person designated by the court under the supervision of the magistrate. The transcription shall be provided anyone requesting it upon payment of actual cost of transcription or to an indigent defendant as herein above provided.

Sec. 2. Rule of criminal procedure 54, subsection 3, Iowa court rules, second edition, is amended to read as follows:
3. PROCEDURE IF APPEAL FROM ~~LAWYER~~ MAGISTRATE. If the original action was tried by a district judge, district associate judge, or judicial magistrate ~~who is admitted to practice law in Iowa~~, the appellant shall file and serve, within fourteen days after taking the appeal, a brief in support of the appeal. The brief shall include statements of the specific issues presented for review and the precise relief requested. The appellee may file and serve, within ten days after service of the appellant's brief, a responding brief. Either party may request, at the end of the party's brief, permission to be heard in oral argument. Within thirty days after the filing, or expiration of time for filing, of the appellee's brief, the appeal shall be submitted to the court on the record and any briefs without oral argument, unless otherwise ordered by the court or its designee. If the court, on its own motion or motion of a party, finds the record to be inadequate, it may order the presentation of further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the

original action was tried by a district associate judge, the appeal shall be decided by a district judge or a different district associate judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or district associate judge. Findings of fact in the original action shall be binding on the judge deciding the appeal if they are supported by substantial evidence. The judge deciding the appeal may affirm, or reverse and enter judgment as if the case were being originally tried, or enter any judgment which is just under the circumstances.

Sec. 3. Rule of criminal procedure 54, subsection 4, Iowa court rules, second edition, is repealed.

Sec. 4. This Act shall apply to appeals taken on or after the effective date of the Act.

Approved April 22, 1987

CHAPTER 26

ORGANIZED AMATEUR BOXING

H.F. 607

AN ACT relating to the maximum age for participation in an organized amateur boxing contest.

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

Section 1. Section 90A.10, Code 1987, is amended to read as follows:

90A.10 MAXIMUM AGE FOR PARTICIPANTS — AMATEUR BOXING.

1. A person over the age of thirty shall not participate as a contestant in an organized amateur boxing contest unless each contestant participating in the contest is over the age of thirty. A birth certificate, or other similar document, must be submitted at the time of the prefight physical examination in order to determine eligibility.

2. Subsection 1 does not apply to participants in regional, national, or international organized amateur boxing contests or to organized amateur boxing contests involving contestants who are serving in the military service.

Approved April 22, 1987

CHAPTER 27

DISCLOSURES BY STATE EMPLOYEES

H.F. 427

AN ACT relating to reprisals and orders with respect to certain disclosures of information by state employees, and providing a penalty.

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

Section 1. Section 19A.19, unnumbered paragraph 4, Code 1987, is amended to read as follows:

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 merit system administered by, or subject to approval of, the director as a reprisal for a disclosure of information by that employee to a member of the general assembly, the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the

computer support bureau, or the respective caucus staffs of the general assembly, 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 subsection does not apply if the disclosure of that information is prohibited by statute.

Sec. 2. Section 79.28, Code 1987, is amended to read as follows:

79.28 ~~REPRISALS PROHIBITED~~ — ~~STATE~~ PROHIBITIONS RELATING TO CERTAIN ACTIONS BY STATE EMPLOYEES – PENALTY.

1. A person who serves as the head of a state department or agency or otherwise serves in a supervisory capacity within the executive branch of state government shall not prohibit an employee of the state from disclosing information to a member of the general assembly, the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly, or from disclosing 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.

2. 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 a disclosure of information by that employee to a member of the general assembly, the legislative service bureau, the legislative fiscal bureau, the citizens' aide, the computer support bureau, or the respective caucus staffs of the general assembly, 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.

PARAGRAPH DIVIDED. 3. ~~This section does~~ Subsections 1 and 2 do not apply if the disclosure of ~~that~~ the information is prohibited by statute.

4. A person who violates subsection 1 or 2 commits a simple misdemeanor.

5. 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 April 22, 1987

CHAPTER 28

SURGERY FOR MEDICAID CLIENTS

H.F. 272

AN ACT repealing a pilot program regarding second opinions on elective surgery for medical assistance recipients.

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

Section 1. Section 249A.13, Code 1987 is repealed.

Approved April 22, 1987

CHAPTER 29

WASTEWATER TREATMENT FACILITY VARIANCES

H.F. 641

AN ACT relating to the wastewater treatment facility and making variances granted subject to the review of the environmental protection commission.

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

Section 1. Section 455B.181, Code 1987, is amended to read as follows:

455B.181 VARIANCES AND EXEMPTIONS.

The director may, after public notice and hearing, grant exemptions from a maximum contaminant level or treatment technique, or both. The director may also grant a variance from drinking water standards for public water supply systems when the characteristics of the raw water sources, which are available to a system, cannot meet the requirements with respect to maximum contaminant level of the standards despite application of the best treatment techniques which are generally available and if the director determines that the variance will not result in an unreasonable risk to the public health. A schedule of compliance may be prescribed by the director, at the time the variance or exemption is granted. The director shall also require the interim measures to minimize the contaminant levels of systems subject to the variance or exemption as may reasonably be implemented. The director may also issue variances from other rules of the department if necessary and appropriate. The director shall submit variances granted regarding a wastewater treatment facility to the commission for the commission's review within thirty days of the granting of a variance. The denial of a variance or exemption may be appealed to the ~~department~~ commission.

Approved April 23, 1987

CHAPTER 30

FUNERAL SERVICES AND MERCHANDISE FURNISHED UPON A FUTURE DEATH

H.F. 614

AN ACT relating to sales of funeral services and funeral merchandise, revising regulatory and reporting provisions, requiring disclosures, requiring permits, providing penalties, providing for the applicability of the Act, and providing an effective date.

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

Section 1. Section 156.9, subsection 3, Code 1987, is amended by striking the subsection.

Sec. 2. Section 156.12, Code 1987, is amended to read as follows:

156.12 FUNERAL DIRECTORS — SOLICITATION OF BUSINESS — EXCEPTIONS — PENALTY.

Every funeral director, or ~~any~~ person acting ~~in their~~ on behalf of a funeral director, who pays or causes to be paid any money or other thing of value as a commission or gratuity for the securing of business for ~~such~~ the funeral director, and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director in order to secure business for the funeral director ~~shall be deemed guilty of~~ commits a simple misdemeanor. This section ~~shall~~ does not ~~be construed as prohibiting~~ prohibit any person, firm, co-operative burial association, or corporation, subject to the provisions of this chapter, from using legitimate and honest advertising. This section does not apply to sales made in accordance with chapter 523A.

Sec. 3. Section 523A.1, Code 1987, is amended to read as follows:

523A.1 TRUST FUND ESTABLISHED.

Whenever an agreement is made by any person, firm, or corporation ~~for the final disposition of a dead human body wherein delivery of personal property to be used under a prearranged funeral plan or the furnishing of professional services of a funeral director or embalmer in connection therewith, is not immediately required,~~ to furnish, upon the future death of a person named or implied in the agreement, funeral services or funeral merchandise, a minimum of eighty percent of all payments made under the agreement~~, including interest thereon,~~ shall be and remain trust funds until occurrence of the death of the person for whose benefit the funds were paid, unless ~~said~~ the funds are sooner released to the person making ~~such~~ the payment by mutual consent of the parties. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit.

Interest or income earned on amounts deposited in trust under this section shall remain in trust under the same terms and conditions as the payments made under the agreement, except that the seller may withdraw so much of the interest or income as represents the difference between the amount needed to adjust the trust funds for inflation as set by the commissioner based on the consumer price index and the interest or income earned during the preceding year not to exceed fifty percent of the total interest or income, on a calendar year basis. The early withdrawal of interest or income pursuant to this provision does not affect the purchaser's right to the full refund or credit of such interest or income in the event the payments and interest in trust are released to the purchaser or in the event of a nonguaranteed price agreement, respectively. This provision does not affect the purchaser's right to a total refund of principal and interest or income in the event of nonperformance.

If an agreement pursuant to this section is to be paid in installment payments, the seller shall deposit eighty percent of each payment in trust until the full amount to be trusted has been deposited. If the agreement is financed with or sold to a financial institution, then the agreement shall be considered paid in full and the deposit requirements of this section shall be satisfied within thirty days after the close of the month in which payment is received from the financial institution.

This section does not apply to payments for merchandise delivered to the purchaser. Delivery includes storage in a warehouse under the control of the seller when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, and the annual reporting requirements of section 523A.2, subsection 1, are satisfied.

Sec. 4. Section 523A.2, Code 1987, is amended to read as follows:

523A.2 DEPOSIT OF FUNDS — RECORDS — EXAMINATIONS — REPORTS.

1. a. All funds held in trust under section 523A.1 shall be deposited in ~~an~~ a state or federally insured bank, savings and loan association, or credit union authorized to conduct business in this state, or trust department thereof, within thirty days after the receipt of the funds and shall be held in a separate account or in one common trust fund under a trust agreement in the name of the depositor in trust for the designated beneficiary until released ~~under either of the conditions provided in~~ pursuant to section 523A.1.

b. The seller under an agreement referred to in section 523A.1 shall maintain accurate records of all receipts, expenditures, interest or earnings, and disbursements relating to funds held in trust, and shall make these records available to the ~~county attorney of the county in which the principal place of business of the seller is located~~ commissioner for examination at any reasonable time upon request.

~~c. The seller under an agreement referred to in section 523A.1 shall file not later than March 1 of each year with the county recorder of the county in which the seller maintains its principal place of business a copy of each trust agreement created as required by paragraph "a" of this subsection for sales made during the previous calendar year.~~

~~d~~ c. The seller under an agreement referred to in section 523A.1 shall file ~~notice 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 filed on forms furnished by the seller,~~

~~and shall be 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.~~ with the commissioner not later than March 1 of each year a report including the following information:

(1) The name and address of the seller and the name and address of the establishment that will provide the funeral services or funeral merchandise.

(2) The name of the purchaser, beneficiary, and the amount of each agreement under section 523A.1 made in the preceding year and the date on which it was made.

(3) The total value of agreements subject to section 523A.1 entered into, the total amount paid pursuant to those agreements, and the total amount deposited in trust as required under section 523A.1, during the preceding year.

(4) The amount of any payments received pursuant to agreements reported in previous years in accordance with subparagraphs (2) and (3) and the amount of those payments deposited in trust for each purchaser.

(5) The change in status of any trust account, including total amount of interest or income withdrawn from each trust account in the preceding year, and for each purchaser, any other amounts withdrawn from trust and the reason for each withdrawal. However, regular increments of interest or income need not be reported on a yearly basis.

(6) The name and address of the financial institution in which trust funds were deposited, and the name and address of each insurance company which funds agreements under section 523A.1.

(7) The name and address of each purchaser of funeral merchandise delivered in lieu of trusting pursuant to section 523A.1, and a description of that merchandise for each purchaser.

(8) The complete inventory of funeral merchandise and its location in the seller's possession that has been delivered in lieu of trusting pursuant to section 523A.1.

(9) Other information reasonably required by the commissioner for purposes of administration of this chapter.

The information required by subparagraphs (7) and (8) shall include a verified statement of a certified public accountant that the certified public accountant has conducted a physical inventory of the funeral merchandise specified in subparagraph (8) and that each item of that merchandise is in the seller's possession at the specified location. The statement shall be on a form prescribed by the commissioner.

The report shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

~~e~~ d. A financial institution referred to in paragraph "a" ~~of this subsection~~ shall file notice with the ~~county recorder for the county in which the trust agreement is filed~~ commissioner of all funds deposited under the trust agreement. ~~This~~ The notice shall be on forms ~~furnished~~ prescribed by the ~~seller~~ commissioner and shall be 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.~~ Forms may be obtained from the commissioner.

~~f~~ e. Notwithstanding chapter 22, all records maintained by ~~a county recorder~~ the commissioner under this subsection shall be confidential and shall not be made available for inspection or copying ~~by any person~~ except upon approval of the ~~county attorney or a representative of the county~~ commissioner or the attorney general.

f. The state or federally insured bank, savings and loan association, or credit union in which trust funds are held shall not be owned or under the control of the seller and shall not use any funds required to be held in trust pursuant to this chapter or chapter 566A to purchase an interest in any contract or agreement to which the seller is a party, or otherwise to invest, directly or indirectly, in the seller's business operations.

g. The bank, savings and loan, credit union, or trust department thereof, in which trust funds are held shall serve as trustee to the extent that organization has been granted those powers under the laws of this state or the United States and may invest, reinvest, exchange, retain,

sell, and otherwise manage the trust fund. The trustee may combine trust accounts established pursuant to this chapter as long as a separate accounting of each purchaser's principal, interest, and income is maintained. The seller may appoint an independent investment advisor to act in an advisory capacity with the trustee relative to the investment of the trust funds. The trust shall pay the cost of the operation of the trust and any annual audit fees.

2. In addition to complying with subsection 1, each seller under an agreement referred to in section 523A.1 shall file annually with the ~~county attorney of the county in which the seller maintains its principal place of business a written statement that is signed by the seller and notarized and that contains all of the following information:~~

~~a. Identification of each financial institution in which trust funds are held under subsection 1, paragraph "a", and a listing of each trust agreement governing funds held in the respective financial institutions and the date each agreement was filed with the county recorder.~~

~~b. Authorization for the county attorney~~ commissioner an authorization for the commissioner or a designee to investigate, audit, and verify all funds, accounts, safe-deposit boxes, and other evidence of trust funds held by or in a financial institution ~~under paragraph "a" of this subsection.~~

3. The ~~insurance division~~ commissioner shall adopt rules under chapter 17A specifying the form, content, and cost of the forms for the notices and disclosures required by this section, and shall sell blank forms at that cost to any person on request.

4. If a seller under an agreement referred to in section 523A.1 ceases to do business, whether voluntarily or involuntarily, all funds held in trust under section 523A.1, including accrued interest or earnings, shall be repaid to the purchaser under the agreement.

5. The ~~county attorney of the county in which a sale referred to in section 523A.1 takes place~~ commissioner may require the performance of an audit of the seller's business by a certified public accountant if the ~~county attorney~~ commissioner receives reasonable evidence that the seller is not complying with this chapter. The audit shall be paid for by the seller, and a copy of the report of audit shall be delivered to the ~~county attorney~~ commissioner and to the seller.

6. A seller or financial institution that knowingly fails to comply with any requirement of this section or that knowingly submits false information in a document or notice required by this section commits a serious misdemeanor.

7. This chapter does not prohibit the funding of an agreement otherwise subject to section 523A.1 by insurance proceeds derived from a policy issued by an insurance company authorized to conduct business in this state. The seller of an agreement subject to this chapter which is to be funded by insurance proceeds shall obtain all permits required to be obtained under this chapter and comply with the reporting requirements of this section.

Sec. 5. Section 523A.5, subsection 1, Code 1987, is amended to read as follows:

1. This chapter applies only to the sale of funeral services, funeral merchandise, or a combination of these, ~~pursuant to a prearranged funeral plan.~~

Sec. 6. Section 523A.5, subsection 2, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. "Commissioner" means the commissioner of insurance or the deputy appointed under section 502.601.

Sec. 7. Section 523A.7, Code 1987, is amended to read as follows:

523A.7 BOND IN LIEU OF TRUST FUND.

1. In lieu of the trust fund required by sections 523A.1 and 523A.2, a seller may file with the ~~county attorney of the county in which the seller maintains its principal place of business~~ commissioner a surety bond ~~in open penalty~~ that is issued by a surety company authorized to do business in this state and that is conditioned on the faithful performance by the seller of agreements subject to this chapter. The liability of the surety extends to each agreement that is subject to this chapter and that is executed during the time the bond is in force and until performance of the agreement or rescission of the agreement by mutual consent of the

parties; and, to the extent expressly agreed to in writing by the surety company under subsection 3, paragraph "b", the liability of the surety extends to each agreement that is subject to this chapter and that was executed prior to the time the bond was in force and until performance of the agreement or rescission of the agreement by mutual consent of the parties. A buyer who is aggrieved by a breach of a condition of the bond covering the contract of that buyer may maintain an action against the bond, provided that if, at the time of the breach, the buyer is aware of the buyer's rights under the bond and how to file a claim against the bond, the surety shall not be liable as a result of any breach of condition unless notice of a claim is received by the surety within sixty days following the discovery of the acts, omissions, or conditions constituting the breach of condition, except as otherwise provided in subsection 2. A surety bond submitted under this subsection shall not be canceled by a surety company except upon a written notice of cancellation given by the surety company to the ~~county attorney~~ commissioner by restricted certified mail, and the surety bond shall not be canceled prior to the expiration of sixty days after the receipt by the ~~county attorney~~ commissioner of the notice of cancellation.

2. If a seller becomes insolvent or otherwise ceases to engage in business prior to or within sixty days after the cancellation of a bond submitted under subsection 1, the seller shall be deemed to have breached the conditions of the surety bond with respect to all outstanding contracts subject to this chapter as of the day prior to cancellation of the bond. The ~~county attorney~~ commissioner shall mail written notice by restricted certified mail to the buyer under each outstanding contract of the seller that a claim against the bond must be filed with the surety company within sixty days after the date of mailing of the notice. The surety company shall cease to be liable with respect to all agreements except those for which claims are filed with the surety company within sixty days after the date the notices are mailed by the ~~county attorney~~ commissioner.

3. If a surety bond is canceled by a surety company under any conditions other than those specified in subsection 2, the seller shall comply with paragraphs "a" and "b" ~~of this subsection~~:

a. The seller shall comply with the trust requirements of sections 523A.1 and 523A.2 with respect to all contracts subject to this chapter that are executed on or after the effective date of cancellation of the surety bond, or the seller may submit a substitute surety bond meeting the requirements of subsection 1, ~~provided that~~ but the seller ~~shall~~ must comply with sections 523A.1 and 523A.2 with respect to any contracts executed on or after the effective date of cancellation of the earlier surety bond and prior to the date on which the later surety bond takes effect.

b. Within sixty days after the effective date of the cancellation of the surety bond, the seller shall submit to the ~~county attorney~~ commissioner an undertaking by another surety company that a substitute surety bond meeting the requirements of subsection 1 is in effect and that the liability of the substitute surety bond extends to all outstanding contracts of the seller that were executed but not performed or extinguished prior to the effective date of the substitute surety bond, or the seller shall submit to the ~~county attorney~~ commissioner a financial statement accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state certifying the total amount of outstanding liabilities of the seller on contracts subject to this chapter and proof of deposit by the seller in trust under sections 523A.1 and 523A.2 of either the amount specified in sections 523A.1, including interest as set by the commissioner based on the interest which would have been earned had the funds been maintained in trust, with respect to all of those outstanding contracts or ~~such lesser amount as is certified in the report of the certified public accountant to be adequate to assure the performance by the seller of each of those outstanding contracts~~, where applicable, that delivery of merchandise has been made in compliance with section 523A.1. The surety may require such security as is necessary to comply with this section. Upon compliance by the seller with this paragraph, the surety company canceling the surety bond shall cease to be liable with respect to any outstanding contracts of the seller except those with respect

to which a breach of condition occurred prior to cancellation and timely claims were filed.

4. Section 523A.2, subsection 1, paragraphs "b", "c", and ~~"f"~~ "e", subsection 5, and, to the extent it is applicable, subsection 6, apply to sellers whose agreements are covered by a surety bond maintained under this section, and section 523A.2 continues to apply to any agreements of those sellers that are not covered by a surety bond maintained under this section.

5. Upon receiving a notice of cancellation of a surety bond, the ~~county attorney~~ commissioner shall notify the seller of the requirements of this chapter resulting from cancellation of the bond. The notice may be in the form of a copy of this section and sections 523A.1 and 523A.2.

6. Upon receiving a notice of cancellation, unless the seller has complied with the requirements of this section, the ~~county~~ attorney general shall seek an injunction to prohibit the seller from making further agreements subject to this chapter and shall commence an action to attach and levy execution upon property of the seller when the seller fails to perform an agreement subject to this chapter, to the extent necessary to secure compliance with this chapter, and the county attorney may bring criminal charges under section 523A.2, subsection 6.

7. The surety under this section shall not be owned or under the control of the seller.

Sec. 8. NEW SECTION. 523A.8 DISCLOSURES.

1. Every agreement for funeral merchandise or funeral services under this chapter shall be written in clear, understandable language and shall be printed or typed in easy-to-read type, size, and style, and shall:

a. Identify the seller, the salesperson's permit and establishment name and permit number, the expiration date of the salesperson's permit, the purchaser, and the person for whom the funeral services or funeral merchandise are purchased if other than the purchaser.

b. Specify the funeral services or funeral merchandise, or both, to be provided, and the cost of each service and merchandise item.

c. State clearly the conditions on which substitution will be allowed.

d. Set forth the total purchase price and the terms under which it is to be paid.

e. State clearly whether the agreement is a guaranteed price contract or a nonguaranteed price contract.

f. State clearly whether the agreement is a revocable or irrevocable contract, and who has the authority to revoke the contract.

g. State the amount or percentage of money to be placed in trust.

h. Explain the disposition of the interest and disclose what fees and expenses may be charged if incurred.

i. Specify the purchaser's right to cancel and damages for cancellation, if any.

j. State the name and address of the commissioner.

2. Every agreement shall be signed by the purchaser, the seller, and if the agreement is for funeral services as defined in chapter 156, a person licensed to deliver those services.

Sec. 9.* NEW SECTION. 523A.9 ESTABLISHMENT PERMITS.

1. A person, as defined in section 4.1, subsection 13, shall not engage in the business of selling, promoting, or otherwise entering into agreements to furnish, upon the future death of a person named or implied in the agreement, funeral services, property for use in funeral services, or funeral merchandise without an establishment permit as provided for in this section. An establishment doing business shall obtain a permit for each location.

2. An applicant for a permit under this section shall submit to the commissioner an application on a form provided by the commissioner. The application shall include at a minimum the following information:

a. The name and location of the applicant's business.

b. The name and location of the provider who will provide the funeral services or funeral merchandise.

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*This section does not contain a subsection 3

c. The name and address of each owner, officer, or other official of the applicant's business, or in the event that the applicant is a corporation, the names and addresses of the chief executive officer and the members of the board of directors.

d. The types of professional services or funeral merchandise to be sold.

An application for a permit pursuant to this section shall be accompanied by a copy of each sales agreement the permit holder will use for sales of funeral services or funeral merchandise under section 523A.1.

A permit holder shall inform the commissioner of changes in the information within thirty days of the change.

4. The applicant for a permit shall submit a fee in the amount of fifty dollars.

5. Permits granted under this section are not assignable.

6. Upon the filing of an application for a permit, if the commissioner finds that the applicant has not been convicted of a criminal offense involving dishonesty or false statement and can provide the funeral services or funeral merchandise the applicant purports to sell, the commissioner shall issue the permit.

7. If the commissioner does not grant the permit, the commissioner shall notify the applicant in writing of the denial and the reasons for the denial. The commissioner shall approve or deny every application for a license within ninety days after the filing thereof, but any failure of the commissioner to act within that time period shall not be deemed to be an approval of the application.

Sec. 10. NEW SECTION. 523A.10 SALES PERMITS.

1. An individual shall not sell, promote, or otherwise enter into an agreement to furnish, upon the future death of a person named or implied in the agreement, funeral services or funeral merchandise without a permit as provided for in this section. An individual permit holder must be an employee or agent of an establishment which holds a permit pursuant to section 523A.9 and which can deliver the funeral services or funeral merchandise being sold. The establishment is liable for the acts of its employees and agents, independent or otherwise, performed in the course of obtaining or attempting to obtain an agreement for the sale of funeral services or funeral merchandise under section 523A.1.

2. This chapter does not allow a person to engage in the practice of mortuary science without a license. However, a person having a valid permit under this section may engage in the preneed sale of a funeral director's services as an employee or agent of a funeral establishment that may furnish the funeral services in accordance with chapter 156.

3. An applicant for a permit under this section shall submit to the commissioner an application on a form provided by the commissioner. The application shall include at a minimum the following information:

a. The name and address of the applicant.

b. The name and address of the applicant's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, and, if different, the name and address of the provider who will provide the funeral services or funeral merchandise.

A permit holder shall inform the commissioner of changes in the information within thirty days of the change.

4. The permit shall be deemed effective upon filing the application with the commissioner. The permit shall disclose on its face the permit holder's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, the permit number, and the expiration date. A permit under this section shall expire one year from the date the application is filed.

5. The application fee shall be five dollars.

6. Permits granted under this section are not assignable.

7. The commissioner may revoke a permit if the commissioner determines that the permit holder has been convicted of a criminal offense involving dishonesty or false statement or that the establishment cannot provide the funeral services or funeral merchandise the establishment purports to sell.

Sec. 11. NEW SECTION. 523A.11 INVESTIGATIONS.

The attorney general or the commissioner may, for the purpose of discovering violations of this chapter or any rules adopted under this chapter:

1. Investigate the business and examine the books, accounts, records, and files used by every permit holder under this chapter.

2. Administer oaths and affirmations, subpoena witnesses, receive evidence, and require the production of documents and records in connection with an investigation or proceeding being conducted pursuant to this chapter.

3. Apply to the district court for issuance of an order requiring a person's appearance before the commissioner or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the commissioner or attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. Failure to obey a court order under this subsection constitutes contempt of court.

Sec. 12. NEW SECTION. 523A.12 SUSPENSION OR REVOCATION OF PERMITS.

1. The commissioner may, pursuant to chapter 17A, suspend or revoke any permit issued pursuant to this chapter if the commissioner finds any of the following:

a. The permit holder has violated any provisions of this chapter or any rule adopted under this chapter or any other state or federal law applicable to the conduct of the permit holder's business.

b. Any fact or condition exists which, if it had existed at the time of the original application for the permit, would have warranted the commissioner refusing originally to issue the permit.

c. The permit holder is found upon investigation to be insolvent, in which case the permit shall be revoked immediately.

d. The permit holder, for the purpose of avoiding the trusting requirement for funeral services under section 523A.1, attributes amounts paid pursuant to the agreement to funeral merchandise that is delivered under section 523A.1 rather than to funeral services sold to the purchaser. The sale of funeral services at a lower price when the sale is made in conjunction with the sale of funeral merchandise to be delivered pursuant to section 523A.1 than the services are regularly and customarily sold for when not sold in conjunction with funeral merchandise is evidence that the permit holder is acting with the purpose of avoiding the trusting requirement for funeral services under section 523A.1.

2. The commissioner may, on good cause shown, suspend any permit for a period not exceeding thirty days, pending investigation.

Except as provided in the preceding paragraph, a permit shall not be revoked or suspended except after notice and hearing in accordance with chapter 17A.

3. Any permit holder may surrender a permit by delivering to the commissioner written notice that the permit holder surrenders the permit, but the surrender shall not affect the permit holder's civil or criminal liability for acts committed before the surrender.

4. Revocation, suspension, or surrender of a permit does not impair or affect the obligation of any preexisting lawful contract between the permit holder and any person.

Sec. 13. NEW SECTION. 523A.13 PROSECUTION FOR VIOLATIONS OF LAW.

If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general the grounds for the belief, including all evidence in the commissioner's possession, in order that the attorney general may proceed with the

matter as the attorney general deems appropriate. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county attorney's county.

Sec. 14. NEW SECTION. 523A.14 INJUNCTIONS.

The attorney general may apply to the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices deemed contrary to the public interest. In any proceeding for an injunction, the attorney general may apply to the court for the issuance of a subpoena to require the appearance of a defendant and the defendant's agents and any documents, books, and records germane to the hearing upon the petition for an injunction. Upon proof of any of the offenses described in the petition for injunction the court may grant the injunction.

Sec. 15. NEW SECTION. 523A.15 FRAUDULENT PRACTICES.

A person who commits any of the following acts commits a fraudulent practice and is punishable as provided in chapter 714:

1. Knowingly makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.

2. Conspires to defraud in connection with the sale of funeral services or funeral merchandise under this chapter.

3. Deliberately misrepresents or omits a material fact relative to the sale of funeral services or funeral merchandise under this chapter.

Sec. 16. NEW SECTION. 523A.16 RULES.

The commissioner may adopt rules necessary to administer this chapter, in accordance with chapter 17A.

Sec. 17. Section 331.602, subsection 29A, Code 1987, is amended by striking the subsection.

Sec. 18. Section 331.756, subsection 70A, Code 1987, is amended by striking the subsection.

Sec. 19. APPLICABILITY. The administrative and reporting requirements of this Act apply to agreements in effect on July 1, 1987, as well as to agreements entered into on or after that date.

Sec. 20. EFFECTIVE DATE. Sections 9 and 10 of this Act take effect on January 1, 1988.

Approved April 23, 1987

CHAPTER 31

COUNTY ZONING

H.F. 583

AN ACT relating to the procedures for adopting or amending county zoning ordinances.

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

Section 1. Section 358A.6, Code 1987, is amended to read as follows:

358A.6 PUBLIC HEARINGS.

The board of supervisors shall provide for the manner in which ~~such~~ the regulations and restrictions and the boundaries of ~~such~~ the districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, ~~no such~~ the regulation, restriction, or boundary shall not become effective until after a public hearing in relation ~~thereto~~ to the regulation, restriction, or boundary, at which parties in interest and citizens shall have an opportunity to be heard. ~~At least fifteen days' notice of the time and place of such hearing shall be published in a paper of general circulation in such county.~~ Notice of the hearing shall be given as provided in section 331.305. ~~Such~~ The notice shall state the location of the district affected by naming the township and section, and the boundaries of ~~such~~ the district shall be expressed in terms of streets or roads wherever possible. The regulation, restriction, or boundary shall be adopted in compliance with section 331.302.

Approved April 23, 1987

CHAPTER 32

CHEMICAL SUBSTITUTES AND ANTAGONISTS PROGRAMS

H.F. 207

AN ACT relating to the approval of chemical substitutes and antagonists programs.

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

Section 1. Section 125.21, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commission has exclusive power in this state to approve and license chemical substitutes and antagonists programs, and monitor chemical substitutes and antagonists programs to ensure that the programs are operating within the rules established pursuant to this chapter. The commission shall grant approval and license if the requirements of the rules are met and no state funding is requested. This section ~~does not require~~ requires approval ~~or licensing~~ of chemical substitutes and antagonists programs conducted by persons exempt from the licensing requirements of this chapter by section 125.13, subsection 2.

Approved April 23, 1987

CHAPTER 33

LOCAL AIR POLLUTION CONTROL PROGRAMS

H.F. 134

AN ACT relating to the delegation of the authority to prevent, abate, or control air pollution.

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

Section 1. Section 455B.145, unnumbered paragraph 1, Code 1987, is amended to read as follows:

When an air pollution control program conducted by a political subdivision, or a combination ~~thereof~~ of them, is deemed upon review as provided in section 455B.134, to be consistent with the provisions of this division II or the rules established ~~thereunder~~ under this division, the director shall accept such program in lieu of state administration and regulation of air pollution within the political subdivisions involved. ~~Nothing contained in this~~ This section shall not be construed to limit the power of the director to ~~take emergency action under the provisions of sections 455B.139 and 455B.141 or to administer a part of the local program that has been suspended~~ issue state permits and to take other actions consistent with this division II or the rules established under this division that the director deems necessary for the continued proper administration of the air pollution programs within the jurisdiction of the local air pollution program.

Approved April 23, 1987

CHAPTER 34

HABITUAL OFFENDERS UNDER MOTOR VEHICLE LAWS

S.F. 161

AN ACT relating to the sentence to be served by a person convicted as an habitual offender of the motor vehicle laws.

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

Section 1. Section 321.561, Code 1987, is amended to read as follows:

321.561 PUNISHMENT FOR VIOLATION.

It shall be unlawful for any person convicted as an habitual offender to operate any motor vehicle in this state during the period of time specified in section 321.560. ~~Any person guilty of violating the provisions of this section shall upon conviction be committed to the custody of the director of the division of adult corrections.~~ This conviction shall constitute an aggravated misdemeanor.

Approved April 23, 1987

CHAPTER 35

COUNTY SALE OF UNUSED RIGHT OF WAY

S.F. 129

AN ACT relating to the sale of unused highway right of way by the county board of supervisors.

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

Section 1. Section 306.23, Code 1987, is amended to read as follows:

306.23 NOTICE — PREFERENCE OF SALE.

For the sale of unused right of way~~, except right of way under the jurisdiction of a county,~~ notice of intention to sell the tract, parcel, or piece of land, or part thereof, must be sent, not less than ten days prior to the sale, ~~be sent~~ by certified mail, by the agency in control of the land, to the last known address of the present owner of adjacent land from which the tract, parcel, piece of land, or part thereof, was originally bought or condemned for highway purposes, and if located in a city, to the mayor. The notice shall give an opportunity to the present owner of adjacent property to be heard and make offers for the tract, parcel, or piece of land

to be sold, and if the offer is equal to or exceeds in amount any other offer received, it shall be given preference by the agency in control of the land. Neglect or failure for any reason, to comply with the notice, ~~shall in no way~~ does not prevent the giving of a clear title to the purchaser of the tract, parcel, or piece of land. ~~A county shall dispose of unused right of way in the manner specified under section 331.361, subsections 2 and 3.~~

Sec. 2. Section 331.361, subsection 2, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. c. When unused highway right of way is not being sold or transferred to another governmental authority, the county shall comply with the requirements of section 306.23.

Approved April 23, 1987

CHAPTER 36

COUNTY COSTS FOR PATIENTS AT STATE HOSPITALS FOR THE MENTALLY ILL

S.F. 90

AN ACT relating to the county responsible for payment of costs for commitment or admission to a state hospital for the mentally ill.

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

Section 1. Section 230.10, Code 1987, is amended to read as follows:

230.10 PRELIMINARY PAYMENT OF COSTS.

All legal costs and expenses attending the taking into custody, care, investigation, and admission or commitment of a person to a state hospital for the mentally ill under a finding that such person has a legal settlement in another county of this state, shall~~, in the first instance, be paid by the county of admission or commitment~~ be charged against the county of legal settlement. ~~The county of such legal settlement shall reimburse the county so paying for all such payments, with interest.~~

Approved April 23, 1987

CHAPTER 37

THIRD PARTY PAYOR REIMBURSEMENT FOR PATIENTS IN MENTAL HEALTH INSTITUTES

S.F. 76

AN ACT relating to third party payor reimbursements for patient charges at a mental health institute.

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

Section 1. Section 230.20, subsections 2 and 5, Code 1987, are amended to read as follows:

2. The superintendent shall certify to the director of revenue and finance the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and other service charges computed pursuant to subsection 1, and the number of inpatient days and other service units chargeable to the county. However, a county billing shall be decreased by an amount equal to reimbursement by a third party payor or estimation of such reimbursement from a claim submitted by the superintendent to the third party payor for the preceding

calendar quarter. When the actual third party payor reimbursement is greater or less than estimated, the difference shall be reflected in the county billing in the calendar quarter the actual third party payor reimbursement is determined.

5. An individual statement shall be prepared for a patient on or before the fifteenth day of the month following the month in which the patient leaves the mental health institute, and a general statement shall be prepared at least quarterly for each county to which charges are made under this section. Except as otherwise required by sections 125.33 and 125.34 the general statement shall list the name of each patient chargeable to that county who was served by the mental health institute during the preceding month or calendar quarter, ~~and~~ the amount due on account of each patient, and the specific dates for which any third party payor reimbursement received by the state is applied to the statement and billing, and the county shall be billed for eighty percent of the stated charge for each patient specified in this subsection. The statement prepared for each county shall be certified by the department to the director of revenue and finance and a duplicate statement shall be mailed to the auditor of that county.

Approved April 23, 1987

CHAPTER 38

SECURITY INTERESTS IN FARM PRODUCTS

S.F. 13

AN ACT relating to the protection of buyers of farm products against the enforcement of liens by secured parties and providing dates for the effectiveness and applicability of the Act.

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

Section 1. Section 554.9307, subsection 1, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

Except as provided in subsection 4, a buyer in the ordinary course of business 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 the 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, subsection 4, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. A buyer in the ordinary course of business buying farm products from a debtor engaged in farming operations takes subject to a security interest created by the debtor, if within one year before the sale of the farm products the buyer receives prior written notice of the security interest which complies with this subsection and the buyer fails to perform the payment obligations specified in the notice.

b. A written notice complies with this subsection if the written notice is delivered to the buyer by the secured party or the debtor who sells the farm products and it complies with the following:

(1) Is an original or reproduced copy of the written notice; and

(2) Is signed by either the secured party or the debtor, who transmits the notice to the potential buyer.

(3) Contains all of the following:

(a) The name and address of the secured party.

(b) The name and address of the person indebted to the secured party.

(c) The social security number of the debtor or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the debtor.

(d) A description of the farm products subject to the security interest created by the debtor, including the amount of the products where applicable.

(e) An identification of the crop year in which the farm products were produced.

(f) An identification of the county in which the farm products were produced.

(g) A reasonable description of the property on which the farm products were produced.

(h) A statement of any payment obligations imposed on the buyer by the secured party as a condition for waiver or release of the security interest.

c. The secured party may require, in documents creating the security interest, that a debtor engaged in farming operations, who creates a security interest in a farm product, furnish to the secured party a list of potential buyers to or through whom the debtor may sell the farm product. Before a potential buyer who is not on the list may receive from the secured party written notice of a security interest in a farm product, the secured party shall notify the debtor of the name and address of the potential buyer.

d. A written notice shall be amended by the secured party within three months of any material change. The amended notice must be signed and transmitted to the potential buyer similarly to the original notice, by either the secured party or the debtor selling the farm products. The notice lapses on the earlier of either one year from the date the notice was received by the buyer or the date the buyer receives a notice signed by the secured party that the security interest has lapsed.

Sec. 3. Section 554.9307, Code 1987, is amended by striking subsection 5 and inserting in lieu thereof the following:

5. If the notice to a potential buyer by a secured party or debtor satisfies the requirements of subsection 4, paragraph "b", and the debtor sells the farm products subject to the security interest to a buyer not included on the list as a potential buyer as required in subsection 4, paragraph "c", or to any other buyer, if the name and address of the buyer was not received by the debtor pursuant to subsection 4, paragraph "c", then the debtor is subject to a civil penalty of the greater of either five thousand dollars or fifteen percent of the value or benefits received by the debtor for the farm products described in the documents creating the security interest.

However, the penalty provided in this subsection shall be imposed on the debtor in lieu of but not in addition to the penalty described in the federal Food Security Act of 1985, Pub. L. No. 99-198, § 1324. A penalty shall not be imposed on the debtor if the debtor has complied with any of the following:

a. Notified the secured party in writing of the identity of the buyer at least seven days prior to the sale.

b. Accounted to the secured party for the proceeds of the sale not later than ten days after the sale.

Sec. 4. Section 554.9307, Code 1987, is amended by striking subsection 6 and inserting in lieu thereof the following:

6. For purposes of this section, written notice shall be considered to be received by the person to whom it was delivered if the notice is delivered in hand to the person with a written receipt returned, or mailed by certified or registered mail with the proper postage and properly addressed to the person to whom it was sent. The refusal of a person to whom a notice is mailed to accept delivery of the notice shall be considered receipt.

Sec. 5. Section 554.9307, Code 1987, is amended by striking subsections 7 through 9.

Sec. 6. This Act, being deemed of immediate importance, takes effect ten days after the Act has been approved by the governor or ten days after the Act has been passed over the

governor's objection. The provisions contained in this Act shall apply retroactively to all security interests granted on or after December 23, 1986. If a security interest was granted before December 23, 1986, the provisions contained in this Act shall apply retroactively on and after September 1, 1987, to those security interests.

Approved April 24, 1987

CHAPTER 39

SCHOOL ADMINISTRATORS' CONTRACTS
S.F. 105

AN ACT relating to the degree of evidence required for termination or nonrenewal of a school administrator's contract.

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

Section 1. Section 279.24, subsection 6, Code 1987, is amended to read as follows:

6. Is unsupported by ~~substantial~~ a preponderance of the evidence in the record made before the board when that record is reviewed as a whole.

Approved April 24, 1987

CHAPTER 40

SPECIAL ASSESSMENTS ON PROPERTY ACQUIRED
FOR PUBLIC USES OR PURPOSES
S.F. 198

AN ACT relating to the payment of special assessments on property acquired by eminent domain and providing an effective date.

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

Section 1. Section 427.2, Code 1987, is amended to read as follows:

427.2 TAXABLE PROPERTY ACQUIRED THROUGH EMINENT DOMAIN.

Real estate occupied as a public road, and rights of way for established public levees and rights of way for established, open, public drainage improvements shall not be taxed.

When land or rights in land are acquired in connection with or for public use or public purposes, the acquiring authority shall assist in the collection of property taxes and special assessments. However, assistance in the collection of the property taxes ~~and special assessments~~ does not require the payment of property taxes ~~and special assessments~~ on the property acquired which exceed the amount of just compensation offered as required by section 472.45 for the acquisition of the property.

The property owner shall pay all property taxes ~~and special assessments~~ which are due and payable when the property owner surrenders possession of the property acquired and also those which become due and payable for the fiscal year the property is acquired in an amount equal to one-twelfth of the taxes ~~and assessments~~ due and payable on the property acquired for the preceding fiscal year multiplied by the number of months in the fiscal year in which the property was acquired which elapsed prior to the month in which the property owner surrenders possession, and including that month if the surrender of possession occurs after the fifteenth day of a month. For purposes of computing the payments, the property owner has surrendered possession of property acquired by eminent domain proceedings when the acquiring

authority has the right to obtain possession of the acquired property as authorized by law. When all of the property is acquired for public use or public purposes, the property owner shall pay all special assessments in full which have been certified to the county treasurer for collection before the possession date of the acquiring authority. When part but not all of the property is acquired for public use or public purposes, taxing authorities may collect property taxes and special assessments which the property owner is obligated to pay, in accordance with chapter 446, from that part of the property which is not acquired. The county treasurer shall collect and accept the payment received on property acquired for public use or public purposes as full and final payment of all property tax ~~and special assessments~~ on the property ~~and apportion the payment on the basis of the levy in effect in the fiscal year in which the property is acquired~~.

For that portion of the prorated year for which the acquiring authority has possession of the property or part of the property acquired in connection with or for public use or public purposes, all taxes ~~and special assessments~~ shall be canceled by the county treasurer.

From the date of possession by the acquiring authority for land or rights in land acquired in connection with or for public use or public purposes, and for as long as ownership is retained by the acquiring authority, a special assessment shall not be certified to the county treasurer for collection while under public ownership. However, the assessment may be certified for collection to the county treasurer upon the sale of the acquired property by the acquiring authority to a new owner on a prorated basis. Special assessments certified to a county treasurer for collection while under public ownership shall be canceled by the county treasurer.

Upon sale of the acquired property by the acquiring authority to a new owner, the new owner shall pay all ~~special assessments and~~ property taxes which become due and payable or would have become due and payable but for the acquisition by the acquiring authority for the fiscal year the property is acquired by the new owner in an amount equal to one-twelfth of ~~such~~ the taxes ~~and assessments~~ multiplied by the number of months in the fiscal year in which the new owner acquired the property which occurred after the month in which the new owner acquired the property. ~~Thereafter, special assessments or installments of them which would have become due and payable after the date of the acquisition of the property by the new owner but for the acquisition of the property by the acquiring authority and this section, shall be reinstituted by the county treasurer and shall be collectible as provided by law.~~

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 1987

CHAPTER 41

FILING DATE OF PLEADINGS

S.F. 231

AN ACT relating to the date on which a pleading is considered filed.

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

Section 1. Section 602.8102, subsection 9, Code 1987, is amended to read as follows:

9. Enter in the appearance docket a memorandum of the date of filing of all petitions, demurrers, answers, motions, or papers of any other description in the cause. A pleading of any description is ~~not~~ considered filed ~~in the cause or~~ when the clerk entered the date the pleading was received on the pleading and the pleading shall not be taken from the clerk's office until the memorandum is made. The memorandum shall be made before the end of the next working day. Thereafter, when a demurrer or motion is sustained or overruled, a pleading is made or amended, or the trial of the cause, rendition of the verdict, entry of judgment, issuance

of execution, or any other act is done in the progress of the cause, a similar memorandum shall be made of the action, including the date of action and the number of the book and page of the record where the entry is made. The appearance docket is an index of each suit from its commencement to its conclusion.

Approved April 24, 1987

CHAPTER 42

CROP DAMAGE IN USE OF DRAINAGE DISTRICT EASEMENTS

S.F. 257

AN ACT relating to the payment for crop damages within the right-of-way of drainage improvements.

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

Section 1. Section 455.33, unnumbered paragraph 2, Code 1987, is amended to read as follows:

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 except within the right-of-way of the drainage district.

Approved April 24, 1987

CHAPTER 43

PUBLICATION OF NOTICES

S.F. 265

AN ACT relating to the publication of notices of public hearings, bond sales, adopted regulations, and elections.

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

Section 1. Section 75.2, Code 1987, is amended to read as follows:

75.2 NOTICE OF SALE.

When public bonds are offered for sale, the official ~~or officials~~ in charge of the bond issue shall, by advertisement published at least ~~twice at unspecified intervals~~ once, the last one of which shall be not less than four nor more than twenty days before the sale in a newspaper located in the county or a county contiguous to the place of sale, give notice of the time and place of sale of the bonds, the amount to be offered for sale, and any further information which the official ~~or officials deem~~ deems pertinent.

Sec. 2. Section 103A.12, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A governmental subdivision in which the state building code is applicable may by resolution or ordinance, at any time after one year has elapsed since the code became applicable, withdraw from the application of the code, if before the resolution or ordinance ~~shall be~~ is voted upon, the local governing body ~~shall hold~~ holds a public hearing after giving not less than ~~twenty~~

four nor more than ~~thirty~~ twenty days' public notice, together with written notice to the commissioner of the time, place, and purpose of the hearing. A certified copy of the vote of the local governing body shall be transmitted within ten days after the vote is taken to the commissioner and to the secretary of state for filing. The resolution or ordinance shall become effective at a time to be specified ~~therein~~ in it, which shall be not less than one hundred eighty days after the date of adoption. Upon the effective date of the resolution or ordinance, the state building code shall cease to apply to the governmental subdivision except that construction of any building or structure pursuant to a permit previously issued shall not be affected by the withdrawal.

Sec. 3. Section 111A.5, Code 1987, is amended to read as follows:

111A.5 REGULATIONS — OFFICERS.

The county conservation board may make, alter, amend or repeal regulations for the protection, regulation and control of all museums, parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. The regulations shall not be contrary to, or inconsistent with, the laws of this state. The regulations shall not take effect until ten days after their adoption by the board and after their publication ~~once a week for two weeks in at least one paper circulating in the county~~ as provided in section 331.305 and after a copy of the regulations has been posted near each gate or principal entrance to the public ground to which they apply. After the publication and posting, a person violating a provision of the regulations which are then in effect is guilty of a simple misdemeanor. The board may designate the director and those employees as the director may designate as police officers who shall have all the powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of this state and the apprehension of violators.

Sec. 4. Section 137.6, subsection 2, paragraph d, Code 1987, is amended to read as follows:

d. However, before approving any rule or regulation the local board of health shall hold a public hearing on the proposed rule. Any citizen may appear and be heard at the public hearing. A notice of the public hearing, stating the time and place and the general nature of the proposed rule or regulation, shall be published ~~at least ten days before the hearing in a newspaper of general circulation~~ as provided in section 331.305 in the area served by the board.

Sec. 5. Section 176A.8, subsection 4, Code 1987, is amended to read as follows:

4. To and shall fix the date, time and place in each of the townships of the extension district for the holding of township election meetings during the period provided for the holding of them for the election of members of the extension council, and call the township election meetings in each of the townships of the extension district for the election of the members of the extension council and cause notice of ~~said~~ the election to be published ~~once at least one week but not more than three weeks~~ as provided in section 331.305 prior to the date fixed for the holding of ~~such~~ the meetings in a newspaper having general circulation in each extension district, and the cost of publishing ~~said~~ the notice shall be paid by the extension council. The township election meeting to elect a member of the extension council from the township may, by designation of the extension council, be held in another township of that county~~, provided that~~. However, the extension council ~~may~~ shall not designate that over four ~~such~~ of those township elections may be combined into one election. All the provisions of this chapter referring to township election meetings in the townships shall apply equally to the election meetings held at ~~such~~ the other place in the county.

Sec. 6. Section 306.6, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. File a copy of the proposed road classification in the office of county engineer for public information and hold a public hearing before final approval of ~~any~~ a road classification action. Notice of the date, the time, and the place of ~~such~~ the hearing, and the filing of ~~such~~ the proposed road classification for public information shall be published in an official newspaper

in general circulation throughout the affected area ~~at least twenty days prior to the established date of the hearing~~ as provided in section 331.305.

Sec. 7. Section 306.30, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Owners and mortgagees of record who do not reside in the county and owners and mortgagees of record who do reside in the county when the officer returns that they cannot be found in the county, shall be served by publishing the notice ~~in one of the official newspapers of the county, once each week for two weeks,~~ as provided in section 331.305 and also by mailing by certified mail a copy of ~~such~~ the notice to ~~such~~ the owner and mortgagee of record addressed to the owner's and mortgagee of record's last known address, and the county auditor shall furnish to the board of supervisors the county auditor's affidavit that ~~such~~ the notice has been sent, which affidavit shall be conclusive evidence of the mailing of ~~such~~ the notice.

Sec. 8. Section 311.12, Code 1987, is amended to read as follows:

311.12 PUBLICATION OF NOTICE.

The notice shall be published ~~once each week for two successive weeks in some newspaper published~~ as provided in section 331.305 in the county as near as practicable to the district. ~~The last publication shall be not less than five days previous to the hearing.~~ Proof of the publication shall be made by the publisher by affidavit filed with the county engineer.

Sec. 9. Section 357C.3, Code 1987, is amended to read as follows:

357C.3 TIME OF HEARING.

~~Such~~ The public hearing shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication ~~in two successive issues of any paper of general circulation within the district~~ as provided in section 331.305. ~~The last publication shall be not less than one week before the proposed hearing.~~

Sec. 10. Section 358.4, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The board of supervisors to which the petition is addressed, at its next meeting, shall set the time and place for a hearing on the petition. The board shall direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and content of the petition, by publication of a notice ~~once each week for two consecutive weeks in a newspaper of general circulation published in the county in which the proposed district is located, the last of which publications shall not be less than twenty days prior to the date set for the hearing of the petition~~ as provided in section 331.305. Proof of giving the notice shall be made by affidavit of the publisher and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state:

Sec. 11. Section 358.33, Code 1987, is amended to read as follows:

358.33 HEARING ON PETITION.

~~It shall be the duty of the~~ The board of supervisors to whom the petition is addressed, at its next regular meeting ~~to~~ shall set the time and place when it shall meet for a hearing on the petition, and it shall direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and request of the petition for the conveyance and discontinuance by publication of a notice ~~once each week for two consecutive weeks in a newspaper of general circulation in the sanitary district, the last of the publications to be not less than twenty days prior to the date set for hearing on the petition~~ as provided in section 331.305. Proof of giving notice shall be made by affidavit of the publisher and shall be filed with the county auditor at the time the hearing begins.

Sec. 12. Section 358A.6, Code 1987, is amended to read as follows:

358A.6 PUBLIC HEARINGS.

The board of supervisors shall provide for the manner in which ~~such~~ the regulations and restrictions and the boundaries of ~~such~~ the districts shall be determined, established, and enforced, and from time to time amended, supplemented or changed. However, ~~no such~~ the regulation, restriction, or boundary shall not become effective until after a public hearing ~~in relation thereto~~, at which parties in interest and citizens shall have an opportunity to be heard. ~~At least fifteen days' notice~~ Notice of the time and place of ~~such~~ the hearing shall be published ~~in a paper of general circulation in such county~~ as provided in section 331.305. ~~Such~~ The notice shall state the location of the district affected by naming the township and section, and the boundaries of ~~such~~ the district shall be expressed in terms of streets or roads ~~wherever~~ if possible.

Sec. 13. Section 359.7, Code 1987, is amended to read as follows:

359.7 NOTICE.

Notice of the time when ~~such~~ the petition will be heard shall be given by ~~posting in five public places in the township, two of which shall be without, and three within such corporate limits, at least ten days prior to such~~ publication as provided in section 331.305 before the hearing.

Sec. 14. Section 455.21, Code 1987, is amended to read as follows:

455.21 SERVICE BY PUBLICATION — COPY MAILED — PROOF.

The notice provided in section 455.20 shall be served, ~~except as otherwise hereinafter provided,~~ by publication ~~thereof once in some newspaper of general circulation published in the county, which publication shall be not less than twenty days prior to the day set for~~ as provided in section 331.305 before the hearing. Proof of ~~such~~ the service shall be made by affidavit of the publisher. Copy of ~~such~~ the notice shall also be sent by ordinary mail to each person and to the clerk or recorder of each city named ~~therein~~ in the notice at that person's last known mailing address unless there is on file an affidavit of the auditor, or of a person designated by the board to make the necessary investigation, stating that no mailing address is known and that diligent inquiry has been made to ascertain it. ~~Such~~ The copy of notice shall be mailed not less than twenty days before the day set for hearing and proof of ~~such~~ the service shall be by affidavit of the auditor. Proofs of service required by this section shall be on file at the time the hearing begins.

Approved April 24, 1987

CHAPTER 44

CHILD FOSTER CARE

S.F. 273

AN ACT relating to the definition of foster care.

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

Section 1. Section 237.1, subsection 3, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. e. Care furnished in a hospital licensed under chapter 135B or care furnished in an intermediate care facility or a skilled nursing facility licensed under chapter 135C.

Sec. 2. Section 237.4, Code 1987, is amended by adding the following new subsection after subsection 1 and renumbering the remaining subsections:

NEW SUBSECTION. 2. A residential care facility licensed under chapter 135C which is approved for the care of children.

Approved April 24, 1987

CHAPTER 45

FIRE HAZARD ANALYSIS

S.F. 292

AN ACT relating to the establishment of a building materials fire toxicity filing system.

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

Section 1. NEW SECTION. 100.19 FIRE HAZARD ANALYSES.

1. As used in this section, unless the context otherwise requires, "hazard analysis" means an analytical system for the evaluation of the hazard presented by a product in a specific end use, through consideration of fire scenarios, evaluation of the fire environment of each scenario, and the evaluation on the effect of the fire environment on the given product.

2. The state fire marshal shall establish a data filing system utilizing the available hazard analyses of materials in the fire environment. The data system shall provide design information and guidance regarding the products used in construction and occupancy.

The state fire marshal shall utilize state-of-the-art procedures adopted after consideration of the procedures of third-party standards-making organizations, government agencies, and building code authorities, including but not limited to the national institute of building science, the center for fire research of the national bureau of standards, and the national fire protection association.

3. In the development of the filing system, the state fire marshal shall encourage manufacturers of building products and building contents to perform a hazard analysis of their products.

4. The state fire marshal shall report the availability of hazard analyses data to the general assembly by January 1, 1988 and shall implement the data filing system required by this section by July 1, 1990.

Approved April 24, 1987

CHAPTER 46

LEASED MOTOR VEHICLE REGISTRATION

S.F. 316

AN ACT to provide that a leased motor vehicle shall be registered in the county of the lessee's residence.

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

Section 1. Section 321.20, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Except as provided in this chapter, ~~every~~ an owner of a vehicle subject to registration shall make application to the county treasurer, of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, or if a lessor of the vehicle pursuant to chapter 321F which vehicle has a gross vehicle weight of less than ten thousand pounds, to the county treasurer of the county of the lessee's residence, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department, accompanied by a fee of ten dollars, and ~~every~~ the application shall bear the signature of the owner written with pen and ink. However, a

nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home shall make application for a certificate of title under this section. The application shall contain:

Approved April 24, 1987

CHAPTER 47

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

S.F. 338

AN ACT relating to environmental protection performance standards for coal mining and providing an effective date.

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

Section 1. Section 83.7, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

83.7 ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS.

The division shall adopt rules for environmental protection performance standards that are consistent with federal regulations authorized under the federal Surface Mining Control and Reclamation Act and amendments to that Act.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 24, 1987

CHAPTER 48

SCHOOL BOARD ELECTION NOMINATION PETITIONS

S.F. 388

AN ACT relating to the filing time for nomination petitions for a special election to elect a member of a board of directors of a school district.

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

Section 1. Section 279.7, unnumbered paragraph 4, Code 1987, is amended to read as follows:

Nomination petitions shall be filed in the manner provided in section 277.4, except that the petitions shall be filed not less than ~~ten~~ thirty days prior to the date set for the election.

Approved April 24, 1987

CHAPTER 49

ART BUYERS' PROTECTION

S.F. 428

AN ACT relating to the protection of buyers of fine art and providing a penalty.

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

Section 1. NEW SECTION. 715A.1 DEFINITIONS.

As used in this chapter:

1. "Artist" means the creator of a work of fine art or, in the case of multiples, the person who conceived or created the image which is contained in or which constitutes the master from which the individual print was made.

2. "Art merchant" means a person who is in the business of dealing, exclusively or nonexclusively, in works of fine art or multiples, or a person who by the person's occupation claims or impliedly claims to have knowledge or skill peculiar to such works, or to whom such knowledge or skill may be attributed by the person's employment of an agent or other intermediary who by occupation claims or impliedly claims to have such knowledge or skill. The term "art merchant" includes an auctioneer who sells such works at public auction, and except for multiples, includes persons not otherwise defined or treated as art merchants in this chapter who are consignors or principals of auctioneers.

3. "Author" or "authorship" refers to the creator of a work of fine art or multiple or to the period, culture, source, or origin, as the case may be, with which the creation of the work is identified in the description of the work.

4. "Counterfeit" means a work of fine art or multiple made, altered, or copied, with or without intent to deceive, in such a manner that it appears or is claimed to have an authorship which it does not in fact possess.

5. "Certificate of authenticity" means a written statement by an art merchant confirming, approving, or attesting to the authorship of a work of fine art or multiple, which is capable of being used to the advantage or disadvantage of some person.

6. "Fine art" means a painting, sculpture, drawing, work of graphic art, or print, but not multiples.

7. "Limited edition" means works of art produced from a master, all of which are the same image and bear numbers or other markings to denote a limited production to a stated maximum number of multiples, or which are otherwise held out as limited to a maximum number of multiples.

8. "Master" includes a printing plate, stone, block, screen, photographic negative, or other like material which contains an image used to produce visual art objects in multiples.

9. "Print" means a multiple produced by, but not limited to, such processes as engraving, etching, woodcutting, lithography, and serigraphy, multiple produced or developed from a photographic negative, or a multiple produced or developed by any combination such processes.

10. "Proof" means a multiple which is the same as, and which is produced from the same master as the multiples in a limited edition, but which, whether so designated or not, is set aside from and is in addition to the limited edition to which it relates.

11. "Signed" means autographed by the artist's own hand, and not by mechanical means of reproduction, and if a multiple, after the multiple was produced, whether or not the master was signed.

12. "Visual art multiple" or "multiple" means a print, photograph, positive or negative, or similar art object produced in more than one copy and sold, offered for sale, or consigned in, into, or from this state for an amount in excess of one hundred dollars exclusive of any frame. The term includes a page or sheet taken from a book or magazine and offered for sale or sold as a visual art object, but excludes a book or magazine.

13. "Written instrument" means a written or printed agreement, bill of sale, invoice, certificate of authenticity, catalogue, or any other written or printed note, memorandum, or label describing the work of fine art or multiple which is to be sold, exchanged, or consigned by an art merchant.

Sec. 2. NEW SECTION. 715A.2 EXPRESS WARRANTIES.

1. If an art merchant sells or exchanges a work of fine art or multiple and furnishes to a buyer of the work who is not an art merchant a certificate of authenticity or any similar written instrument presumed to be part of the basis of the bargain, the art merchant creates an express warranty for the material facts stated as of the date of the sale or exchange.

2. Except as provided in subsection 4, an express warranty shall not be negated or limited; however, in construing the degree of warranty, due regard shall be given the terminology used and the meaning accorded the terminology by the customs and usage of the trade at the time and in the locality where the sale or exchange took place.

3. Language used in a certificate of authenticity or similar written instrument, stating that:

a. The work is by a named author or has a named authorship, without any limiting words, means unequivocally, that the work is by such named author or has such named authorship.

b. The work is "attributed to a named author" means a work of the period of the author, attributed to the author, but not with certainty by the author.

c. The work is of the "school of a named author" means a work of the period of the author, by a pupil or close follower of the author, but not by the author.

4. An express warranty and any disclaimer intended to negate or limit the warranty shall be construed wherever reasonable as consistent with each other but subject to the provisions of section 554.2202 on parol and extrinsic evidence. However, the negation or limitation is inoperative to the extent that the negation or limitation is unreasonable or that such construction is unreasonable. A negation or limitation is unreasonable if:

a. The disclaimer is not conspicuous, written, and apart from the warranty, in words which clearly and specifically inform the buyer that the seller assumes no risk, liability, or responsibility for the material facts stated concerning the work of fine art. Words of general disclaimer are not sufficient to negate or limit an express warranty.

b. The work of fine art is proved to be a counterfeit and this was not clearly indicated in the description of the work.

c. The information provided is proved to be, as of the date of sale or exchange, false, mistaken, or erroneous.

5. This section shall apply to an art merchant selling or exchanging a multiple who furnishes the buyer with the name of the artist and any other information including, but not limited to, whether the multiple is a limited edition, a proof, or signed. The warranty provided under this subsection shall include sales to buyers who are art merchants.

Sec. 3. NEW SECTION. 715A.3 FALSIFYING CERTIFICATES OF AUTHENTICITY OR FALSE REPRESENTATION – PENALTY.

A person who makes, alters, or issues a certificate of authenticity or any similar written instrument for a work of fine art or multiple attesting to material facts about the work which are not true, or who makes representations regarding a work of fine art or a multiple attesting to material facts about the work which are not true, with intent to defraud, deceive, or injure another is guilty, upon conviction, of an aggravated misdemeanor.

Sec. 4. NEW SECTION. 715A.4 REMEDIES TO BUYER.

1. An art merchant who sells a work of fine art or a multiple to a buyer under a warranty attesting to facts about the work which are not true is liable to the buyer to whom the work was sold.

a. If the warranty was untrue through no fault of the art merchant, the merchant's liability is the consideration paid by the buyer upon return of the work in substantially the same condition in which it was received by the buyer.

b. If the warranty is untrue and the buyer is able to establish that the art merchant failed to make reasonable inquiries according to the custom and the usage of the trade to confirm the warranted facts about the work, or that the warranted facts would have been found to be untrue if reasonable inquiries had been made, the merchant's liability is the consideration paid by the buyer with interest from the time of the payment at the rate prescribed by section 535.3 upon the return of the work in substantially the same condition in which it was received by the buyer.

c. If the warranty is untrue and the buyer is able to establish that the art merchant knowingly provided false information on the warranty or willfully and falsely disclaimed knowledge of information relating to the warranty, the merchant is liable to the buyer in an amount equal to three times the amount provided in paragraph "b".

This remedy shall not bar or be deemed inconsistent with a claim for damages or with the exercise of additional remedies otherwise available to the buyer.

2. In an action to enforce this section, the court may allow a prevailing buyer the costs of the action together with reasonable attorneys' and expert witnesses' fees. If the court determines that an action to enforce this section was brought in bad faith, the court may allow those expenses to the art merchant that it deems appropriate.

3. An action to enforce any liability under this section shall be brought within the time period prescribed for such actions under section 614.1.

Approved April 24, 1987

CHAPTER 50

LEGAL SETTLEMENT

S.F. 451

AN ACT relating to the acquisition of legal settlement in a county.

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

Section 1. Section 252.16, subsection 1, Code 1987, is amended to read as follows:

1. A person continuously residing in a county in this state for a period of one year acquires a settlement in that county except as provided in subsection 7 or 8.

Sec. 2. Section 252.16, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person receiving treatment or support services from any community-based provider of treatment or services for mental retardation, developmental disabilities, mental health, or substance abuse does not acquire legal settlement in the host county unless the person continuously resides in the host county for one year from the date of the last treatment or support service received by the person.

Approved April 24, 1987

CHAPTER 51

HANDICAPPED PARKING SPACES

S.F. 459

AN ACT relating to handicapped parking spaces, making penalties applicable and providing an effective date.

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

Section 1. Section 601E.6, subsection 2, Code 1987, is amended to read as follows:

2. A city or other political subdivision which provides on-street parking areas or off-street parking facilities shall set aside at least six-tenths of one percent of the metered parking spaces as handicapped parking spaces. A person may also set aside handicapped parking spaces on the person's property provided each parking space is clearly and prominently designated as a handicapped parking space. The use of a handicapped parking space, located on either public or private property, by a motor vehicle not displaying a handicapped identification device, or by a motor vehicle displaying such a device but not being used by a handicapped person, as operator or passenger is a misdemeanor for which a fine may be imposed upon the owner, operator, or lessee of the motor vehicle. The fine for each violation is fifteen dollars. Proof of conviction of three or more violations involving improper use of the same handicapped identification device is grounds for revocation by the department of the holder's privilege to use the device.

Notwithstanding chapter 805, violations of this subsection which are admitted shall be charged and collected upon a simple notice of fine and no costs or other charges shall be assessed. Violations which are denied shall be charged on the same simple notice of fine and proceed before the court the same as other traffic violations and court costs shall be assessed. A uniform citation and complaint signed by the charging officer may be used for the notice of fine.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 24, 1987

CHAPTER 52

ECONOMIC ASSISTANCE FOR AGRICULTURAL PRODUCERS

S.F. 463

AN ACT relating to the development and implementation by the agricultural development authority of programs to provide economic assistance on behalf of agricultural producers within the state and providing an effective date.

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

Section 1. Section 175.2, subsection 3, Code 1987, is amended to read as follows:

3. "Agricultural producer" means a person ~~engaged~~ that engages or wishes to engage in the business of producing and marketing agricultural produce in this state.

Sec. 2. Section 175.4, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 19. A serious problem continues to exist in this state regarding the ability of agricultural producers to obtain, retain, restructure, or service loans or other financing on a reasonable and affordable basis for operating expenses, cash flow requirements, and capital asset acquisition or maintenance.

NEW SUBSECTION. 20. Because the Iowa economy is dependent upon the production and marketing of agricultural produce, the inability of agricultural producers to obtain, retain, restructure, or service loans or other financing on a reasonable and an affordable basis for

operating expenses, cash flow requirements, or capital asset acquisition or maintenance contributes to a general decline of the state's economy.

Sec. 3. Section 175.6, subsection 12, Code 1987, is amended to read as follows:

12. In co-operation with other local, state or federal governmental agencies or instrumentalities, conduct studies of beginning farmer or agricultural producer agricultural needs, and gather and compile data useful to facilitate decision making.

Sec. 4. Section 175.10, Code 1987, is amended to read as follows:

175.10 SURPLUS MONEYS.

Moneys declared by the authority to be surplus moneys which are not required to service bonds and notes, to pay administrative expenses of the authority or to accumulate necessary operating or loss reserves, shall be used by the authority to provide loans, grants, subsidies, and other services or assistance to beginning farmers or agricultural producers through any of the programs authorized in this chapter.

Sec. 5. Section 175.13A, Code 1987, is amended to read as follows:

175.13A FINANCIAL ASSISTANCE FOR AGRICULTURAL PRODUCERS.

1. ~~The~~ In addition to the other programs authorized pursuant to this chapter, the authority ~~shall~~ is authorized to provide any type of economic assistance directly or indirectly to agricultural producers, and may develop and implement programs including, but not limited to, the making of loan guarantees, interest buy-downs, grants, ~~or~~ secured or unsecured direct loans, secondary market purchases of loans or mortgages, loans to mortgage lenders, lending institutions, other agricultural lenders as designated by rule of the authority, or entities that provide funds or credits to such lenders or institutions, to assist agricultural producers within the state. The authority ~~shall~~ may exercise any of the powers granted to it in this chapter in order to fulfill the goal of providing financial assistance to agricultural producers. The authority may participate in and cooperate with programs of any agency or instrumentality of the federal government or with programs of any other state agency in the administration of the ~~agricultural producer loan program~~ programs to provide economic assistance to agricultural producers.

2. The authority shall provide in ~~an agricultural producer loan~~ any program developed and implemented pursuant to this section that ~~a loan guarantee, interest buy-down, grant, or secured direct loan~~ assistance shall be provided only if the following criteria are satisfied:

a. The agricultural producer is a resident of the state.

b. The agricultural producer's land and farm operations are located within the state.

c. Based upon the agricultural producer's net worth, cash flow, debt-to-asset ratio, and other criteria as prescribed by rule of the authority, the authority determines that without such assistance the agricultural producer could not reasonably be expected to be able to obtain, retain, restructure, or service loans or other financing for operating expenses, cash flow requirements, or capital acquisition and maintenance upon a reasonable and affordable basis.

d. Other criteria as the authority prescribes by rule.

3. The authority is granted all powers which are necessary or useful to develop and implement programs and authorizations pursuant to subsection 1. These powers include, but are not limited to:

a. All general powers stated in section 175.6.

b. The power to make or enter into or to require the making or entry into of agreements of any type, with or by any person, that are necessary to effect the purposes of this section. These agreements may include, but are not limited to contracts, notes, bonds, guarantees, mortgages, loan agreements, trust indentures, reimbursement agreements, letters of credit or other liquidity or credit enhancement agreements, reserve agreements, loan or mortgage purchase agreements, buy-down agreements, grants, collateral or security agreements, insurance contracts, or other similar documents. The agreements may contain any terms and conditions which the authority determines are reasonably necessary or useful to implement the

purposes of this section or which are usually included in agreements or documents between private or public persons in similar transactions.

c. The power to issue its bonds or notes and expend or commit moneys for the purposes set forth in subsection 1. The authority may provide in the documents authorizing its bonds or notes that their principal and interest shall be limited obligations payable solely out of the revenues derived from a specific program or source and do not constitute an indebtedness of the authority or a charge against the authority's general credit or general fund. Alternatively, the authority may provide that the principal and interest of specified bonds or notes do constitute an indebtedness of the authority and a charge against the authority's general credit or general fund.

d. The power to participate in any federal or other state program designed to assist agricultural producers or in related federal or state programs.

e. The power to require submission of evidence satisfactory to the authority of the receipt by an agricultural producer of the assistance intended under a program developed and implemented pursuant to this section. In that connection, the authority, through its members, employees or agents, may inspect the books and records of any person receiving or involved in the provision of assistance in accordance with this section.

f. The power to establish by rule appropriate enforcement provisions in order to assure compliance with this section and rules adopted pursuant to this section, to seek the enforcement of such rules and the terms of any agreement or document by decree of any court of competent jurisdiction, and to require as a condition of providing assistance pursuant to this section the consent of any person receiving or involved in the provision of the assistance to the jurisdiction of the courts of this state over any enforcement proceeding.

g. The power to require, as a condition of the provision of assistance pursuant to this section, any representations and warranties on the part of any person receiving or involved in providing such assistance that the authority determines are reasonably necessary or useful to carry out the purposes of this section. A person receiving or involved in providing assistance pursuant to this section is liable to the authority for damages suffered by the authority by reason of a misrepresentation or the breach of a warranty.

4. All persons, public and private, are authorized to cooperate with the authority and to participate in the programs developed and implemented pursuant to this section and in accordance with the rules of the authority.

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.19, subsection 4, apply to bonds or notes issued pursuant to powers granted to the authority under this section, to reserve funds, to appropriations, and to the remedies of bondholders and noteholders except to the extent that they are inconsistent with this section.

Sec. 6. Section 175.17, subsection 1, Code 1987, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes 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 and notes, the establishment of reserves to secure its bonds and notes and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. ~~However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of one hundred fifty million dollars.~~ 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. 7. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 1987

CHAPTER 53

CORPORATE TAKEOVER OFFERS

S.F. 470

AN ACT relating to corporate takeovers.

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

Section 1. Section 502.102, subsection 11, Code 1987, is amended to read as follows:

11. "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", "Investment Company Act of 1940", "Internal Revenue Code of 1954" and "Agricultural Marketing Act" mean the federal statutes of those names~~, as amended before January 1, 1976~~.

Sec. 2. Section 502.102, subsections 14, 15, 16 and 17, Code 1987, are amended by striking the subsections and inserting the following:

14. For the purposes of sections 502.211 through 502.218, unless the context otherwise requires:

a. "Associate" means a person acting jointly or in concert with another for the purpose of acquiring, holding or disposing of, or exercising any voting rights attached to the equity securities of a target company.

b. "Equity security" means any stock or similar security, and includes the following:

(1) Any security convertible, with or without consideration, into a stock or similar security.

(2) Any warrant or right to subscribe to or purchase a stock of similar security.

(3) Any security carrying a warrant or right to subscribe to or purchase a stock or similar security.

(4) Any other security which the administrator deems to be of a similar nature and considers necessary or appropriate, according to rules prescribed by the administrator for the public interest and protection of investors, to be treated as an equity security.

c. "Offeror" means a person who makes or in any manner participates in making a takeover offer. It does not include a supervised financial institution or broker-dealer loaning funds to an offeror in the ordinary course of its business, or any supervised financial institution, broker-dealer, attorney, accountant, consultant, employee, or other person furnishing information or advice to or performing ministerial duties for an offeror, and who does not otherwise participate in the takeover offer.

d. "Offeree" means the beneficial owner, who is a resident of this state, of equity securities which an offeror offers to acquire in connection with a takeover offer.

e. "Takeover offer":

(1) Means the offer to acquire any equity securities of a target company from a resident of this state pursuant to a tender offer or request or invitation for tenders, if after the acquisition of all securities acquired pursuant to the offer either of the following are true:

(a) The offeror would be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company.

(b) The beneficial ownership by the offeror of any class of the outstanding equity securities of the target company would be increased by more than five percent. However, this provision does not apply if after the acquisition of all securities acquired pursuant to the offer, the offeror would not be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company.

(2) Does not include the following:

(a) An offer in connection with the acquisition of a security which, together with all other acquisitions by the offeror of securities of the same class of equity securities of the target company, would not result in the offeror having acquired more than two percent of this class of securities during the preceding twelve-month period.

(b) An offer by the target company to acquire its own equity securities if such offer is subject to section 13(e) of the Securities Exchange Act of 1934.

(c) An offer in which the target company is an insurance company or insurance holding company subject to regulation by the commissioner of insurance, a financial institution subject to regulation by the state superintendent of banking or the state auditor, or a public utility subject to regulation by the commerce commission.

f. "Target company" means an issuer of publicly traded equity securities which has at least twenty percent of its equity securities beneficially held by residents of this state and has substantial assets in this state. For the purposes of this chapter, an equity security is publicly traded if a trading market exists for the security. A trading market exists if the security is traded on a national securities exchange, whether or not registered pursuant to the Securities Exchange Act of 1934, or on the over-the-counter market.

g. "Beneficial owner" includes, but is not limited to, any person who directly or indirectly, through any contract, arrangement, understanding, or relationship, has or shares the power to vote or direct the voting of a security or has or shares the power to dispose of or otherwise direct the disposition of the security. A person is the beneficial owner of securities beneficially owned by any relative or spouse or relative of the spouse residing in the home of the person, any trust or estate in which the person owns ten percent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which the person owns ten percent or more of the equity, and any affiliate or associate of the person.

h. "Beneficial ownership" includes, but is not limited to, the right, exercisable within sixty days, to acquire securities through the exercise of options, warrants, or rights or the conversion of convertible securities. The securities subject to these options, warrants, rights, or conversion privileges held by a person are outstanding for the purpose of computing the percentage of outstanding securities of the class owned by the person, but are not outstanding for the purpose of computing the percentage of the class owned by any other person.

15. "Interest at the legal rate" means the interest rate for judgments specified in section 535.3.

Sec. 3. Section 502.211, Code 1987, is amended by striking the section and inserting the following:

502.211 REGISTRATION REQUIREMENT.

1. It is unlawful for a person to make a takeover offer or to acquire any equity securities pursuant to the offer unless the offer is valid under sections 502.211 through 502.218. A takeover offer is effective when the offeror files with the administrator a registration statement containing the information prescribed in subsection 6. Not later than the date of filing of the registration statement, the offeror shall deliver a copy of the registration statement by certified mail to the target company at its principal office and publicly disclose the material terms of the proposed offer. Public disclosure shall require, at a minimum, that a copy of the registration statement be supplied to all broker-dealers maintaining an office in this state currently quoting the security.

2. The registration statement shall be filed on forms prescribed by the administrator, and shall be accompanied by a consent by the offeror to service of process and filing fee specified in section 502.216, and contain the following information:

a. All information specified in subsection 6.

b. Two copies of all solicitation materials intended to be used in the takeover offer, and in the form proposed to be published, sent, or delivered to offerees.

c. Additional information as prescribed by the administrator by rule, pursuant to chapter 17A, prior to the making of the offer.

3. Registration shall not be considered approval by the administrator, and any representation to the contrary is unlawful.

4. Within three calendar days of the date of filing of the registration statement, the administrator may, by order, summarily suspend the effectiveness of the takeover offer if the administrator determines that the registration does not contain all of the information specified in

subsection 6 or that the takeover offer materials provided to offerees do not provide full disclosure to offerees of all material information concerning the takeover offer. The suspension shall remain in effect only until the determination following a hearing held pursuant to subsection 5.

5. A hearing shall be scheduled by the administrator for each suspension under this section, and the hearing shall be held within ten calendar days of the date of the suspension. The administrator's determination following the hearing shall be made within three calendar days after the hearing has been completed, but not more than sixteen days after the date of the suspension. The administrator may prescribe different time periods than those specified in the subsection by rule or order.

If, based upon the hearing, the administrator finds that the registration statement fails to provide for full and fair disclosure of all material information concerning the offer, or that the takeover is in violation of any of the provisions of section 502.211 through 502.218, the administrator shall permanently suspend the effectiveness of the takeover offer, subject to the right of the offeror to correct disclosure and other deficiencies identified by the administrator and to reinstate the takeover offer by filing a new or amended registration statement pursuant to this section.

6. The form required to be filed by subsection 2, paragraph "a", shall contain all of the following information:

a. The identity and background of all persons on whose behalf the acquisition of any equity security of the target company has been or is to be effected.

b. The source and amount of funds or other consideration used or to be used in acquiring any equity security including, if applicable, a statement describing any securities which are being offered in exchange for the equity securities of the target company and, if any part of the acquisition price is or will be represented by borrowed funds or other consideration, a description of the material terms of any financing arrangements and the names of the parties from whom the funds were or are to be borrowed.

c. If the offeror is other than a natural person, information concerning its organization and operations, including the year, form and jurisdiction of its organization, a description of each class of equity security and long-term debt, a description of the business conducted by the offeror and its subsidiaries and any material changes in the offeror or subsidiaries during the past three years, a description of the location and character of the principal properties of the offeror and its subsidiaries, a description of any pending and material legal or administrative proceedings in which the offeror or any of its affiliates is a party, the names of all directors and executive officers of the offeror and their material business activities and affiliations during the past five years, and financial statements of the offeror in a form and for periods of time as the administrator may, pursuant to chapter 17A and prior to the making of the offer, prescribe.

d. If the offeror is a natural person, information concerning the offeror's identity and background, including business activities and affiliations during the past five years and a description of any pending and material legal or administrative proceedings in which the offeror is a party.

e. If the purpose of the acquisition is to gain control of the target company, the material terms of any plans or proposals which the offeror has, upon gaining control, to liquidate the target company, sell its assets, effect its merger or consolidation, change the location of its principal executive office or of a material portion of its business activities, change its management or policies of employment, materially alter its relationship with suppliers or customers or the community in which it operates, or make any other major changes in its business, corporate structure, management or personnel, and other information which would materially affect the shareholders' evaluation of the acquisition.

f. The number of shares or units of any equity security of the target company owned beneficially by the offeror and any affiliate or associate of the offeror, together with the name and address of each affiliate or associate.

g. The material terms of any contract, arrangement, or understanding with any other person with respect to the equity securities of the target company by which the offeror has or will acquire any interest in additional equity securities of the target company, or is or will be obligated to transfer any interest in the equity securities to another.

h. Information required to be included in a tender offer statement pursuant to section 14(d) of the Securities Exchange Act of 1934 and the rules and regulations of the securities and exchange commission issued pursuant to the Act.

Sec. 4. Section 502.212, Code 1987, is amended by striking the section and inserting the following:

502.212 FILING OF SOLICITATION MATERIALS.

Copies of all advertisements, circulars, letters, or other materials disseminated by the offeror or the target company, soliciting or requesting the acceptance or rejection of a takeover offer shall be filed with the administrator and sent to the target company or offeror not later than the time the solicitation or request materials are first published, sent, or given to the offerees. The administrator may prohibit the use of any materials deemed false or misleading.

Sec. 5. Section 502.213, Code 1987, is amended by striking the section and inserting the following:

502.213 FRAUDULENT AND DECEPTIVE PRACTICES.

It is unlawful for an offeror, target company, affiliate or associate of an offeror or target company, or broker-dealer acting on behalf of an offeror or target company to engage in a fraudulent, deceptive, or manipulative act or practice in connection with a takeover offer. For purposes of this section, an unlawful act or practice includes, but is not limited to, the following:

1. The publication or use in connection with a takeover offer of a false statement of a material fact, or the omission of a material fact which renders the statements made misleading.

2. The purchase of any of the equity securities of an officer, director, or beneficial owner of five percent or more of the equity securities of the target company by the offeror or the target company for a consideration greater than that to be paid to other shareholders, unless the terms of the purchase are disclosed in a registration statement filed pursuant to section 502.211.

3. The refusal by a target company to permit an offeror who is a shareholder of record to examine or copy its list of shareholders, pursuant to the applicable corporation statutes, for the purpose of making a takeover offer.

4. The refusal by a target company to mail any solicitation materials published by the offeror to its security holders with reasonable promptness after receipt from the offeror of the materials, together with the reasonable expenses of postage and handling.

5. The solicitation of any offeree for acceptance or rejection of a takeover offer, or acquisition of any equity security pursuant to a takeover offer, when the offer is suspended under section 502.211, provided, however, that the target company may communicate during a suspension with its equity security holders to the extent required to respond to the takeover offer made pursuant to the Securities Exchange Act of 1934.

Sec. 6. Section 502.214, Code 1987, is amended by striking the section and inserting the following:

502.214 LIMITATIONS ON OFFERORS.

1. A takeover offer shall contain substantially the same terms for shareholders residing within and outside this state.

2. An offeror shall provide that any equity securities of a target company deposited or tendered pursuant to a takeover offer may be withdrawn by or on behalf of an offeree within seven days after the date the offer has become effective and after sixty days from the date

the offer has become effective, or as otherwise determined by the administrator pursuant to a rule or order issued for the protection of the shareholders.

3. If an offeror makes a takeover offer for less than all the outstanding equity securities of any class and, within ten days after the offer has become effective and copies of the offer, or notice of any increase in the consideration offered, are first published or sent or given to equity security holders, the number of securities deposited or tendered pursuant to the offer is greater than the number of securities that the offeror has offered to accept and pay for, the securities shall be accepted pro rata, disregarding fractions, according to the number of securities deposited or tendered for each offeree.

4. If an offeror varies the terms of a takeover offer before the offer's expiration date by increasing the consideration offered to equity security holders, the offeror shall pay the increased consideration for all equity securities accepted, whether the securities have been accepted by the offeror before or after the variation in the terms of the offer.

5. An offeror shall not make a takeover offer or acquire any equity securities in this state pursuant to a takeover offer during the period of time that an administrator's proceeding alleging a violation of this chapter is pending against the offeror.

6. An offeror shall not acquire, remove, or exercise control, directly or indirectly, over any target company assets located in this state pursuant to a takeover offer during the period of time that an administrator's proceeding alleging a violation of this chapter is pending against the offeror.

7. An offeror shall not acquire from a resident of this state an equity security of any class of a target company at any time within two years following the last purchase of securities pursuant to a takeover offer with respect to that class, including, but not limited to, acquisitions made by purchase, exchange, merger, consolidation, partial or complete liquidation, redemption, reverse stock split, recapitalization, reorganization, or any other similar transaction, unless the holders of the equity securities are afforded, at the time of the acquisition, a reasonable opportunity to dispose of the securities to the offeror upon substantially equivalent terms as those provided in the earlier takeover offer.

Sec. 7. Section 502.215, Code 1987, is amended by striking the section and inserting the following:

502.215 ADMINISTRATION — RULES AND ORDERS.

1. The administrator shall make and adopt rules and forms as the administrator determines are necessary to carry out the purposes of sections 502.211 through 502.218.

2. The administrator may by rule or order exempt from any provision of sections 502.211 through 502.218 the following:

a. A proposed takeover offer or a category or type of takeover offer which the administrator determines does not have the purpose or effect of changing or influencing the control of a target company.

b. A proposed takeover offer for which the administrator determines that compliance with the sections is not necessary for the protection of the offerees.

c. A person from the requirement of filing statements.

3. In the event of a conflict between the provisions of chapter 17A and the provisions of sections 502.211 through 502.218, the provisions of sections 502.211 through 502.218 shall prevail.

Sec. 8. NEW SECTION. 502.216 FEES AND EXPENSES.

The administrator shall charge a nonrefundable filing fee of two hundred fifty dollars for a registration statement filed by an offeror.

Sec. 9. NEW SECTION. 502.217 APPLICATION OF CORPORATE TAKEOVER LAW.

If the target company is a public utility, public utility holding company, national banking association, bank holding company, or savings and loan association which is subject to regulation by a federal agency and the takeover of such company is subject to approval by the federal agency, sections 502.211 through 502.218 do not apply.

Sec. 10. NEW SECTION. 502.218 APPLICATION OF SECURITIES LAW.

All of the provisions of this chapter which are not in conflict with sections 502.211 through 502.218, apply to any takeover offer involving a target company.

Sec. 11. Section 502.407, Code 1987, is amended to read as follows:

502.407 MISSTATEMENTS IN PUBLICITY.

It is unlawful for any person to make or cause to be made, in any public report or press release, or in other information which is either made generally available to the public or used in opposition to a tender offer, any statement of a material fact relating to ~~an issuer~~ a target company or made in connection with a tender offer which is, at the time and in the light of the circumstances under which it is made, false or misleading, if it is reasonably foreseeable that such statement will induce other persons to buy, sell or hold securities of the ~~issuer~~ target company.

Sec. 12. Section 502.501, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. In addition to other remedies provided in this chapter, in a proceeding alleging a violation of sections 502.211 through 502.218 the court may provide that all shares acquired from a resident of this state in violation of any provision of this chapter or rule or order issued pursuant to this chapter be denied voting rights for one year after acquisition, that the shares be nontransferable on the books of the target company, or that during this one-year period the target company have the option to call the shares for redemption either at the price at which the shares were acquired or at book value per share as of the last day of the fiscal quarter ended prior to the date of the call for redemption, which redemption shall occur on the date set in the call notice but not later than sixty days after the call notice is given.

Approved April 24, 1987

CHAPTER 54

PROBATE FINAL REPORTS

H.F. 132

AN ACT relating to the final report of a personal representative in probate.

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

Section 1. Section 633.477, subsection 9, Code 1987, is amended to read as follows:

9. An accounting of all ~~the moneys and personal~~ property coming into the hands of the personal representative and a detailed accounting of all cash receipts and disbursements. The accounting may be omitted if waived by all interested parties.

Approved April 24, 1987

CHAPTER 55

LEAD ABATEMENT PROGRAM

H.F. 169

AN ACT creating a lead abatement program within the Iowa department of public health.

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

Section 1. NEW SECTION. 135.100 DEFINITIONS.

For the purposes of this division, unless the context otherwise requires:

1. "Department" means the Iowa department of public health.
2. "Local board" means the local board of health.

Sec. 2. NEW SECTION. 135.101 LEAD PROGRAM.

There is established a lead abatement program within the Iowa department of public health. The department shall implement and review programs necessary to eliminate potentially dangerous toxic lead levels in children in Iowa in a year for which funds are appropriated to the department for this purpose.

Sec. 3. NEW SECTION. 135.102 RULES.

The department shall adopt rules, pursuant to chapter 17A, regarding the:

1. Implementation of the grant program pursuant to section 135.103.
2. Maintenance of laboratory facilities for the lead abatement program.
3. Maximum blood lead levels in children living in targeted rental dwelling units.
4. Standards and program requirements of the grant program pursuant to section 135.103.
5. Prioritization of proposed lead abatement programs, based on the geographic areas known with children identified with elevated blood lead level resulting from surveys completed by the department.

Sec. 4. NEW SECTION. 135.103 GRANT PROGRAM.

The department shall implement a lead abatement grant program which provides matching funds to local boards of health or cities for the program after standards and requirements for the local program are developed. The state shall provide funds to approved programs on the basis of three dollars for each one dollar designated by the local board of health or city for the program for the first two years of a program, and funds on the basis of one dollar for each one dollar designated by the local board of health or city for the program for the third and fourth years of the program if such funding is determined necessary by the department for such subsequent years. A lead abatement program grant shall not exceed a time period of four years.

Sec. 5. NEW SECTION. 135.104 REQUIREMENTS.

The program by a local board of health or city receiving matching funding for an approved lead abatement grant program shall include:

1. A public education program about lead poisoning and dangers of lead poisoning to children.
2. An effective outreach effort to ensure availability of services in the predicted geographic area.
3. A screening program for children, with emphasis on children less than five years of age.
4. Access to laboratory services for lead analysis.
5. A program of referral of identified children for assessment and treatment.
6. An environmental assessment of suspect dwelling units.
7. Abatement surveillance to ensure correction of the identified hazardous settings.
8. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

Sec. 6. NEW SECTION. 135.105 DEPARTMENT DUTIES.

The department shall:

1. Coordinate the lead abatement program with the department of natural resources, the University of Iowa poison control program, the mobile and regional child health speciality clinics, and any agency or program known for a direct interest in lead levels in the environment.

2. Survey geographic areas not included in the grant program pursuant to section 135.103 periodically to determine prioritization of such areas for future grant programs.

Approved April 24, 1987

CHAPTER 56

LOANS OF LIBRARY MATERIALS AND EQUIPMENT

H.F. 176

AN ACT relating to the requirements for the loaning by a library of library materials or equipment having a value of five hundred dollars or more.

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

Section 1. Section 714.5, unnumbered paragraph 6, Code 1987, is amended by striking the unnumbered paragraph.

Approved April 24, 1987

CHAPTER 57

ADVOCATES FOR THE MENTALLY ILL

H.F. 251

AN ACT relating to advocates for certain individuals involuntarily hospitalized.

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

Section 1. Section 229.19, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The district court in each county shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of the mentally ill, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or treatment to the mentally ill, to act as advocate representing the interests of ~~all~~ patients involuntarily hospitalized by ~~that~~ the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. The court shall assign the advocate appointed from the patient's county of legal settlement to the patient, or if the patient has no county of legal settlement, the court shall assign the advocate appointed from the county where the hospital or facility is located. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and an advocate shall be ~~appointed~~ assigned to the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and the court so directs. If the court directs the attorney to remain on the case the attorney shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate. With regard to each patient whose interests

the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

Approved April 24, 1987

CHAPTER 58

NOMINEES FOR COMMISSION ON THE DEAF
H.F. 373

AN ACT relating to the division of deaf services of the department of human rights.

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

Section 1. Section 601K.112, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A commission on the deaf is established, consisting of seven members appointed by the governor, subject to confirmation by the senate. Lists of nominees for appointment to membership on the commission ~~shall~~ may be submitted by the Iowa association for the deaf, the Iowa state registry of interpreters for the deaf, the Iowa school for the deaf, and the commission of persons with disabilities. At least four members shall be persons who cannot hear human speech with or without use of amplification. All members shall reside in Iowa. The members of the commission shall appoint the chairperson of the commission. A majority of the members of the commission shall constitute a quorum.

Approved April 24, 1987

CHAPTER 59

EMPLOYMENT SCREENING FOR JUVENILE
SUBSTANCE ABUSE TREATMENT PROGRAMS
H.F. 378

AN ACT relating to the dissemination and redissemination of criminal history data to the Iowa department of public health for purposes of employment screening for juvenile substance abuse treatment programs, and providing a penalty.

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

Section 1. Section 692.2, subsection 1, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The Iowa department of public health for the purposes of screening employees and applicants for employment in substance abuse treatment programs which admit juveniles and are licensed under chapter 125.

Sec. 2. Section 692.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding subsection 1, paragraph "a", the Iowa department of public health may redisseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "f", to administrators of facilities licensed under chapter 125 which admit juveniles. Persons who receive criminal history data pursuant to this subsection shall not use this information other than for the purpose of screening employees and applicants for employment in substance abuse programs which admit juveniles and are licensed under chapter 125. A person who receives criminal history data pursuant to this subsection and who uses

it for any other purpose or who communicates the information to any other person other than for the purposes permitted by this subsection is guilty of an aggravated misdemeanor.

Approved April 24, 1987

CHAPTER 60

TRANSIENT MERCHANTS' AND OUT-OF-STATE CONTRACTORS' BONDS

H.F. 394

AN ACT relating to nonlocal business entities, particularly transient merchants and out-of-state contractors and providing penalties.

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

Section 1. Section 81A.4, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The requirements of this section also apply to transient merchants who are licensed in accordance with an ordinance of a city in the state of Iowa.

NEW UNNUMBERED PARAGRAPH. Notwithstanding the above provisions, the bond provided for in this section shall be forfeited to the state of Iowa upon the applicant's failure to pay the total of all taxes payable by or due from the applicant to the state which taxes are administered by the department of revenue and finance. The department shall adopt administrative rules for the collection of the forfeiture. Notice shall be provided to the surety and to the applicant. Notice to the applicant shall be mailed to the applicant's last known address. The applicant or the surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the director finds that the applicant has failed to pay the total of all taxes payable and the bond is forfeited, the director shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond. The surety shall not have standing to contest the amount of any taxes payable. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department has previously determined to be due by assessment or in an appeal of an assessment.

Sec. 2. NEW SECTION. 81A.10 ENFORCEMENT.

The attorney general, or designees of the attorney general, may seek an injunction from a court of competent jurisdiction in order to prohibit sales by a transient merchant who is in violation of this chapter.

Sec. 3. Section 103A.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 25. "Out-of-state contractor" means a person whose principal place of business is in another state, and which contracts to perform construction, installation, or any other work covered by this chapter, in this state.

Sec. 4. NEW SECTION. 103A.24 BOND FOR OUT-OF-STATE CONTRACTORS.

An out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the office of the secretary of state, with sureties to be approved by the secretary of state's office. The bond shall be in the sum of the greater of the following:

1. One thousand dollars.
2. Five percent of the contract price.

Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and

related fees, which may accrue to the state of Iowa or its subdivisions on account of the execution and performance of the contract. If at any time during the term of the bond the department of revenue and finance determines that the amount of the bond is not sufficient to cover the tax liabilities accruing to the state of Iowa or its subdivisions, the department shall require the bond to be increased by an amount the department deems sufficient to cover the tax liabilities accrued and to accrue under the contract. The department shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue and finance finds that the contractor has failed to pay the total of all taxes payable, the department shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond. The surety shall not have standing to contest the amount of any taxes payable. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department has previously determined to be due to the state or a subdivision of the state by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

Approved April 24, 1987

CHAPTER 61

CONDEMNATION PROCEDURES

H.F. 409

AN ACT relating to the procedures used for the taking of property for public transportation purposes.

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

Section 1. Section 306.27, Code 1987, is amended to read as follows:

306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

The state department of transportation as to primary roads and the boards of supervisors as to secondary roads on their own motion may change the course of any part of any road or stream, watercourse or dry run and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or to straighten a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse or dry run upon the highway. The department shall conduct its proceedings in the manner and form prescribed in chapter 472, and the board of supervisors shall use the form prescribed in sections 306.28 to 306.37 or as provided in chapter 472. Changes are subject to chapter 455B.

Approved April 24, 1987

CHAPTER 62

INTERSTATE RENDITION FOR FAILURE TO PROVIDE SUPPORT

H.F. 513

AN ACT relating to interstate rendition of persons charged with failure to provide support.

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

Section 1. NEW SECTION. 252A.24 INTERSTATE RENDITION.

The governor of this state may:

1. Demand of the governor of another state the surrender of a person found in that state who is charged in this state with failing to provide for the support of any person.

2. Surrender on demand by the governor of another state a person found in this state who is charged in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this chapter apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the act and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the act was in the demanding state.

Sec. 2. NEW SECTION. 252A.25 CONDITIONS OF INTERSTATE RENDITION.

1. Before making the demand upon the governor of another state for the surrender of a person charged in this state with failing to provide for the support of a person, the governor of this state may require the department of human services or any county attorney of this state to satisfy the governor that at least sixty days prior thereto the obligee initiated proceedings for support under this chapter or that any proceeding would be of no avail.

2. If, under a substantially similar statute, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged in that state with failure to provide for the support of a person, the governor may require any prosecuting attorney to investigate the demand and to report to the governor whether proceedings for support have been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

3. If proceedings have been initiated and the person demanded has prevailed therein, the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

Approved April 24, 1987

CHAPTER 63

GROUP INSURANCE

H.F. 610

AN ACT to grant the commissioner of insurance the authority to approve discretionary group insurance.

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

Section 1. Section 509.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A policy issued to a resident of this state under a group life, accident, or health insurance policy issued to a group other than one described in subsections 1 through 7, subject to the following requirements:

a. The commissioner determines that all of the following apply:

(1) The issuance of the group policy is not contrary to the best interest of the public.

(2) The issuance of the group policy will result in economies of acquisition or administration.

(3) The benefits under the group policy are reasonable in relation to the premium charged.

b. The commissioner need not make a determination under paragraph "a" if the commissioner determines that the group insurance coverage offered in this state by an insurer or other person is offered under a policy issued in another state and that state or another state in which the policy is offered, having requirements substantially similar to those in paragraph "a", has determined that the policy meets those requirements.

c. The premium for the policy shall be paid either from the policyholder's funds, or from funds contributed by the covered person, or both.

d. The insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

e. If compensation of any kind will or may be paid to the policyholder in connection with the group policy, the insurer shall provide to prospective insured written notice that compensation will or may be paid. Notice shall be provided whether the compensation is direct or indirect, and whether the compensation is paid to or retained by the policyholder, or paid to or retained by a third party at the direction of the policyholder or any entity affiliated with the policyholder by ownership, contract, or employment. The notice shall be placed on or accompany any document designed for the enrollment of prospective insureds.

Approved April 24, 1987

CHAPTER 64

LIFE INSURANCE COMPANY INVESTMENTS

H.F. 639

AN ACT relating to investments of Iowa life insurance companies.

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

Section 1. Section 511.8, subsection 5, paragraph b, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The term "corporation" as used in this chapter includes a joint stock association, a partnership, or a trust.

NEW UNNUMBERED PARAGRAPH. The securities, real estate, and mortgages described in this section include participations, which means instruments evidencing partial or undivided collective interests in such securities, real estate, and mortgages.

Sec. 2. Section 511.8, subsection 7, unnumbered paragraph 1, Code 1987, is amended to read as follows:

EQUIPMENT TRUST OBLIGATIONS. Subject to the restrictions contained in subsection 8 ~~hereof~~, bonds, certificates, or other evidences of indebtedness secured by any transportation equipment used wholly or in part in the United States of America or Canada, that provide a right to receive determined rental, purchase or other fixed obligatory payments adequate to retire the obligations within twenty years from date of issue, and also provide:

Sec. 3. Section 511.8, subsection 18, paragraph a, Code 1987, is amended to read as follows:

a. Common stocks or shares issued by solvent corporations or institutions are eligible if the total investment in stocks or shares in the corporations or institutions does not exceed ten

percent of legal reserve, provided not more than one-half percent of the legal reserve is invested in stocks or shares of any one corporation. However, the stocks or shares shall be listed or admitted to trading on a an established foreign securities exchange or a securities exchange in the United States or shall be publicly held and traded in the "over-the-counter market" and market quotations shall be readily available, and further, the investment shall not create a conflict of interest for an officer or director of the company between the insurance company and the corporation whose stocks or shares are purchased.

Sec. 4. Section 511.8, subsection 19, unnumbered paragraph 1, Code 1987, is amended to read as follows:

OTHER FOREIGN GOVERNMENT OR CORPORATE OBLIGATIONS. Bonds or other evidences of indebtedness, not to include currency, issued, assumed or guaranteed by a foreign government other than Canada, or by a corporation incorporated under the laws of a foreign government other than Canada. Any such governmental obligations must be valid, legally authorized and issued. Any such corporate obligations must meet the qualifications established in subsection 5 of this section for bonds and other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or ~~the Dominion of~~ Canada. Foreign investments authorized by this subsection are not eligible in excess of ~~one~~ two percent of the legal reserve of the life insurance company or association.

Approved April 24, 1987

CHAPTER 65

LAWS RELATING TO BUSINESS AND OCCUPATION REGULATION AFFIRMED AND REENACTED

S.F. 267

AN ACT relating to the affirmation and reenactment of certain provisions of law concerning the regulation of certain businesses and occupations, and providing an effective date.

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

Section 1. It is the finding of the general assembly that certain recent court cases have raised questions in regard to the proper enactment of certain provisions contained in Code editor's bills. It is the intent of the general assembly to resolve any doubt as to the validity of provisions enacted in the Code editor's bills of prior years. It is the position of the general assembly that all of the following provisions contained in Code editor's bills and all other provisions of the Code editor's bills were properly enacted in the Code editor's bills. Passage of an Act by the general assembly necessarily includes a finding by the general assembly that the Act embraced but one subject, and matters properly connected therewith; and that the subject is properly expressed in the title.

Sec. 2. 1980 Iowa Acts, chapter 1015, section 61, is affirmed and reenacted.

Sec. 3. Section 148A.1, Code 1987, is affirmed and reenacted, from and including the amendment enacted in 1986 Iowa Acts, chapter 1238, section 7, to Code 1985.

Sec. 4. Section 192A.13, Code 1987, is affirmed and reenacted, from and including the amendment enacted in 1986 Iowa Acts, chapter 1238, section 10, to Code 1985.

Sec. 5. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 29, 1987

CHAPTER 66

DISTRIBUTION OF EMPLOYMENT STATISTICS

S.F. 420

AN ACT relating to the method to be used by the department of employment services for reporting unemployment statistics.

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

Section 1. Section 96.11, subsection 3, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The ~~division~~ department shall prepare and distribute ~~monthly~~ to the public ~~a press release containing the most recent employment and unemployment statistics~~ as labor force data, only that data adjusted according to the current population survey and ~~containing~~ other nonlabor force statistics which the ~~division~~ department determines are of interest to the public.

Approved April 29, 1987

CHAPTER 67

HOMESTEAD EXEMPTION WAIVERS

S.F. 474

AN ACT relating to the waiver of homestead exemptions, and providing dates for the effectiveness and applicability of the Act.

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

Section 1. Section 561.22, Code 1987, is amended to read as follows:

561.22 WAIVER.

If a homestead exemption waiver is contained in a written contract affecting agricultural land as defined in section 172C.1, or dwellings, buildings, or other appurtenances located on the land, the contract must contain a statement in substantially the following form, in boldface type of a minimum size of ten points, and be signed and dated by the person waiving the exemption at the time of the execution of the contract: "I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract."

Sec. 2. This Act, being deemed of immediate importance, takes effect ten days after the Act has been approved by the governor or ten days after the Act has been passed over the governor's objection and is retroactive to May 29, 1986. A written contract affecting land that is not agricultural land as defined in section 172C.1, may be enforced as any other contract, notwithstanding that the contract was executed prior to the effective date of this Act and notwithstanding that the contract does not contain the statement referred to in section 561.22 explaining the consequences of waiving a homestead exemption or that the statement is not signed by the person waiving the exemption.

Approved April 29, 1987

CHAPTER 68

TOWNSHIP OFFICERS

H.F. 47

AN ACT relating to the appointment of township officers.

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

Section 1. Section 39.18, Code 1987, is amended to read as follows:

39.18 BOARD OF SUPERVISORS ~~AND TOWNSHIP TRUSTEES~~.

There shall be elected, biennially, in counties ~~and townships~~, members of the board of supervisors ~~and township trustees, respectively,~~ to succeed those whose terms of office will expire on the first day of January following the election which is not a Sunday or legal holiday. The term of office of each supervisor ~~or trustee~~ shall be four years, except as otherwise provided by section 331.208 or 331.209.

Sec. 2. Section 39.22, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

39.22 TOWNSHIP OFFICERS.

The offices of township trustee and township clerk shall be filled by appointment or election as follows:

1. BY APPOINTMENT. The county board of supervisors may pass a resolution in favor of filling the offices of trustee and clerk within a township by appointment by the board, and may direct the county commissioner of elections to submit the question to the eligible voters of the township at the next general election. In a township which does not include a city, eligible voters shall consist of the voters of the entire township. In a township which includes a city, eligible voters are those voters who reside outside the corporate limits of a city. The resolution shall apply to all townships which have not approved a proposition to fill township offices by appointment. If the proposition to fill the township offices by appointment is approved by a majority of the eligible voters, the board shall fill the offices by appointment as the terms of office of the incumbent township officers expire. The election of the trustees and clerk of a township may be restored after approval of the appointment process under this subsection by a resolution of the board of supervisors submitting the question to the eligible voters of the township at the next general election. If the proposition to restore the election process is approved by a majority of the eligible voters, the election of the township officers shall commence with the next primary and general elections. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon petition of at least ten percent of the eligible voters of a township. The initial terms of the trustees shall be determined by lot, one for two years, one for three years, and one four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

2. BY ELECTION. If the county board of supervisors does not have the power provided under subsection 1 to fill the offices of trustee and clerk within a township by appointment, then the offices of township trustee and township clerk shall be filled by election. Township trustees and the township clerk, in townships which do not include a city, shall be elected by the voters of the entire township. In townships which include a city, the officers shall be elected by the voters of the township who reside outside the corporate limits of the city, but a township officer may be a resident of the city.

a. TOWNSHIP TRUSTEES. Township trustees shall be elected biennially to succeed those whose terms of office expire on the first day of January following the election which is not a Sunday or legal holiday. The term of office of each elected township trustee is four years.

b. TOWNSHIP CLERK. At the general election held in the year 1990 and every four years thereafter, in each civil township one township clerk shall be elected who shall hold office for the term of four years.

Sec. 3. Section 39.23, Code 1987, is repealed.

Sec. 4. Section 69.8, subsection 5, Code 1987, is amended to read as follows:

5. ELECTED TOWNSHIP OFFICES. ~~In~~ When a vacancy occurs in an elective township ~~offices~~ office under section 39.22, including ~~trustees~~ trustee, the vacancy shall be filled, by the trustees, but ~~where~~ if the offices of ~~the~~ two or three trustees are ~~all~~ vacant, the county board of supervisors ~~shall have the power to either instruct the county auditor to~~ may fill the vacancies ~~or~~. If the offices of three trustees are vacant, the board may adopt a resolution stating that the board will exercise all powers and duties assigned by law to the trustees of the township in which ~~such~~ the vacancies exist~~,~~ until ~~such time as~~ the vacancies may be filled by election. If a township office vacancy is not filled by the trustees within thirty days after the vacancy occurs, the board of supervisors may appoint a successor to the unexpired term.

Approved April 29, 1987

CHAPTER 69

INVESTIGATIONS OF DEATHS

H.F. 90

AN ACT relating to investigations of the cause and manner of death for patients enrolled in a hospice program.

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

Section 1. Section 331.802, subsection 3, paragraph g, Code 1987, is amended to read as follows:

g. Death of a person if a physician was not in attendance within thirty-six hours preceding death, excluding prediagnosed terminal or bedfast cases for which the time period is extended to ~~twenty~~ thirty days, and excluding a terminally ill patient who was admitted to and had received services from a hospice program, as defined in section 135.90, if a physician or registered nurse employed by the program was in attendance within thirty days preceding death.

Approved April 29, 1987

CHAPTER 70

DISCLOSURES TO CARE REVIEW COMMITTEE MEMBERS

H.F. 136

AN ACT relating to the disclosure of information concerning the family of a health care facility resident to a care review committee member.

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

Section 1. Section 135C.25, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A health care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a care review committee member, unless permission for this disclosure is refused in writing by the family member. The facility shall provide a form on which a family member may indicate a refusal to grant this permission.

Sec. 2. Section 249D.44, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A health care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a care review committee member, unless permission for this disclosure is refused in writing by a family member.

Approved April 29, 1987

CHAPTER 71

CONTESTED CASE PROCEEDINGS

H.F. 193

AN ACT relating to the filing of a request for a contested case proceeding with a state agency.

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

Section 1. Section 17A.12, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Unless otherwise provided by statute, a person's request or demand for a contested case proceeding shall be in writing, delivered to the agency by United States postal service or personal service and shall be considered as filed with the agency on the date of the United States postal service postmark or the date personal service is made.

Approved April 29, 1987

CHAPTER 72

CRIMINAL PENALTY SURCHARGE

H.F. 487

AN ACT relating to the payment and collection of the criminal penalty surcharge.

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

Section 1. NEW SECTION. 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL PENALTY SURCHARGE.

The provisions of this chapter governing the payment and collection of a fine also apply to the payment and collection of a criminal penalty surcharge imposed pursuant to chapter 911.

Sec. 2. Section 911.2, Code 1987, is amended to read as follows:

911.2 SURCHARGE.

When a court imposes a fine or forfeiture for a violation of a state law, or of a city or county ordinance except an ordinance regulating the parking of motor vehicles, the court shall assess an additional penalty in the form of a surcharge equal to fifteen percent of the fine or forfeiture imposed. In the event of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses. When a fine or forfeiture is suspended in whole or in part, the surcharge shall be reduced in proportion to the amount suspended. ~~This section applies only with respect to criminal actions commenced on or after July 1, 1982.~~

The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

Approved April 29, 1987

CHAPTER 73

MEDIATION RELEASES FOR AGRICULTURAL PROPERTY

H.F. 489

AN ACT relating to ensuring that the title to agricultural land is not affected by the failure of a creditor to receive a mediation release, regardless of its validity.

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

Section 1. Section 654.2C, Code 1987, is amended to read as follows:

654.2C MEDIATION NOTICE — FORECLOSURE ON AGRICULTURAL PROPERTY.

A person shall not initiate a proceeding under this chapter to foreclose a deed of trust or mortgage on agricultural property, as defined in section 654A.1, which is subject to chapter 654A and which is subject to a debt of twenty thousand dollars or more under the deed of trust or mortgage unless the person receives a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release, regardless of its validity.

Sec. 2. Section 654A.6, subsection 1, Code 1987, is amended to read as follows:

1. A creditor subject to this chapter desiring to initiate a proceeding to enforce a debt against agricultural property which is real estate under chapter 654, to forfeit a contract to purchase agricultural property under chapter 656, to enforce a secured interest in agricultural property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property, shall file a request for mediation with the farm mediation service. The creditor ~~may~~ shall not begin the proceeding subject to this chapter until the creditor receives a mediation release, or until the court determines after notice and hearing that the time delay required for the mediation would cause the creditor to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release regardless of its validity. The time period for the notice of right to cure provided in section 654.2A shall run concurrently with the time period for the mediation period provided in this section and section 654A.10.

Sec. 3. Section 656.8, Code 1987, is amended to read as follows:

656.8 MEDIATION NOTICE.

Notwithstanding ~~the provisions of~~ sections 656.1 through 656.5, a person shall not initiate proceedings under this chapter to forfeit a real estate contract for the purchase of agricultural property, as defined in section 654A.1, which is subject to an outstanding obligation on the contract of twenty thousand dollars or more unless the person received a mediation release under section 654A.11, or unless the court determines after notice and hearing that the time delay required for the mediation would cause the person to suffer irreparable harm. Title to land that is agricultural property is not affected by the failure of any creditor to receive a mediation release, regardless of its validity.

Approved April 29, 1987

CHAPTER 74

SEX DISCRIMINATION

H.F. 507

AN ACT relating to discrimination by employers and by labor unions, organizations, and officers on the basis of sex, and making a penalty applicable.

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

Section 1. Section 729.4, subsections 1 and 2, Code 1987, are amended to read as follows:

1. Every person in this state is entitled to the opportunity for employment on equal terms with every other person. ~~It shall be unlawful for any~~ A person or employer ~~to~~ shall not discriminate in the employment of individuals because of race, religion, color, sex, national origin, or ancestry. However, as to employment ~~such~~ an individual must be qualified to perform the services or work required.

2. ~~It shall be unlawful for any~~ A labor union or organization or an officer thereof ~~to~~ shall not discriminate against any person as to membership therein because of race, religion, color, sex, national origin or ancestry.

Approved April 29, 1987

CHAPTER 75

LENDER REPORTING OF MORTGAGE SATISFACTIONS

H.F. 517

AN ACT relating to requirements for lender reporting to the title guaranty division.

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

Section 1. Section 220.91, subsection 8, Code 1987, is amended by striking the subsection.

Approved April 29, 1987

CHAPTER 76

JOB TRAINING GRANTS

H.F. 568

AN ACT relating to the distribution of federal funds under Title III of the Job Training Partnership Act of 1982.

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

Section 1. Section 7B.5, subsections 2 and 3, Code 1987, are amended by striking the subsections.

Approved April 29, 1987

CHAPTER 77

PERSONALIZED PLATES FOR TRAILERS

H.F. 579

AN ACT allowing issuance of personalized registration plates for travel trailers and for trailers regardless of the trailers' gross weight registrations.

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

Section 1. Section 321.34, subsection 5, paragraph a, Code 1987, is amended to read as follows:

a. Upon application and the payment of a fee of twenty-five dollars, the director may issue to the owner of a motor vehicle registered in this state or a trailer ~~with a gross weight of one thousand pounds or less~~ or travel trailer registered in this state, personalized registration plates marked with the initials, letters, or a combination of numerals and letters requested by the owner. Upon receipt of the personalized registration plates, the applicant shall surrender the regular registration plates to the county treasurer. The fee for issuance of the personalized registration plates shall be in addition to the regular annual registration fee.

Approved April 29, 1987

CHAPTER 78

EMPLOYER ALLOCATIONS FOR UNEMPLOYMENT COMPENSATION PURPOSES

H.F. 596

AN ACT relating to the time for designating the period for which certain employer payments shall be allocated.

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

Section 1. Section 96.5, subsection 7, paragraph b, is amended to read as follows:

b. ~~Whenever~~ When, in connection with ~~any~~ a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make ~~such~~ a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation, and within ~~seven~~ ten calendar days after notification of the filing of the individual's claim, designates by notice in writing to the division of job service the period to which ~~such~~ the payment shall be allocated; provided, that if such designated period is extended by the employer, the individual may again similarly designate an extended period, by giving notice ~~thereof~~ in writing to the division not later than the beginning of the extension of ~~such~~ the period, with the same effect as if ~~such~~ the period of extension were included in the original designation. The amount of ~~any such~~ a payment or obligation to make payment, ~~shall be~~ is deemed "wages" as defined in section 96.19, subsection 12, and shall be applied as provided in paragraph "c" of this subsection 7.

Approved April 29, 1987

CHAPTER 79

MECHANICS' LIENS

S.F. 423

AN ACT relating to the subcontractor's right to file a mechanic's lien against the property for which labor is performed or material is furnished.

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

Section 1. Section 572.9, Code 1987, is amended to read as follows:

572.9 TIME OF FILING.

The statement or account required by section 572.8 shall be filed by a principal contractor or subcontractor within ninety days~~, and by a subcontractor within sixty days,~~ from the date on which the last of the material was furnished or the last of the labor was performed. A failure to file the ~~same~~ statement or account within ~~said periods shall~~ the ninety-day period does not defeat the lien, except as otherwise provided in this chapter.

Sec. 2. Section 572.10, Code 1987, is amended to read as follows:

572.10 PERFECTING SUBCONTRACTOR'S LIEN AFTER LAPSE OF ~~SIXTY~~ NINETY DAYS.

After the lapse of the ~~sixty~~ ninety days prescribed in section 572.9, a subcontractor may perfect a mechanic's lien by filing a claim with the clerk of the district court and giving written notice thereof to the owner, the owner's agent, or trustee. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served, the party's agent, or trustee, is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was filed with the clerk of the district court.

Sec. 3. Section 572.11, Code 1987, is amended to read as follows:

572.11 EXTENT OF LIEN FILED AFTER ~~SIXTY~~ NINETY DAYS.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner, as hereinafter provided, only to the extent of the balance due from the owner to the contractor at the time of the service of such notice; but if the bond was given by the contractor, or person contracting with the subcontractor filing the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

Sec. 4. Section 572.12, Code 1987, is amended to read as follows:

572.12 TIME OF FILING AGAINST RAILWAY.

Where a lien is claimed upon a railway, the subcontractor shall have ~~sixty~~ ninety days from the last day of the month in which such labor was done or material furnished within which to file the claim therefor.

Sec. 5. Section 572.13, Code 1987, is amended to read as follows:

572.13 LIABILITY OF OWNER TO ORIGINAL CONTRACTOR.

1. ~~No~~ An owner of ~~any~~ a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, ~~shall be~~ is not required to pay the original contractor for compensation for work done or material furnished for ~~said~~ the building, land, or improvement until the expiration of ~~sixty~~ ninety days from the completion of ~~said~~ the building~~,~~ or improvement unless the original contractor ~~shall furnish~~ furnishes to the owner one of the following:

~~1~~ a. Receipts and waivers of claims for mechanics' liens, signed by all persons who furnished ~~any~~ material or performed ~~any~~ labor for ~~said~~ the building, land, or improvement~~, or~~.

~~2~~ b. A good and sufficient bond to be approved by ~~said~~ the owner, conditioned that ~~said~~ the owner shall be held harmless from any loss which the owner may sustain by reason of the filing of mechanics' liens by subcontractors.

2. An original contractor who enters into a contract for an owner-occupied dwelling and who has contracted or will contract with a subcontractor to provide labor or furnish material for the dwelling shall include the following notice in any written contract with the owner and shall provide the owner with a copy of the written contract:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner."

If no written contract is entered into between the original contractor and the dwelling owner, the original contractor shall, within ten days of commencement of work on the dwelling, provide written notice to the dwelling owner stating the name and address of all subcontractors that the contractor intends to use for the construction and, that the subcontractors or suppliers may have lien rights in the event they are not paid for their labor or material used on this site; and the notice shall be updated as additional subcontractors and suppliers are used from the names disclosed on earlier notices.

An original contractor who fails to provide notice under this section is not entitled to the lien and remedy provided by this chapter as they pertain to any labor performed or material furnished by a subcontractor not included in the notice.

Sec. 6. Section 572.14, subsection 1, Code 1987, is amended to read as follows:

1. Except as provided in subsection 2, payment to the original contractor by the owner of any part or all of the contract price of the building or improvement before the lapse of the ~~sixty~~ ninety days allowed by law for the filing of a mechanic's lien by a subcontractor, does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon the building, land, or improvement if the subcontractor files a lien within the time provided by law for its filing.

Sec. 7. Section 572.16, Code 1987, is amended to read as follows:

572.16 RULE OF CONSTRUCTION.

Nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the principal contractor, unless said owner pays a part or all of the contract price to the original contractor before the expiration of the ~~sixty~~ ninety days allowed by law for the filing of a mechanic's lien by a subcontractor; provided that in the case of an owner-occupied dwelling, nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the principal contractor, unless the owner pays a part or all of the contract price to the principal contractor after receipt of notice under section 572.14, subsection 2.

Sec. 8. Section 572.27, Code 1987, is amended to read as follows:

572.27 LIMITATION ON ACTION.

An action to enforce a mechanic's lien may be brought within two years from the expiration of the ~~sixty or~~ ninety days~~, as the case may be,~~ for filing the claim as provided in this chapter and not afterwards.

Sec. 9. Section 572.30, Code 1987, is amended to read as follows:

572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST CONTRACTOR.

Unless otherwise agreed, a principal contractor who engages a subcontractor to supply labor or materials or both for improvements, alterations or repairs to a specific owner-occupied dwelling shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the principal contractor receives full payment from the owner. If a principal contractor fails without due cause to pay a subcontractor as required by this section, the subcontractor, or the owner by subrogation, may commence an action against the contractor to recover the amount due ~~and the court may, in addition to actual damages, award exemplary damages against the contractor in an amount not exceeding fifty percent of the amount due~~

~~the subcontractor, or the owner by subrogation, for the labor and materials supplied.~~ Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the principal contractor paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the nonpayment complained of. In an action to recover the amount due a subcontractor, or the owner by subrogation, under this section, the court in addition to actual damages, shall award a successful plaintiff exemplary damages against the contractor in an amount not less than one percent and not exceeding fifteen percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied, unless the principal contractor does one or both of the following, in which case no exemplary damages shall be awarded:

1. Establishes that all proceeds received from the person making the payment have been applied to the cost of labor or material furnished for the improvement.

2. Within fifteen days after receiving notice of nonpayment the principal contractor gives a bond or makes a deposit with the clerk of the district court, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and form approved by a judge of the district court, to hold harmless the owner or person having the improvement made from any claim for payment of anyone furnishing labor or material for the improvement, other than the principal contractor.

Approved April 30, 1987

CHAPTER 80

CONSUMER RENTAL PURCHASE AGREEMENTS

H.F. 585

AN ACT relating to including consumer rental purchase agreements in the consumer credit code.

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

Section 1. NEW SECTION. 537.3601 SHORT TITLE.

This part of article 3 may be known and may be cited as the "Consumer Rental Purchase Agreement Act".

Sec. 2. NEW SECTION. 537.3602 PURPOSES — RULES OF CONSTRUCTION.

1. This part shall be liberally construed and applied to promote its underlying purposes and policies.

2. The underlying purposes and policies of this part are to:

a. Define, simplify, and clarify the law governing consumer rental purchase agreements.

b. Provide certain disclosures to consumers who enter into consumer rental purchase agreements, and further consumer understanding of the terms of consumer rental purchase agreements.

c. Protect consumers against unfair practices.

d. Permit and encourage the development of fair and economically sound rental purchase practices.

e. Make the law on consumer rental purchase agreements, including administrative rules, more uniform among the various uniform consumer credit code jurisdictions.

3. A reference to a requirement imposed by this part includes a reference to a related rule of the administrator adopted pursuant to this chapter.

Sec. 3. NEW SECTION. 537.3603 EXCLUSIONS.

This part does not apply to, and an agreement which complies with this part is not governed by the provisions regarding:

1. A consumer credit sale as defined in section 537.1301, subsection 12.
2. A consumer lease as defined in section 537.1301, subsection 13.
3. A consumer loan as defined in section 537.1301, subsection 14.
4. A lease or agreement which constitutes a "credit sale" as defined in 12 C.F.R. § 226.2(a16), and the Truth In Lending Act, 15 U.S.C. § 1602(g), or an agreement which constitutes a "sale of goods" under section 537.1301, subsection 35.
5. A lease which constitutes a consumer lease as defined in 12 C.F.R. § 226.2(a6)*.
6. A lease or agreement which constitutes a security interest as defined in section 554.1201, subsection 37.

Sec. 4. NEW SECTION. 537.3604 GENERAL DEFINITIONS.

As used in this part, unless otherwise required by the context:

1. "Administrator" means the administrator as designated in section 537.6103.
2. "Advertisement" means a commercial message in any medium, including signs, window displays, and price tags, that promotes, directly or indirectly, a consumer rental purchase agreement.
3. "Cash price" means the price at which the lessor in the ordinary course of business would offer to sell the personal property to the lessee for cash on the date of the consumer rental purchase agreement.
4. "Consummation" means the time at which the lessee enters into a consumer rental purchase agreement.
5. "Lessee" means a natural person who rents personal property under a consumer rental purchase agreement for personal, family, or household use.
6. "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement.
7. "Personal property" means any property that is not real property under the laws of this state when it is made available for a consumer rental purchase agreement.
8. "Consumer rental purchase agreement" means an agreement for the use of personal property in which all of the following are applicable:
a. The lessor is regularly engaged in the rental purchase business.
b. The agreement is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, that is automatically renewable with each payment and that permits the lessee to become the owner of the property.
c. The lessee is a person other than an organization.
d. The lessee takes under the consumer rental purchase agreement primarily for a personal, family, or household purpose.
e. The amount payable under the consumer rental purchase agreement does not exceed twenty-five thousand dollars.

Sec. 5. NEW SECTION. 537.3605 DISCLOSURES.

In a consumer rental purchase agreement, the lessor shall disclose the following items, as applicable:

1. The total of scheduled payments accompanied by an explanation that this term means the "total dollar amount of lease payments you will have to make to acquire ownership".
2. By item, the total number, amounts, and timing of all lease payments and other charges including taxes or official fees paid to or through the lessor which are necessary to acquire ownership of the property.
3. Any initial or advance payment such as a delivery charge, security deposit, or trade-in allowance.
4. A statement that the lessee will not own the property until the lessee has made the total of payments necessary to acquire ownership of the property.
5. A statement that the total of payments does not include additional charges such as late payment charges, and a separate listing and explanation of these charges as applicable.

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*Section 213.2(a6) probably intended

6. If applicable, a statement that the lessee is responsible for the fair market value of the property if and as of the time it is lost, stolen, damaged, or destroyed.

7. A description of the goods or merchandise including model numbers as applicable and a statement indicating whether the property is new or used. It is not a violation of this subsection to indicate that the property is used if it is actually new.

8. A statement that at any time after the first periodic payment is made, the lessee may acquire ownership of the property by tendering fifty-five percent of the difference between the total of scheduled payments necessary to acquire ownership and the total amount of lease payments paid on the account at that time. It is not a violation of this subsection for the lessor and the lessee to agree in writing to allow the lessee to acquire ownership of the property for less than the amounts referred to in this subsection.

9. The cash price of the merchandise.

Sec. 6. NEW SECTION. 537.3606 FORM REQUIREMENTS.

1. The disclosure information required by section 537.3605 and this section shall be disclosed in a consumer rental purchase agreement, and shall meet the following requirements:

a. Be made clearly and conspicuously with items appearing in logical order and segregated as appropriate for readability and clarity.

b. Be made in writing.

c. Except as provided in subsection 2 or in rules adopted by the administrator, need not be contained in a single writing or made in the order set forth in section 537.3605.

d. May be supplemented by additional information or explanations supplied by the lessor, but none shall be stated, used or placed so as to mislead or confuse the lessee, or to contradict, obscure, or detract attention from the information required by section 537.3605, and so long as the additional information or explanations do not have the effect of circumventing, evading, or unduly complicating the information required to be disclosed by section 537.3605.

2. The lessor shall disclose all information required by section 537.3605 before the consumer rental purchase agreement is consummated. These disclosures shall be made on the face of the writing evidencing the consumer rental purchase agreement.

3. Before any payment is due, the lessor shall furnish the lessee with an exact copy of each consumer rental purchase agreement, which shall be signed by the lessee and which shall evidence the lessee's agreement. If there is more than one lessee in a consumer rental purchase agreement, delivery of a copy of the consumer rental purchase agreement to one of the lessees constitutes compliance with this part; however, a lessee not signing the agreement is not liable under it.

4. The administrator may adopt by rule requirements for the order, acknowledgement by initialing, and conspicuousness of the disclosures set forth in section 537.3605. These rules may allow these disclosures to be made in accordance with model forms prepared by the administrator.

5. The terms of the consumer rental purchase agreement, except as otherwise provided in this part, shall be set forth in not less than eight-point standard type, or such similar type as prescribed in rules adopted by the administrator.

6. Every consumer rental purchase agreement shall contain immediately above or adjacent to the place for the signature of the lessee, a clear, conspicuous, printed or typewritten notice in substantially the following language:

NOTICE TO LESSEE – READ BEFORE SIGNING

a. DO NOT SIGN THIS BEFORE YOU READ THE ENTIRE AGREEMENT INCLUDING ANY WRITING ON THE REVERSE SIDE, EVEN IF OTHERWISE ADVISED.

b. DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.

c. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.

d. YOU HAVE THE RIGHT TO EXERCISE ANY EARLY BUY-OUT OPTION AS PROVIDED IN THIS AGREEMENT. EXERCISE OF THIS OPTION MAY RESULT IN A REDUCTION OF YOUR TOTAL COST TO ACQUIRE OWNERSHIP UNDER THIS AGREEMENT.

e. IF YOU ELECT TO MAKE WEEKLY RATHER THAN MONTHLY PAYMENTS AND EXERCISE YOUR PURCHASE OPTION, YOU MAY PAY MORE FOR THE LEASED PROPERTY.

7. The notice described in subsection 6 shall be in bold face, ten-point type.

Sec. 7. NEW SECTION. 537.3607 RECEIPTS.

The lessor shall furnish the lessee, without request, an itemized written receipt for each payment in cash, or any other time the method of payment itself does not provide evidence of payment.

Sec. 8. NEW SECTION. 537.3608 ACQUIRING OWNERSHIP.

At any time after the first lease payment is made, the lessee may acquire ownership of the property by tendering fifty-five percent of the difference between the total of lease payments necessary to acquire ownership and the total amount of lease payments made. The lessor shall then provide written evidence to the lessee that the lessee has acquired ownership of the property. It is not a violation of this section for the lessor and the lessee to agree in writing to allow the lessee to acquire ownership of the property for less than the amounts referred to in this section.

Sec. 9. NEW SECTION. 537.3609 RENEGOTIATION.

1. A renegotiation occurs when an existing consumer rental purchase agreement is satisfied and replaced by a new consumer rental purchase agreement undertaken by the same lessor and lessee. A renegotiation is a new lease requiring new disclosures.

2. However, the following events are not renegotiations:

a. The addition or return of property in a multi-item agreement or the substitution of the leased property, if in either case the lease payment is not changed by more than twenty-five percent.

b. A deferral or extension of one or more lease payments, or portions of a lease payment.

c. A reduction in charges in the agreement.

d. A lease or agreement involved in a court proceeding.

Sec. 10. NEW SECTION. 537.3610 BALLOON PAYMENTS PROHIBITED.

A lessee shall not be required, as a condition to acquiring ownership, to make a payment that is more than twice the amount of a regular rental payment, or to pay lease payments totaling more than the cost to acquire ownership as disclosed pursuant to section 537.3605. This section does not apply to payments made pursuant to section 537.3608, 537.3612, or 537.3619.

Sec. 11. NEW SECTION. 537.3611 PROHIBITED CHARGES.

A lessor shall not make a charge for any of the following:

1. Any insurance whether in connection with the transaction or otherwise, except that a charge may be made for property insurance on the leased property if the charge is clearly disclosed as optional and all other requirements of section 537.2501, subsection 2, paragraph "a", are met.

2. A penalty for early termination of a consumer rental purchase agreement or for the return of an item at any point, except for those charges authorized by sections 537.3612 and 537.3613.

3. Payment by a cosigner of the consumer rental purchase agreement of any fees or charges which could not be imposed upon the lessee as part of the consumer rental purchase agreement.

Sec. 12. NEW SECTION. 537.3612 ADDITIONAL CHARGES.

1. In a consumer rental purchase agreement, the lessor may contract for and receive an initial nonrefundable administrative fee not to exceed ten dollars. If a security deposit is required

by the lessor, the amount and conditions under which it is returned must be disclosed with the disclosures required by sections 537.3605 and 537.3606.

2. In a consumer rental purchase agreement, the lessor may contract for and receive a delivery charge not to exceed ten dollars or, in the case of a consumer rental purchase agreement covering more than five items, a delivery charge not to exceed twenty-five dollars. A delivery charge may be assessed only if the lessor actually delivers the items to the lessee's dwelling and the delivery charge is disclosed with the disclosures required by sections 537.3605 and 537.3606. The delivery charge may be assessed in lieu of and not in addition to the initial administrative charge in subsection 1 of this section.

3. In a consumer rental purchase agreement, a lessor may contract for and receive a charge for picking up payments from the lessee if the lessor is required or requested to visit the lessee's dwelling to pick up a payment. In a consumer rental purchase agreement with payment or renewal dates which are more frequent than monthly, this charge shall not be assessed more than three times in any three-month period. In consumer rental purchase agreements with payments or renewal options which are at least monthly, this charge shall not be assessed more than three times in any six-month period. A charge assessed pursuant to this subsection shall not exceed seven dollars. This charge is in lieu of any delinquency charge assessed for the applicable payment period.

4. In a consumer rental purchase agreement, the parties may contract for late charges or delinquency fees as follows:

a. For consumer rental purchase agreements with monthly renewal dates, a late charge not exceeding five dollars may be assessed on any payment not made within five business days after either payment is due or the return of the property is required.

b. For consumer rental purchase agreements with weekly or biweekly renewal dates, a late charge not exceeding three dollars may be assessed on any payments not made within three business days after either payment is due or the return of the property is required.

A late charge on a consumer rental purchase agreement may be collected only once on any accrued payment, no matter how long it remains unpaid. A late charge may be collected at the time it accrues or at any time thereafter. A late charge shall not be assessed against a payment that is timely made, even though an earlier late charge has not been paid in full.

Sec. 13. NEW SECTION. 537.3613 REINSTATEMENT FEES.

A reinstatement fee as provided for in section 537.3616 shall not equal more than the outstanding balance of any missed payments and delinquency charges on those missed payments plus an additional reinstatement fee that shall not exceed five dollars.

Sec. 14. NEW SECTION. 537.3614 TAXES AND OFFICIAL FEES.

1. If the amount is separately disclosed in the agreement, the lessor may require the lessee to pay all applicable state and county sales, use, and personal property taxes levied as a result of the execution of the consumer rental purchase agreement, provided that the lessor pays the full amount of these taxes to the appropriate authorities.

2. If the amount is separately disclosed in the agreement, the lessor may contract for and receive from the lessee an amount equal to all official fees required to be paid under the consumer rental purchase agreement provided that the lessor pays the full amount of these fees to the appropriate authorities.

Sec. 15. NEW SECTION. 537.3615 ADVERTISING.

1. An advertisement for a consumer rental purchase agreement shall not state or imply that a specific item is available at specific amounts or terms unless the lessor usually and customarily offers or will offer that item at those amounts or terms.

2. If an advertisement for a consumer rental purchase agreement refers to or states the amount of any payment, or the right to acquire ownership, for a specific item, the advertisement must also clearly and conspicuously state the following terms as applicable:

a. That the transaction advertised is a consumer rental purchase agreement.

b. The total of payments necessary to acquire ownership.

c. That the lessee will not own the property until the total amount necessary to acquire ownership is paid in full or by prepayment as provided for by law.

3. Notwithstanding the requirements of subsection 1, if the advertisement is published by way of radio announcement or on a roadside billboard, the lessor need only make the disclosures required by subsection 2, paragraphs "a" and "c".

4. With respect to any matters specifically governed by the advertising provisions of the federal Consumer Credit Protection Act, compliance with that Act satisfies the requirements of this section.

5. This section does not apply to the owner or personnel, as such, of any medium in which an advertisement appears or through which it is disseminated.

Sec. 16. NEW SECTION. 537.3616 LESSEE'S REINSTATEMENT RIGHTS.

1. A lessee who fails to make timely rental payments has the right to reinstate the original consumer rental purchase agreement without losing any rights or options previously acquired under the consumer rental purchase agreement if both of the following apply:

a. Subsequent to having failed to make a timely rental payment, the lessee has surrendered the property to the lessor, if and when requested by the lessor.

b. Not more than sixty days has passed since the lessee has returned the property.

2. As a condition precedent to reinstatement of a consumer rental purchase agreement, a lessor may charge the outstanding balance of any accrued payments and delinquency charges, a reinstatement fee, and the delivery charges allowable by section 537.3612, subsection 2, if redelivery of the item is necessary.

3. If reinstatement occurs pursuant to this section, the lessor shall provide the lessee with the same item, if available, leased by the lessee prior to reinstatement. If the same item is not available, a substitute item of comparable worth, quality, and condition may be used. If a substitute item is provided, the lessor shall provide the lessee with all the information required by section 537.3605.

Sec. 17. NEW SECTION. 537.3617 UNCONSCIONABILITY.

Unconscionability in consumer rental purchase agreements is governed by section 537.5108.

Sec. 18. NEW SECTION. 537.3618 DEFAULT.

An agreement of the parties to a consumer rental purchase agreement with respect to default on the part of the lessee is enforceable only to the extent that one of the following apply:

1. The lessee both fails to renew an agreement and also fails to return the rented property or make arrangements for its return as provided by the agreement.

2. The prospect of payment, performance, or return of the property is materially impaired due to a breach of the consumer rental purchase agreement; the burden of establishing the prospect of material impairment is on the lessor.

Sec. 19. NEW SECTION. 537.3619 CURE OF DEFAULT.

1. In a consumer rental purchase agreement, after a lessee has been in default for three business days and has not voluntarily surrendered possession of the rented property, a lessor may give the lessee the notice provided in subsection 3 when the consumer has the right to cure a default. A lessor gives the notice to the lessee under this section when the lessor delivers notice to the lessee or mails the notice to the last known address of the lessee.

2. For the purpose of this section, there is no right to cure and no limitation on the lessor's rights with respect to a default that occurs within twelve months after an earlier default as to which a lessor has given a proper notice of the lessee's right to cure.

3. The notice of right to cure must be in writing and conspicuously state all of the following:

a. The name, address, and telephone number of the lessor to whom payment is to be made.

b. A brief identification of the transaction.

c. The lessee's right to cure the default.

d. The amount of payment and date by which payment must be made to cure the default. A notice in substantially the following form complies with this subsection:

THE NAME, ADDRESS, & TELEPHONE NUMBER OF THE LESSOR
ACCOUNT NUMBER, IF ANY
BRIEF IDENTIFICATION OF TRANSACTION

(_____) is the last date for payment, (_____) is the amount now due. You have failed to renew your rental purchase agreement(s). If you pay the amount now due (above) by the last date for payment (above), you may continue with the agreement as though you had renewed on time. If you do not pay by that date, we may exercise our rights under the law. If you are late again during the next twelve months of your agreement, in either returning the property or renewing your agreement, we may exercise our rights without sending you another notice like this one. If you have questions, you may write or telephone the lessor promptly.

4. With respect to a consumer rental purchase agreement, except as provided in subsection 5, after a default consisting of the lessee's failure to renew and failure to return the property, a lessor, because of that default, may not instigate court action to recover the rented property until five business days after the notice of the lessee's right to cure is given. In the case of an agreement with weekly or biweekly renewal dates, such action shall not be taken until three business days after the notice of the lessee's right to cure is given.

5. With respect to defaults on the same consumer rental purchase agreement and subject to subsection 4, after a lessor has once given a proper notice of the lessee's right to cure, this section does not give the consumer a right to cure or impose any additional limitations beyond those otherwise imposed by this part on the lessor's right to proceed against the lessee or the lessor's right to recover the property.

6. Until expiration of the minimum applicable periods contained in subsection 4 after notice is given, the lessee may cure all defaults consisting of failure to renew and failure to return the property by tendering the amount of all unpaid sums due at the time of the tender plus any unpaid delinquency charges or other charges authorized by section 537.3616.

7. This section and the provisions on limitations of agreements do not prohibit a lessee from voluntarily surrendering possession of the rented property, and the lessor from enforcing any past due obligation which the lessee may have at any time after default. However, in an enforcement proceeding, the lessor shall affirmatively plead and prove either that the notice to cure is not required or that the lessor has given the required notice, but the failure to so plead does not invalidate any action taken by the lessor that is lawful and if the lessor has rightfully repossessed any property the repossession is not conversion.

8. A repossession of rented property in violation of this section is void.

Sec. 20. NEW SECTION. 537.3620 WILLFUL VIOLATIONS.

A person who willfully and intentionally violates a provision of this part is guilty of a serious misdemeanor.

Sec. 21. NEW SECTION. 537.3621 DAMAGES.

In case of a violation of a provision of this part with respect to a consumer rental purchase agreement, the lessee in the agreement may recover from the person committing the violation, or may set off or counterclaim in an action by that person, actual damages, with a minimum recovery of three hundred dollars or twenty-five percent of the total cost to acquire ownership under the consumer rental purchase agreement, whichever is greater; attorneys' fees; and court costs.

Sec. 22. NEW SECTION. 537.3622 EFFECT OF CORRECTION.

Notwithstanding sections 537.3620 and 537.3621, a failure to comply with a provision of this part which is due to a bona fide error may be corrected within thirty days after the date of execution of the consumer rental purchase agreement by the lessee. If so corrected, neither the lessor nor any holder is subject to penalty under this section if, where appropriate, a new

written agreement and disclosures are provided to the lessee and any excess charges are refunded to the lessee.

Sec. 23. NEW SECTION. 537.3623 STATUTE OF LIMITATIONS.

An action shall not be brought under this part more than two years after the occurrence of the alleged violation.

Sec. 24. NEW SECTION. 537.3624 ENFORCEMENT.

1. The provisions of this part are subject to the powers and functions of the administrator as provided in article 6 of this chapter and to the debt collection practices as provided in article 7 of this chapter. However, section 537.6113, subsection 2, does not apply to violations of this part.

2. If a court finds in an action brought by the administrator pursuant to section 537.6113 that it is proven that a lessor has intentionally acted in bad faith in its performance under this part, the lessor is subject to a civil penalty of not less than one hundred dollars nor more than one thousand dollars for each violation. However, no more than one penalty may be imposed in any one action against a lessor for repeated violations of the same provision. A civil penalty pursuant to this subsection shall not be imposed for a violation of this part occurring more than two years before the action is brought, or for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

Sec. 25. Section 639.3, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 13. That the defendant is about to dispose of property belonging to the plaintiff.

NEW SUBSECTION. 14. That the defendant is about to convert the plaintiff's property or a part thereof into money for the purpose of placing it beyond the reach of the plaintiff.

NEW SUBSECTION. 15. That the defendant is about to move permanently out of state, and refuses to return property belonging to the plaintiff.

Sec. 26. Section 537.1301, subsection 8, Code 1987, is amended to read as follows:

8. "Cash price" of goods, services, or an interest in land means, except in the case of a consumer rental purchase agreement, the price at which they are sold by the seller to cash buyers in the ordinary course of business, and may include the cash price of accessories or services related to the sale, such as delivery, installation, alterations, modifications, and improvements, and taxes to the extent imposed on a cash sale of the goods, services, or interest in land.

Sec. 27. Section 537.1301, subsection 11, Code 1987, is amended to read as follows:

11. "Consumer credit transaction" means a consumer credit sale or consumer loan, or a refinancing or consolidation thereof, or a consumer lease, or a consumer rental purchase agreement.

Sec. 28. Section 537.1301, subsection 12, paragraph b, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) A consumer rental purchase agreement as defined in section 537.3604.

Sec. 29. Section 537.1301, subsection 13, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

13. CONSUMER LEASE.

a. Except as provided in paragraph "b", a consumer lease is a lease of goods in which all of the following are applicable:

(1) The lessor is regularly engaged in the business of leasing.

(2) The lessee is a person other than an organization.

(3) The lessee takes under the lease primarily for a personal, family, or household purpose.

(4) The amount payable under the lease does not exceed twenty-five thousand dollars.

(5) The lease is for a term exceeding four months.

b. A consumer lease does not include a consumer rental purchase agreement as defined in section 537.3604.

Sec. 30. Section 537.1301, subsection 14, paragraph b, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) A consumer rental purchase agreement as defined in section 537.3604.

Sec. 31. Section 537.1301, subsection 19, paragraph b, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Lease payments for a consumer rental purchase agreement, or charges specifically authorized by this chapter for consumer rental purchase agreements.

Sec. 32. Section 537.1301, subsection 28, unnumbered paragraph 1, Code 1987, is amended to read as follows:

"Open-end credit" means an arrangement, other than a consumer rental purchase agreement, pursuant to which all of the following are applicable:

Sec. 33. Section 537.1301, subsection 33, Code 1987, is amended to read as follows:

33. A "precomputed consumer credit transaction" is a consumer credit transaction, other than a consumer lease or a consumer rental purchase agreement, in which the debt is a sum comprising the amount financed and the amount of the finance charge computed in advance. A disclosure required by the Truth in Lending Act does not in itself make a finance charge or transaction precomputed.

Sec. 34. Section 537.1301, subsection 35, Code 1987, is amended to read as follows:

35. "Sale of goods" includes, but is not limited to, any agreement in the form of a bailment or lease of goods if the bailee or lessee pays or agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with the terms of the agreement. "Sale of goods" does not include a consumer rental purchase agreement.

Sec. 35. Section 537.2504, unnumbered paragraph 1, Code 1987, is amended to read as follows:

With respect to a consumer credit transaction in which the rate of finance charge required to be disclosed in the transaction pursuant to section 537.3201 does not exceed eighteen percent per year, other than a consumer lease or a consumer rental purchase agreement, the creditor may, by agreement with the consumer, refinance the unpaid balance and may contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on finance charge for consumer credit sales other than open end credit in section 537.2201 if a consumer credit sale is refinanced, the provisions on finance charge for a consumer loan other than a supervised loan in section 537.2401, subsection 1, or the provisions on finance charge for a supervised loan not pursuant to open end credit in section 537.2401, subsection 2, as applicable, if a consumer loan is refinanced. With respect to a consumer credit transaction in which the rate of finance charge required to be disclosed in the transaction to the consumer pursuant to section 537.3201 exceeds eighteen percent per year, other than a consumer lease or a consumer rental purchase agreement, the creditor may by agreement with the consumer, refinance the unpaid balance and may contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate of finance charge not to exceed that which was required to be disclosed in the original transaction to the consumer pursuant to section 537.3201. For the purpose of determining the finance charge permitted, the amount financed resulting from the refinancing consists of:

Sec. 36. Section 537.2505, subsection 1, Code 1987, is amended to read as follows:

1. In this section, "consumer credit transaction" does not include a consumer lease or a consumer rental purchase agreement.

Sec. 37. Section 537.2506, subsection 1, Code 1987, is amended to read as follows:

1. If the agreement with respect to a consumer credit transaction other than a consumer lease or a consumer rental purchase agreement contains covenants by the consumer to perform certain duties pertaining to insuring or preserving collateral and the creditor pursuant to the agreement pays for performance of the duties on behalf of the consumer, the creditor may add the amounts paid to the debt. Within a reasonable time after advancing any sums, the creditor shall state to the consumer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the consumer performed by the creditor pertain to insurance, a brief description of the insurance paid for by the creditor including the type and amount of coverages. No further information need be given.

Sec. 38. Section 537.2508, Code 1987, is amended to read as follows:

537.2508 CONVERSION TO OPEN END CREDIT.

The parties may agree at or within ten days prior to the time of conversion to add the unpaid balance of a consumer credit transaction, other than a consumer lease or a consumer rental purchase agreement, not made pursuant to open end credit to the consumer's open end credit account with the creditor. The unpaid balance so added is an amount equal to the amount financed determined according to the provisions on finance charge on refinancing under section 537.2504.

Sec. 39. Section 537.2509, Code 1987, is amended to read as follows:

537.2509 RIGHT TO PREPAY.

Subject to the provisions on prepayment and minimum charge under section 537.2510, the consumer may prepay in full the unpaid balance of a consumer credit transaction, other than a consumer lease or a consumer rental purchase agreement, at any time.

Sec. 40. Section 537.2510, subsection 3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Upon prepayment, but not otherwise, of a consumer credit transaction whether or not precomputed, other than a consumer lease, a consumer rental purchase agreement, or ~~one~~ a transaction pursuant to open end credit:

Sec. 41. Section 537.3102, Code 1987, is amended to read as follows:

537.3102 SCOPE.

Part 2 applies to disclosure with respect to consumer credit transactions, other than consumer rental purchase agreements, and the provision in section 537.3201 applies to a sale of an interest in land or a loan secured by an interest in land, without regard to the rate of finance charge, if the sale or loan is otherwise a consumer credit sale or consumer loan. Parts 3 and 4 apply, respectively, to disclosure, limitations on agreements and practices, and limitations on consumer's liability with respect to certain consumer credit transactions. Part 5 applies to home solicitation sales. Part 6 applies to consumer rental agreements.

Sec. 42. Section 537.3301, subsection 2, Code 1987, is amended to read as follows:

2. With respect to a consumer lease, a lessor may not take a security interest in property to secure the debt arising from the lease. This subsection does not apply to a security deposit for a consumer lease or a consumer rental purchase agreement.

Sec. 43. Section 537.3308, subsection 2, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. A consumer rental purchase agreement.

Sec. 44. Section 537.3310, subsection 1, Code 1987, is amended to read as follows:

1. In a consumer credit transaction, other than a consumer rental purchase agreement, if performance by a creditor is by delivery of goods, services, or both, in four or more installments, either on demand of the consumer or by prearranged scheduled performance, the consumer ~~shall have the right to~~ may cancel the obligation with respect to that part which has not been performed on the date of cancellation.

Sec. 45. Section 537.5108, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. Belief by the seller, lessor, or lender at the time a transaction is entered into that there is no reasonable probability of payment in full of the obligation by the consumer or debtor. However, the rental renewals necessary to acquire ownership in a consumer rental purchase agreement shall not be construed to be the obligation contemplated in this subsection if the consumer may terminate the agreement without penalty at any time. As used in this paragraph, "obligation" means the initial periodic lease payments and any other additional advance payments required at the consummation of the transaction.

Sec. 46. Section 537.5108, subsection 4, paragraph b, Code 1987, is amended to read as follows:

b. In the case of a consumer credit sale, ~~or~~ consumer lease, or consumer rental purchase agreement, knowledge by the seller or lessor at the time of the sale or lease of the inability of the consumer to receive substantial benefits from the property or services sold or leased.

Sec. 47. Section 537.5108, subsection 4, paragraph c, Code 1987, is amended to read as follows:

c. In the case of a consumer credit sale, ~~or~~ consumer lease, or consumer rental purchase agreement, gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in consumer credit transactions by like consumers.

Sec. 48. Section 537.5109, subsection 1, Code 1987, is amended to read as follows:

1. Failure to make a payment within ten days of the time required by agreement, or in a consumer rental purchase agreement, failure to renew an agreement and failure to return the rented property or make arrangements for its return as provided by the agreement.

Sec. 49. Section 537.5110, subsection 1, Code 1987, is amended to read as follows:

1. Notwithstanding any term or agreement to the contrary, the obligation of a consumer in a consumer credit transaction is enforceable by a creditor only after compliance with this section, except that in a consumer rental purchase agreement, default is governed by section 537.3618.

Sec. 50. Section 537.5111, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This section does not apply to a consumer rental purchase agreement, which is governed by section 537.3618.

Sec. 51. Section 537.5201, paragraph 1, Code 1987, is amended to read as follows:

1. The consumer, other than a lessee in a consumer rental purchase agreement, has a cause of action to recover actual damages and in addition a right in an action other than a class action to recover from the person violating this chapter a penalty in an amount determined by the court, but not less than one hundred dollars nor more than one thousand dollars, if a person has violated the provisions of this chapter relating to:

Sec. 52. Section 537.5301, subsection 3, Code 1987, is amended to read as follows:

3. A person, other than a lessor in a consumer rental purchase agreement, who willfully and knowingly engages in the business of entering into consumer credit transactions, or of

taking assignments of rights against consumers arising therefrom and undertaking direct collection of payments or enforcement of these rights, without complying with the provisions of this chapter concerning notification under section 537.6202 or payment of fees under section 537.6203, is guilty of a simple misdemeanor.

Sec. 53. Sections 1 through 24 of this Act will be codified as a new part 6 of article 3 of chapter 537.

Approved April 30, 1987

CHAPTER 81

ECONOMIC EMERGENCY AND FORECLOSURE MORATORIUM

S.F. 138

AN ACT relating to the extension of the foreclosure moratorium as provided in the governor's declaration of economic emergency made on October 1, 1985 and providing for the retroactive applicability of the Act and an effective date.

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

Section 1. 1986 Iowa Acts, chapter 1216, section 11, is amended to read as follows:

SEC. 11. Notwithstanding section 654.15, subsection 2, the declaration of economic emergency made by the governor on October 1, 1985, is in effect until March 30, ~~1987~~ 1988.

Sec. 2. APPLICABILITY AND EFFECTIVE DATE.

1. This Act is retroactive to March 30, 1987 and is applicable on and after that date.
2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 1987

CHAPTER 82

BOARD OF TAX REVIEW

S.F. 195

AN ACT relating to the duties of the state board of tax review.

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

Section 1. Section 421.1, subsection 4, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Advise and counsel with the director of revenue and finance concerning the tax laws and the ~~regulations~~ rules adopted pursuant ~~thereto~~ to the law; and, upon ~~their~~ its own motion or upon appeal by any affected taxpayer, review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue and finance for the assessment and collection of taxes by the department or an order to reassess or to raise assessments to any local assessor and shall ~~expeditiously~~ affirm, modify, reverse or remand ~~the same~~ them within sixty days from the date the case is submitted to the board for decision. ~~In order for any~~ For an appeal to the board to be valid, written notice ~~thereof~~ must be given to the department within thirty days of the rendering of the decision, order or directive from which ~~such~~ the appeal is taken. The director shall ~~thereafter cause to be certified~~ certify to the board the record, documents, reports, audits and all other information pertinent to the decision, order or directive from which ~~such~~ the appeal is taken.

Approved May 1, 1987

CHAPTER 83

SMOKELESS TOBACCO

S.F. 222

AN ACT to prohibit the sale or gift of smokeless tobacco to a minor and providing for application of a penalty.

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

Section 1. Section 98.2, Code 1987, is amended to read as follows:

98.2 SALE OR GIFT TO CERTAIN MINORS PROHIBITED.

~~No~~ A person shall not furnish to any minor under eighteen years of age by gift, sale, or otherwise, any smokeless tobacco, cigarette, or cigarette paper, or any paper or other substance made or prepared for the purpose of use in making of cigarettes. ~~No~~ A person shall not directly or indirectly, or by an agent, sell, barter, or give to any minor under eighteen years of age any tobacco in any other form whatever except upon the written order of the minor's parent or guardian or the person in whose custody the minor is.

Sec. 2. Sections 98.4 and 98.5, Code 1987, are repealed.

Approved May 1, 1987

CHAPTER 84

PROPERTY TAX EXEMPTION REVOCATIONS

S.F. 264

AN ACT relating to revocation of a property tax exemption and making the Act retroactive.

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

Section 1. Section 441.17, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Cause to be assessed for taxation property which the assessor believes has been erroneously exempted from taxation. Revocation of a property tax exemption shall commence with the assessment for the current assessment year, and shall not be applied to prior assessment years.

Sec. 2. Section 441.35, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. To add to the assessment rolls for taxation property which the board believes has been erroneously exempted from taxation. Revocation of a property tax exemption shall commence with the assessment for the current assessment year, and shall not be applied to prior assessment years.

Sec. 3. This Act is retroactive to January 1, 1987 for assessments for assessment years commencing on and after January 1, 1987.

Approved May 1, 1987

CHAPTER 85

JURY LISTS AND JURY COMMISSIONERS

H.F. 64

AN ACT relating to jury lists.

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

Section 1. Section 607A.3, subsection 5, Code 1987, is amended to read as follows:

5. "Motor vehicle operators list" means the official records maintained by the state of the names and addresses of those individuals in the respective counties retaining valid motor vehicle operator's licenses on or before ~~October~~ March 15 of each ~~general election~~ odd-numbered year.

Sec. 2. Section 607A.3, subsection 10, Code 1987, is amended to read as follows:

10. "Voter registration list" means the official records maintained by the state of names and addresses of persons registered to vote on or before ~~October~~ March 15 of each ~~general election~~ odd-numbered year.

Sec. 3. Section 607A.10, Code 1987, is amended to read as follows:

607A.10 APPOINTIVE JURORS — MASTER LIST.

In each county the judges of the district court of the judicial district in which the county is located shall, on or before ~~October~~ March 1 of each odd-numbered year ~~in which the general election is held~~, appoint three competent electors as a jury commission to draw up the master list for the two years beginning ~~January 1 after the election~~ the following July 1. The names for the master list shall be taken from the source lists. If all of the source lists are not used to draw up the master list, then the names drawn must be selected in a random manner.

Sec. 4. Section 607A.15, Code 1987, is amended to read as follows:

607A.15 QUALIFICATION — TENURE.

The appointive commissioners shall qualify on or before the tenth day of ~~October~~ March, following their appointment, by taking the oath of office required of civil officers. The oath shall be subscribed by them and filed in the office of the clerk of the district court. They shall hold office for the term of two years and until their successors are duly appointed and qualified.

Sec. 5. Section 607A.21, Code 1987, is amended to read as follows:

607A.21 JURY LISTS.

The appointive jury commission or jury manager shall ~~prepare,~~ select and return~~, on blank lists furnished by the county,~~ to the clerk of the district court the following:

1. The list of grand jurors: A list of names and addresses of one hundred and fifty persons selected from the source lists from which to draw grand jurors.

2. The list of petit jurors: A list of names and addresses of persons selected from the source lists equal to the number of names necessary to provide jurors needed by the court, with the number to be determined by the jury commission or jury manager.

Sec. 6. Section 607A.22, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The jury manager or jury commission may request a consolidated source list. A consolidated source list contains all the names and addresses found in either the voter registration list or the motor vehicle operators list, but does not duplicate an individual's name within the consolidated list. State officials shall cooperate with one another to prepare consolidated lists. The jury manager or jury commission may further request that only a randomly chosen portion of the consolidated list be prepared which may consist of either a certain number of names or a certain percentage of all the names in the consolidated list, as specified by the jury manager or jury commission.

Sec. 7. TRANSITION. The terms of office of appointive jury commissioners appointed in 1986 are extended until their successors are appointed and qualified in 1989. The provisions of section 607A.10 notwithstanding, jurors shall continue to be selected from the master list first used January 1, 1987, until July 1, 1989.

Approved May 1, 1987

CHAPTER 86

COUNCIL-MANAGER-WARD FORM OF CITY GOVERNMENT

H.F. 92

AN ACT relating to the council-manager-ward form of city government.

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

Section 1. Section 372.7, Code 1987, is amended to read as follows:

372.7 COUNCIL-MANAGER-WARD FORM.

A city governed by council-manager-ward form has a council composed of a mayor and ~~two~~ six council members ~~elected at large, and one council member elected from each of four wards~~. Of the six council members, two may be elected at large and one elected from each of four wards, or one may be elected from each of six wards. The mayor and other council members serve four-year staggered terms. The mayor is a member of the council and may vote on all matters before the council.

The council, by ordinance, may change from one ward option authorized under this section to the other ward option. The ordinance must provide for the election of the mayor and council members as provided in the selected ward option at the next regular city election.

As soon as possible after the beginning of the new term following each city election, the council shall appoint a city manager, and a council member to serve as mayor pro tem.

Approved May 1, 1987

CHAPTER 87

TRANSFERS TO MINORS

H.F. 131

AN ACT relating to transfers to minors by amending the definition of benefit plan to include an individual retirement account and by excluding compensation due a minor for services rendered from the types of property or debt eligible for transfer to the custodian of a minor.

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

Section 1. Section 565B.1, subsection 2, Code 1987, is amended to read as follows:

2. "Benefit plan" means an employer's plan for the benefit of an employee or partner or an individual retirement account.

Sec. 2. Section 565B.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. *This section does not apply to any amounts due a minor for services rendered by the minor.*

Approved May 1, 1987

CHAPTER 88

COOPERATIVE ASSOCIATIONS

H.F. 356

AN ACT relating to the transfer of the property or assets of a cooperative association by sale, other disposition, or by merger.

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

Section 1. NEW SECTION. 499.47A SALE OR OTHER DISPOSITION OF ASSETS IN REGULAR COURSE OF BUSINESS AND MORTGAGE OR PLEDGE OF ASSETS.

The sale, lease, exchange, or other disposition of the property and assets of a cooperative association, when made in the usual and regular course of the business of the cooperative association, and the mortgage or pledge of any or all of the property and assets of the cooperative association, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation or cooperative association, domestic or foreign, as authorized by its board of directors; and in such case no authorization or consent of the members shall be required.

Sec. 2. NEW SECTION. 499.47B SALE OR OTHER DISPOSITION OF ASSETS OTHER THAN IN REGULAR COURSE OF BUSINESS.

A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the good will, of a cooperative association organized under this chapter, if not made in the usual and regular course of its business, may be made upon the terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other cooperative association organized under this chapter, as may be authorized in the following manner:

1. The board of directors shall adopt a resolution recommending the sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of the membership, which may either be an annual or a special meeting.

2. Written or printed notice shall be given to each member of record entitled to vote at the meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed sale, lease, exchange, or other disposition of substantially all of the property and assets of the cooperative association.

3. At the meeting the membership may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the cooperative association. Such authorization shall be approved if two-thirds of the members vote affirmatively on a ballot in which a majority of all voting members participate.

4. After such authorization by a vote of members, the board of directors nevertheless, in its discretion, may abandon the sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by the members.

Sec. 3. NEW SECTION. 499.47C SALE OR OTHER DISPOSITION OF ASSETS IN EXCHANGE FOR COMMON STOCK.

In addition to the requirements of section 499.47B, in any case where a cooperative association issues its common stock or membership, or subscriptions for common stock or membership, or both, as a part or all of the consideration for the sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of another cooperative association, the issuance of such common stock or membership, or subscriptions for common stock or membership, or both, shall be authorized by the issuing cooperative association in the following manner:

1. The board of directors shall adopt a resolution recommending the issuance of the common stock or membership, or subscriptions for common stock or membership, or both, and directing the submission thereof to a vote at a meeting of the membership, which may be either an annual or special meeting.

2. Written or printed notice shall be given to each member of record entitled to vote at the meeting within the time and in the manner provided in this chapter for the giving of notice of meetings to members, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes of the meeting, is to consider the proposed issuance of common stock or membership, or subscriptions for common stock or membership, or both, as consideration for all or a part of the property and assets of the other cooperative association.

3. At the meeting the membership may authorize the issuance and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the property and assets to be received as consideration. Such authorization shall be approved if a majority of the voting members present vote in the affirmative.

4. After such authorization by a vote of members, the board of directors nevertheless, in its discretion, may abandon the issuance, without further action or approval by the members.

If a cooperative association, in connection with its acquisition of property or assets of another cooperative association, agrees to solicit common stock or membership, or subscriptions for common stock or membership to the members of the cooperative association selling such property or assets, the agreement shall not itself constitute the issuance of common stock or membership, or subscriptions for common stock or membership as described in this section. This section shall not apply to a merger as defined in section 499.61.

Sec. 4. Section 499.61, subsection 1, Code 1987, is amended to read as follows:

1. "Merger" means the uniting of two or more co-operative associations into one co-operative association, in such manner that one of the merging associations retains its corporate existence and absorbs the others, which cease to exist as corporate entities. "Merger" does not include the ~~mere~~ acquisition, by purchase or otherwise, of the assets of one co-operative association by another, unless the acquisition only becomes effective by the filing of articles of merger by the associations and the issuance of a certificate of merger pursuant to sections 499.67 and 499.68.

Approved May 1, 1987

CHAPTER 89

DISCLOSURE OF FINANCIAL STATUS IN MARRIAGE DISSOLUTIONS

H.F. 408

AN ACT to authorize the parties to a dissolution to waive the filing of a financial statement only after approval by the court.

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

Section 1. Section 598.13, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Both parties shall disclose their financial status. A showing of special circumstances shall not be required before the disclosure is ordered. A statement of net worth set forth by affidavit on a form prescribed by the supreme court and furnished without charge by the clerk of the district court shall be filed by each party prior to the dissolution hearing, ~~unless waived by both parties~~. However, the parties may waive this requirement upon application of both parties and approval by the court.

Approved May 1, 1987

CHAPTER 90

ADMISSION OF MINORS TO HOSPITALS FOR THE MENTALLY ILL

H.F. 525

AN ACT relating to the jurisdiction of the juvenile court in hospital admission of minors and the admission procedures for minors.

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

Section 1. Section 229.1, subsection 11, Code 1987, is amended to read as follows:

11. "Chief medical officer" means the medical director in charge of ~~any~~ a public ~~hospital,~~ or ~~any~~ private hospital, or that individual's physician-designee. ~~Nothing in this~~ This chapter ~~shall~~ does not negate the authority otherwise reposed by law in the respective superintendents of each of the state hospitals for the mentally ill, established by chapter 226, to make decisions regarding the appropriateness of admissions or discharges of patients of that hospital, however it is the intent of this chapter that if the superintendent is not a licensed physician ~~the superintendent shall be guided in these decisions by the chief medical officer of that~~ the decisions by the superintendent shall be corroborated by the chief medical officer of the hospital.

Sec. 2. Section 229.2, subsection 1, Code 1987, is amended to read as follows:

1. An application for admission to a public or private hospital for observation, diagnosis, care, and treatment as a voluntary patient may be made by any person who is mentally ill or has symptoms of mental illness.

PARAGRAPH DIVIDED. In the case of a minor, the parent, guardian, or custodian may make application for admission of the minor as a voluntary patient.

a. Upon receipt of an application for voluntary admission of a minor, the chief medical officer shall provide separate prescreening interviews and consultations with the parent, guardian or custodian and the minor to assess the family environment and the appropriateness of the application for admission.

b. During the interview and consultation the chief medical officer shall inform the minor orally and in writing that the minor has a right to object to the admission. If the chief medical officer of the hospital to which application is made determines that the admission is appropriate but the minor objects to the admission, the parent, guardian or custodian must petition the juvenile court for approval of the admission before the minor is actually admitted.

c. As soon as is practicable after the filing of a petition for juvenile court approval of the admission of the minor, the juvenile court shall determine whether the minor has an attorney to represent the minor in the hospitalization proceeding, and if not, the court shall assign to the minor an attorney. If the minor is financially unable to pay for an attorney, the attorney shall be compensated in substantially the manner provided by section 815.7.

d. The juvenile court shall determine whether the admission is in the best interest of the minor and is consistent with the minor's rights.

e. The juvenile court shall order hospitalization of a minor, over the minor's objections, only after a hearing in which it is shown by clear and convincing evidence that:

(1) The minor needs and will substantially benefit from treatment.

(2) No other setting which involves less restriction of the minor's liberties is feasible for the purposes of treatment.

f. Upon approval of the admission of a minor over the minor's objections, the juvenile court shall appoint an individual to act as an advocate representing the interests of the minor in the same manner as an advocate representing the interests of patients involuntarily hospitalized pursuant to section 229.19.

Sec. 3. NEW SECTION. 229.6A HOSPITALIZATION OF MINORS – JURISDICTION – DUE PROCESS.

1. Notwithstanding section 229.11, the juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary admission is filed under section 229.6 or for whom an application for voluntary admission is made under section 229.2, subsection 1, to which the minor objects. In proceedings under this chapter concerning a minor, notwithstanding section 229.11, the terms "court", "judge", "referee", or "clerk" mean the juvenile court, judge, referee, or clerk.

2. The procedural requirements of this chapter are applicable to minors involved in hospitalization proceedings pursuant to subsection 1.

3. It is the intent of this chapter that when a minor is involuntarily or voluntarily hospitalized or hospitalized with juvenile court approval over the minor's objection the minor's family shall be included in counseling sessions offered during the minor's stay in a hospital when feasible. Prior to the discharge of the minor the juvenile court may, after a hearing, order that the minor's family be evaluated and therapy ordered if necessary to facilitate the return of the minor to the family setting.

Sec. 4. Section 229.26, Code 1987, 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 this chapter does not negate the provisions of section 246.503 relating to transfer of mentally ill prisoners to state hospitals for the mentally ill and does not apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, 2d ed., or negates the provision of section 232.51 relating to disposition of mentally ill or mentally retarded children and section 229.6A relating to a juvenile court's jurisdiction over proceedings involving minors.

Approved May 1, 1987

CHAPTER 91

EMERGENCY MEDICAL PERSONNEL

H.F. 615

AN ACT relating to providing workers' compensation coverage for emergency medical personnel and providing authority for their certification.

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

Section 1. Section 85.36, subsection 10, paragraph a, Code 1987, is amended to read as follows:

a. In computing the compensation to be allowed a volunteer fire fighter, basic or advanced emergency medical care provider, or reserve peace officer, the earnings as a fire fighter, basic or advanced emergency medical care provider, or reserve peace officer shall be disregarded and the volunteer fire fighter, basic or advanced emergency medical care provider, or reserve peace officer shall be paid an amount equal to the compensation the volunteer fire fighter, basic or advanced emergency medical care provider, or reserve peace officer would be paid if injured in the normal course of the volunteer fire fighter's, basic or advanced emergency medical care provider's, or reserve peace officer's regular employment or an amount equal to one hundred and forty percent of the statewide average weekly wage, whichever is greater.

Sec. 2. Section 85.61, subsection 1, Code 1987, is amended to read as follows:

1. "Employer" includes and applies to a person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer fire fighters and basic or advanced emergency medical care providers only,

benefited fire district, and the legal representatives of a deceased employer. ~~Employer~~ "Employer" includes and applies to a rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education.

Sec. 3. Section 85.61, subsection 2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Worker" or "employee" includes a basic or advanced emergency medical care provider as defined in section 85.61, subsections 14, 15, and 16, only if an agreement is reached between the basic or advanced emergency medical care provider and the employer for whom the volunteer services are provided that workers' compensation coverage under chapters 85, 85A, and 85B is to be provided by the employer.

Sec. 4. Section 85.61, subsection 6, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Personal injuries sustained by basic or advanced emergency medical care providers, as defined in section 147.1, subsections 7 and 8 arise in the course of employment if the injuries are sustained at any time from the time the emergency medical care providers are summoned to duty until the time those duties have been fully discharged.

Sec. 5. Section 85.61, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 14. "First responder" means an individual as defined in section 147.1, subsection 9, performing services as a first responder for a county, municipality, or township at the request of the county, municipality, or township, and who is not a full-time paid member of the emergency medical care service program. A person defined as a first responder under this subsection is not a casual employee.

NEW SUBSECTION. 15. "Emergency rescue technician" means an individual as defined in section 147.1, subsection 10, performing services as an emergency rescue technician for a county, municipality, or township at the request of the county, municipality, or township, and who is not a full-time paid member of the emergency medical care service program. A person defined as an emergency rescue technician under this subsection is not a casual employee.

NEW SUBSECTION. 16. "Emergency medical technician-ambulance" means an individual as defined in section 147.1, subsection 11, performing services as an emergency medical technician-ambulance for a county, municipality, or township at the request of the county, municipality, or township, and who is not a full-time paid member of the emergency medical care service program. A person defined as an emergency medical technician-ambulance under this subsection is not a casual employee.

Sec. 6. Section 147.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. "Basic emergency medical care provider" means a first responder, emergency rescue technician, or emergency medical technician-ambulance as defined in section 147.1, subsection 9, 10 and 11.

NEW SUBSECTION. 8. "Advanced emergency medical care provider" means an advanced emergency medical technician or paramedic as defined in section 147A.1, subsections 4 and 5.

NEW SUBSECTION. 9. "First responder" means an individual trained in patient-stabilizing techniques, through the use of initial basic emergency medical care procedures and skills prior to the arrival of an ambulance or rescue squad, pursuant to rules established by the department, and who is currently certified by the department.

NEW SUBSECTION. 10. "Emergency rescue technician" means an individual trained in various rescue techniques including rescue from heights and depths, extrication from automobiles, agricultural rescue, and rescue from water and special hazards, pursuant to rules established by the department, and who is currently certified as an emergency rescue technician by the department.

NEW SUBSECTION. 11. "Emergency medical technician-ambulance" means an individual trained in patient assessment, the recognition of signs and symptoms regarding illness or injury, and the use of proper procedures when rendering basic emergency medical care, pursuant to rules established by the department, and who is currently certified as an emergency medical technician-ambulance by the department.

Sec. 7. Chapter 147, Code 1987, is amended by adding the following new section:

NEW SECTION. 147.161 TRAINING AND CERTIFICATION OF FIRST RESPONDERS, EMERGENCY RESCUE TECHNICIANS, AND EMERGENCY MEDICAL TECHNICIANS-AMBULANCE.

The department shall establish rules pursuant to this chapter for the training and certification of first responders, emergency rescue technicians, and emergency medical technicians-ambulance as defined under section 147.1.

Approved May 1, 1987

CHAPTER 92

ARCHITECTS

H.F. 587

AN ACT relating to the licensing and regulation of architects, and providing penalties.

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

Section 1. Section 118.1, Code 1987, is amended by adding the following new unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The practice of architecture affects the public health, safety, and welfare and is subject to regulation and control in the public interest. Only persons qualified by the laws of the state are authorized to engage in the practice of architecture in the state.

Sec. 2. Section 118.2, Code 1987, is amended to read as follows:

118.2 OFFICERS.

During the month of July of each year the board shall elect from its members a president, ~~and~~ vice president, and a secretary. The duties of the officers shall be such as are usually performed by such officers. ~~At least one meeting of the board, except as provided in section 118.13, shall be held at the seat of government.~~ The ~~board~~ division may employ ~~a~~ an executive secretary whose salary shall be established ~~by the governor with the approval of the executive council~~ pursuant to section 19A.9, subsection 2, ~~under the pay plan for exempt positions in the executive branch of government.~~

Sec. 3. Section 118.8, Code 1987, is amended to read as follows:

118.8 ~~EXAMINATION~~ QUALIFICATION FOR REGISTRATION.

Any person may apply for a certificate of registration or may apply to take an examination for ~~such~~ certification under this chapter. The board shall not require that the application contain a ~~recent~~ photograph of the applicant.

The board shall adopt rules governing practical training and education and may adopt as its rules criteria published by a national certification body recognized by the board. The board may accept the accreditation decisions of a national accreditation body recognized by the board.

~~Upon~~ A person applying for registration by examination, upon complying with the ~~above~~ other requirements, ~~the applicant~~ shall satisfactorily pass an examination in ~~such~~ technical

and professional subjects ~~as shall be~~ prescribed by the board. The board may adopt the uniform standardized examination and grading procedures of a national certification body recognized by the board. The examination may be conducted by representatives of the board. ~~All examinations in theory shall be in writing and the~~ The identity of the person taking the examination shall be concealed until after the examination ~~papers have~~ has been graded. ~~For examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible. If the applicant fails to pass the examination once, the applicant may retake the examination at the next scheduled time. Thereafter the applicant may take the examination at the discretion of the board.~~ The board shall adopt rules regarding reexamination. An applicant who has failed the examination may request in writing information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and ~~such~~ the other information concerning the applicant's examination results which ~~are~~ is available to the board. ~~In lieu of examination, the board may accept satisfactory evidence of the applicant's knowledge of architectural practice and of any one of the qualifications set forth under subsections 1, 2, and 3 of this section.~~

~~1. A diploma of graduation or satisfactory certificate from an architectural college or school that the applicant has completed a technical course approved by the board of architectural examiners, and subsequent thereto, of at least three years' experience under the direction of a registered architect.~~

~~2. Registration or certification during the current year as an architect in another state or country, where the qualifications prescribed at the time of such registration or certification were equal to those prescribed in this state at date of application.~~

~~3. An architect who has practiced architecture for a period of more than ten years outside of this state shall, except as otherwise provided in subsection 2, be required to take only a practical examination, the nature of which shall be prescribed by the board.~~

In lieu of examination, the board may grant registration by reciprocity. A person applying to the board for registration by reciprocity shall furnish satisfactory evidence that the person meets both of the following requirements:

1. Holds a valid and current certificate of registration issued by another registration authority recognized by the board, where the qualifications for registration were substantially equivalent to those prescribed in this state on the date of original registration with the other registration authority.

2. Holds a record or certificate issued by a national certification council recognized by the board.

Sec. 4. Section 118.10, Code 1987, is amended to read as follows:

118.10 RENEWALS.

Certificates of registration ~~shall~~ expire in multiyear intervals as determined by the board. Registered architects shall renew their certificates of registration and pay a renewal fee in the manner prescribed by the board. ~~A person who fails to renew a certificate of registration by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty.~~ The board shall prescribe the conditions and reasonable penalties for renewal after a certificate's expiration date.

Sec. 5. Section 118.11, Code 1987, is amended to read as follows:

118.11 FEES.

The board shall set the fees for examination, for a certificate of registration as ~~a registered~~ an architect, ~~and~~ for renewal of a certificate, for reinstatement of a certificate, and for other activities of the board pertaining to its duties. The fee for examination shall be based on the annual cost of administering the examinations. The fee for a certificate of registration and

for renewal of a certificate shall be based upon the administrative costs of sustaining the board which shall include, but ~~shall~~ are not ~~be~~ limited to, the costs for all of the following:

1. Per diem, expenses and travel for board members.
2. Office facilities, supplies and equipment.
3. Clerical assistance.

All fees shall be paid to the treasurer of state and deposited in the general fund of the state.

Sec. 6. Section 118.13, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Willful or repeated violations of one or more rules of conduct adopted by the board.

Sec. 7. Section 118.15, Code 1987, is amended to read as follows:

118.15 UNLAWFUL PRACTICE — VIOLATIONS — PENALTY — CONSENT AGREEMENT.

It ~~shall be~~ is unlawful for ~~any~~ a person to ~~practice~~ engage in or to offer to engage in the practice of architecture in this state or use in connection with the person's name the title "architect", "registered architect", or "architectural designer", or to imply that the person provides or offers to provide professional architectural services, or to otherwise assume, use or advertise any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an architect or is engaged in the practice of architecture unless ~~such~~ the person is qualified by registration as ~~herein~~ provided in this chapter.

A person who violates this section is guilty of a serious misdemeanor.

The board at its discretion and in lieu of prosecuting a first offense described in this section may enter into a consent agreement with a violator, or with a person guilty of aiding or abetting a violator, which acknowledges the violation and the violator's agreement to refrain from any further violations.

Sec. 8. Section 118.16, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

118.16 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Architect" means a person qualified to engage in the practice of architecture who holds a current valid registration under the laws of this state.
2. "Board" means the architectural examining board established in section 118.1.
3. "Construction" means physical alteration of a building or improvement of real estate, and includes new construction, enlargements, or additions to existing construction, and alterations, renovation, remodeling, restoration, preservation, or other material modification to and within existing construction.
4. "Construction documents" means the drawings, specifications, technical submissions, and other documents upon which construction is based.
5. "Direct supervision and responsible charge" means an architect's personal supervisory control of work as to which the architect has detailed professional knowledge. In respect to preparing technical submissions, "direct supervision and responsible charge" means that the architect has the exercising, directing, guiding, and restraining power over the design of the building or structure and the preparation of the documents, and exercises professional judgment in all architectural matters embodied in the documents. Merely reviewing the work prepared by another person does not constitute "direct supervision and responsible charge" unless the reviewer actually exercises supervision and control and is in responsible charge of the work.
6. "Good moral character" means a reputation for trustworthiness, honesty, and adherence to professional standards of conduct.
7. "Observation of construction site progress" means intermittent visitation to the construction site by an architect or the architect's employee for the purpose of general familiarity with the progress and quality of the construction and general conformance of the construction to

the construction documents and general compliance with the applicable building codes. For the purpose of this chapter, such observation does not imply exhaustive or continuous on-site inspections to check the quality or quantity of construction work.

8. "Practice of architecture" means performing, or offering to perform, professional architectural services in connection with the design, preparation of construction documents, or construction of one or more buildings, structures, or related projects, and the space within and surrounding the buildings or structures, or the addition to or alteration of one or more buildings or structures, which buildings or structures have as their principal purpose human occupancy or habitation, if the safeguarding of life, health, or property is concerned or involved, unless the buildings or structures are excepted from the requirements of this chapter by section 118.18.

9. "Professional architectural services" means consultation, investigation, evaluation, programming, planning, preliminary design and feasibility studies, designs, drawings, specifications and other technical submissions, administration of construction contracts, observation of construction site progress, or other services and instruments of service related to architecture. A person is performing or offering to perform professional architectural services within the meaning of this chapter, if the person, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents the person to be an architect or through the use of a title implies that the person is an architect.

10. "Professional consultant" means a person who is required by the laws of this state to hold a current and valid certificate of registration in the field of the person's professional practice, and who is employed by the architect to perform, or who offers to perform professional services as a consultant to the architect, in connection with the design, preparation of construction documents or other technical submissions, or construction of one or more buildings or structures, and the space within and surrounding the buildings or structures.

11. "Programming" means the identification, verification, and analysis of the architectural requirements precedent to the planning and design of a building or structure.

12. "Registration" means the certificate of registration issued to an architect by the board.

13. "Technical submissions" means the designs, drawings, sketches, specifications, details, studies, and other technical reports, including construction documents, prepared in the course of the practice of architecture.

Sec. 9. Section 118.19, Code 1987, is repealed.

Sec. 10. Section 118.21, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

118.21 PRACTICE BY BUSINESS ENTITIES.

Corporations may be formed under the Iowa Business Corporation Act for the purpose of engaging in the practice of architecture. A corporation may be either a business corporation or a professional corporation. A corporation, partnership, sole proprietorship, or other business entity is not eligible for registration under this chapter. Only an individual natural person is eligible for registration. A domestic or foreign corporation, partnership, sole proprietorship, or other business entity may engage in the practice of architecture in this state, but only if all of the following requirements are met:

1. The entire practice of architecture by the corporation, partnership, sole proprietorship, or other business entity in this state and in connection with buildings, structures, and projects located in this state shall be performed by or under the direct supervision and responsible charge of one or more architects.

2. No less than two-thirds of the directors, if a corporation, or no less than two-thirds of the general partners, if a partnership, or the sole proprietor shall be qualified by registration to perform either professional architectural services or professional engineering services, by a registration authority recognized by the board, where the qualifications for registration are, in the opinion of the board, substantially equivalent to those prescribed by the laws of this state.

3. No less than one-third of the directors, if a corporation, or no less than one-third of the general partners, if a partnership, or the sole proprietor shall be qualified by registration to perform professional architectural services, by a registration authority recognized by the board, where the qualifications for registration are, in the opinion of the board, equivalent to those prescribed by this chapter.

4. A person engaging in the practice of architecture in the state of Iowa and in responsible charge on behalf of a business entity engaged in the practice of architecture, must be registered to practice architecture in this state, and shall be a director, if a corporation, a general partner, if a partnership, or a sole proprietor of the business entity.

5. Before engaging in the practice of architecture in this state, a corporation, partnership, or sole proprietorship shall acquire an "authorization to practice architecture as a business entity" from the board. The board shall adopt rules establishing the required information concerning officers, directors, beneficial owners, limitations on the name of the business entity, and other aspects of its business organization, which must be submitted to the board upon forms prescribed by the board in order to qualify for authorization.

The practice of architecture by or through a corporation, partnership, sole proprietorship, or other business entity does not relieve a person of liability for professional errors or omissions which liability would exist if the person were practicing as an individual, including, but not limited to, liability arising out of negligent supervision of the work of subordinates.

Sec. 11. Section 118.25, Code 1987, is amended to read as follows:

118.25 APPLICANT — CIVIL RIGHTS.

An applicant ~~shall~~ is not ~~be~~ ineligible for registration because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. ~~The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of architecture.~~ Character references may be required ~~but shall not be obtained from registered architects~~.

The board may consider the following aspects when investigating an applicant's good moral character:

a. An applicant's conviction for commission of a felony, but only if the felony relates directly to the practice of architecture or to the applicant's honesty.

b. An applicant's misstatement, omission, or misrepresentation of a material fact in connection with the applicant's application for registration in this state or another jurisdiction.

c. An applicant's violation of a rule of conduct of a jurisdiction in which the applicant has previously engaged in the practice of architecture, provided that the rule of conduct violated is substantially equivalent to a then existing or current rule of conduct required of architects in this state.

d. An applicant's practice of architecture without being registered in violation of registration laws of the jurisdiction in which the practice took place.

If the applicant's background includes any of the foregoing, the board may register the applicant on the basis of suitable evidence of reform.

Sec. 12. NEW SECTION. 118.28 SEAL REQUIRED.

An architect shall procure a seal with which to identify all technical submissions issued by the architect for use in this state. The seal shall be of a design, content, and size designated by the board.

Technical submissions prepared by an architect, or under an architect's direct supervision and responsible charge, shall be stamped with the impression of the architect's seal. The board shall designate by rule the location, frequency, and other requirements for use of the seal. An architect shall not impress the architect's seal on technical submissions if the architect was not the author of the technical submissions or if they were not prepared under the architect's

direct supervision and responsible charge. An architect who merely reviews standardized construction documents for preengineered or prototype buildings, is not the author of the technical submissions and the technical submissions were not prepared under a reviewing architect's responsible charge.

An architect shall cause those portions of technical submissions prepared by a professional consultant to be stamped with the impression of the seal of the professional consultant, with a clear identification of the consultant's areas of responsibility, signature, and date of issuance.

A public official charged with the enforcement of the state building code, or a municipal or county building code, shall not accept or approve any technical submissions involving the practice of architecture unless the technical submissions have been stamped with the architect's seal as required by this section or unless the applicant has certified on the technical submission to the applicability of a specific exception under section 118.18 permitting the preparation of technical submissions by a person not registered under this chapter. A building permit issued with respect to technical submissions which do not conform to the requirements of this section is invalid.

Sec. 13. NEW SECTION. 118.29 RULES.

The board may adopt rules consistent with this chapter for the administration and enforcement of this chapter and may prescribe forms to be issued. The rules may include, but are not limited to, standards and criteria for licensure, license renewal, professional conduct, misconduct, and discipline. Violation of a rule of conduct is grounds for disciplinary action or reprimand or probation at the discretion of the board. The board may enter into a consent order with an architect which acknowledges an architect's violation and agreement to refrain from any further violation. A willful or repeated violation of a rule of conduct is grounds for disciplinary action as provided in section 118.13.

Approved May 1, 1987

CHAPTER 93

MOTOR VEHICLE FUEL PUMPS, PUBLIC SCALES, AND METERS

S.F. 70

AN ACT relating to motor vehicle fuel pumps and public scales by revising provisions governing licensing, inspection, calibration, and sealing by the department of agriculture and land stewardship and providing a penalty.

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

Section 1. Section 214.1, subsection 2, Code 1987, is amended to read as follows:

2. "~~Gasoline~~ Motor vehicle fuel pump" ~~shall mean any~~ means a pump, meter, or similar measuring device used for measuring ~~gasoline~~ motor vehicle fuel.

Sec. 2. Section 214.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "Motor vehicle fuel" means a substance or combination of substances which is intended to be or is capable of being used for the purpose of propelling or running by combustion any internal combustion engine and is kept for sale or sold for that purpose.

Sec. 3. Section 214.2, Code 1987, is amended to read as follows:

214.2 LICENSE.

Every person who ~~shall use~~ uses or ~~display~~ displays for use any public scale, pump, or meter used in measuring the quantity of ~~gasoline~~ motor vehicle fuel or fuel oil sold to consumer customers shall secure a license for ~~said~~ the scale, pump, or meter from the department.

Sec. 4. Section 214.3, Code 1987, is amended to read as follows:

214.3 FEE.

The license for a public scale shall expire on December 31 of each year, and for a ~~gasoline~~ motor vehicle fuel pump or meter on June 30 of each year.

~~A~~ The fee for each ~~said~~ license shall be four dollars per annum ~~provided, however~~, except that the fee for ~~gasoline~~ motor vehicle fuel pumps and meters shall be two dollars per annum if paid within one month from the date ~~said~~ the license fee is due.

A license fee on every ~~gasoline~~ motor vehicle fuel pump and meter is due the day ~~any such~~ the pump or meter is placed in operation.

Sec. 5. Section 214.5, Code 1987, is amended to read as follows:

214.5 ~~LICENSE TO BE DISPLAYED~~ INSPECTION STICKERS.

For each scale, pump, or meter licensed, the department shall issue an inspection sticker, which shall not exceed two inches by two inches in size. The ~~license plate~~ inspection sticker shall be displayed prominently on the front of the scale, ~~or~~ pump or meter, and the defacing or wrongful removal of ~~such plate~~ the sticker shall be punished as provided in chapter 189. Absence of ~~license plate shall be~~ an inspection sticker is prima-facie evidence that the ~~weighing or measuring device~~ scale, pump, or meter is being operated contrary to law.

Sec. 6. Section 214.9, Code 1987, is amended to read as follows:

214.9 SELF-SERVICE ~~GASOLINE~~ MOTOR VEHICLE FUEL PUMPS.

Self-service ~~gasoline~~ motor vehicle fuel pumps ~~and self-service special fuel pumps~~ at ~~service~~ motor vehicle fuel stations may be equipped with automatic latch-open devices on the fuel dispensing hose nozzle only if the nozzle valve is the automatic closing type.

Sec. 7. NEW SECTION. 214.11 INSPECTIONS — PENALTY.

The department of agriculture and land stewardship shall provide for annual inspections of all motor vehicle fuel pumps licensed under this chapter. Inspections shall be for the purpose of determining the accuracy of the pumps' measuring mechanisms, and for such purpose the department's inspectors may enter upon the premises of any wholesale dealer or retail dealer, as they are defined in section 214A.1, of motor vehicle fuel or fuel oil within this state. Upon completion of an inspection, the inspector shall affix the department's seal to the measuring mechanism of the pump. The seal shall be appropriately marked, dated, and recorded by the inspector. If the owner of an inspected and sealed pump is registered with the department as a servicer in accordance with section 215.23, or employs a person so registered as a servicer, the owner or other servicer may open the pump, break the department's seal, recalibrate the measuring mechanism if necessary, and reseal the pump as long as the department is notified of the recalibration within forty-eight hours, on a form provided by the department. A person violating a provision of this section is, upon conviction, guilty of a simple misdemeanor.

Sec. 8. Section 214.4, Code 1987, is repealed.

Approved May 4, 1987

CHAPTER 94

SCHOOL ADMINISTRATORS

S.F. 106

AN ACT relating to evaluations of the performance of school administrators including requiring the adoption of job descriptions and evaluation criteria and procedures.

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

Section 1. Section 279.23, unnumbered paragraph 3, Code 1987, is amended to read as follows:

An administrator's contract shall be governed by the provisions of this section and sections 279.23A, 279.24, and 279.25 and not by section 279.13. For purposes of this section and sections 279.23A, 279.24, and 279.25, the term "administrator" includes school superintendents, assistant superintendents, educational directors, principals, assistant principals, and other certified school supervisors as defined under ~~the provisions of~~ section 20.4.

Sec. 2. NEW SECTION. 279.23A EVALUATION CRITERIA AND PROCEDURES.

The board shall establish written evaluation criteria and shall establish and annually implement evaluation procedures. The board shall also establish written job descriptions for all supervisory positions.

Approved May 4, 1987

CHAPTER 95

REVERSION OF CERTAIN BEER AND WINE TAX MONEYS

S.F. 130

AN ACT to provide that moneys deposited in the barrel tax fund and the gallonage tax fund shall not revert to the state general fund without a specific appropriation, and providing for retroactive applicability of the Act.

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

Section 1. Section 123.143, subsection 3, Code 1987, is amended to read as follows:

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. Moneys deposited in the barrel tax fund shall not revert to the general fund of the state without a specific appropriation by the general assembly.

Sec. 2. Section 123.183, Code 1987, is amended to read as follows:

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 seventy-five 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 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. Moneys deposited in the gallonage tax fund shall not revert to the general fund

of the state without a specific appropriation by the general assembly. 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 director of revenue and finance to the general fund of the state.

Sec. 3. This Act is retroactive to July 1, 1985.

Approved May 4, 1987

CHAPTER 96

DISPOSAL OF DEAD ANIMALS

S.F. 177

AN ACT relating to the disposal of dead animals.

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

Section 1. Section 167.18, Code 1987, is amended to read as follows:

167.18 DUTY TO DISPOSE OF DEAD BODIES.

~~No~~ A person who has been caring for or ~~owning any~~ who owns an animal that has died shall not allow the carcass to lie about the person's premises. ~~Such~~ The carcass shall be disposed of within twenty-four hours after death by cooking, burying, or burning, as provided in this chapter, or by disposing of it, within ~~said~~ the allowed time, to a person licensed to ~~so~~ dispose of it~~, but the carcass of an animal which has not died of a contagious disease may be fed to hogs~~.

Approved May 4, 1987

CHAPTER 97

CITY COUNCILS IN SMALL CITIES

S.F. 214

AN ACT authorizing a city with a population of five thousand or less to reduce council membership to three by referendum.

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

Section 1. Section 372.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In a city having a population of five thousand or less, the city council may, or shall upon petition of the electorate meeting the numerical requirements of section 372.2, subsection 1, submit a proposal at the next regular or special city election to reduce the number of council members to three. If a majority of the voters voting on the proposal approves it, the proposal is adopted. If the proposal is adopted, the new council shall be elected at the next regular or special city election. The council shall determine by ordinance whether the three council members are elected at large or by ward.

Approved May 4, 1987

CHAPTER 98

LAWS RELATING TO JUDICIAL PROCEDURES AND COURT ORDERS AFFIRMED AND REENACTED

S.F. 266

AN ACT relating to the affirmation and reenactment of certain provisions of law concerning judicial procedures and court enforced orders, and providing an effective date.

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

Section 1. It is the finding of the general assembly that certain recent court cases have raised questions in some quarters in regard to the proper enactment of certain provisions contained in Code editor's bills. It is the intent of the general assembly to resolve any doubt as to the validity of provisions enacted in the Code editor's bills of prior years. It is the position of the general assembly that all of the following provisions contained in Code editor's bills and all other provisions of the Code editor's bills were properly enacted in the Code editor's bills. Passage of an Act by the general assembly necessarily includes a finding by the general assembly, that the Act embraced but one subject and matters properly connected therewith, and that the subject is properly expressed in the title.

Sec. 2. Sections 675.25 and 675.39, Code 1987, are affirmed and reenacted in accordance with the amendments to sections 675.25 and 675.39, Code 1979, enacted in sections 65 and 66 of chapter 1015 of 1980 Iowa Acts, including any subsequent amendments and editorial changes.

Sec. 3. Section 628.28, Code 1987, is affirmed and reenacted in accordance with the amendments to section 628.28, Code 1985, enacted in section 58 of chapter 195 of 1985 Iowa Acts, including any subsequent amendments and editorial changes.

Sec. 4. Section 331.756, subsection 5, Code 1987, is affirmed and reenacted in accordance with the amendments to section 331.756, subsection 5, Code Supplement 1985, enacted in section 17 of chapter 1238 of 1986 Iowa Acts, and including any other 1986 amendments and editorial changes.

Sec. 5. Section 602.8105, subsection 1, paragraph "s", Code 1987, is affirmed and reenacted in accordance with the amendments to section 602.8105, subsection 1, paragraph "s", Code Supplement 1985, enacted in section 24 of chapter 1238 of 1986 Iowa Acts, and including any other 1986 amendments and editorial changes.

Sec. 6. Section 631.17, Code 1987, is affirmed and reenacted in accordance with the action on section 631.17 enacted in section 25 of chapter 1238 of 1986 Iowa Acts, including any other 1986 amendments and editorial changes.

Sec. 7. Section 642.22, Code 1987, is affirmed and reenacted in accordance with the amendment to section 642.22, Code Supplement 1985, enacted in section 26 of chapter 1238 of 1986 Iowa Acts, including any other 1986 amendments and editorial changes.

Sec. 8. 1986 Iowa Acts, chapter 1238, section 60, is affirmed and reenacted.

Sec. 9. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 4, 1987

CHAPTER 99

COUNTY AND MUNICIPAL INFRACTIONS

H.F. 318

AN ACT relating to the use of county and municipal infractions.

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

Section 1. Section 331.307, subsection 3, Code 1987, is amended to read as follows:

3. A county shall not provide that a violation of an ordinance is a county infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor ~~by~~ under state law or if the violation is a simple misdemeanor under chapters 687 through 747.

Sec. 2. Section 331.307, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. The name and address of the ~~violator~~ defendant.

Sec. 3. Section 331.307, subsections 5, 7, and 9 through 11, Code 1987, are amended to read as follows:

5. In proceedings before the court for a county infraction:

a. The county has the burden of proof that the county infraction occurred and that the ~~violator~~ defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.

b. The court shall ensure that the ~~violator~~ defendant has received a copy of the charges and that the ~~violator~~ defendant understands the charges. The ~~violator~~ defendant may question all witnesses who appear for the county and produce evidence or witnesses on the ~~violator's~~ defendant's behalf.

c. The ~~violator~~ defendant may be represented by counsel of the ~~violator's~~ defendant's own selection and at the ~~violator's~~ defendant's own expense.

d. The ~~violator may enter a plea~~ defendant may answer by admitting or denying the infraction.

e. ~~The verdict of~~ If a county infraction is proven, the court ~~for a county infraction~~ shall ~~be "guilty" of the county infraction or "not guilty" of the county infraction~~ enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

7. A person ~~found guilty of a county infraction is liable for the~~ against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If ~~a person is found not guilty of a county infraction or~~ the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the county.

9. When ~~a violator has been found guilty of a county infraction~~ judgment has been entered against a defendant, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a ~~violator~~ defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

10. A ~~violator who has been found guilty of a county infraction~~ defendant who has a judgment entered against him or her may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.

11. This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the ~~violator~~ defendant to exist, constitutes a separate offense.

Sec. 4. Section 364.22, subsection 3, Code 1987, is amended to read as follows:

3. A city shall not provide that a violation of an ordinance is a municipal infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor ~~by~~ under state law or if the violation is a simple misdemeanor under chapters 687 through 747.

Sec. 5. Section 364.22, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. The name and address of the ~~violator~~ defendant.

Sec. 6. Section 364.22, subsections 5, 7, and 9 through 11, Code 1987, are amended to read as follows:

5. In proceedings before the court for a municipal infraction:

a. The city has the burden of proof that the municipal infraction occurred and that the ~~violator~~ defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.

b. The court shall ensure that the ~~violator~~ defendant has received a copy of the charges and that the ~~violator~~ defendant understands the charges. The ~~violator~~ defendant may question all witnesses who appear for the city and produce evidence or witnesses on the ~~violator's~~ defendant's behalf.

c. The ~~violator~~ defendant may be represented by counsel of the ~~violator's~~ defendant's own selection and at the ~~violator's~~ defendant's own expense.

d. The ~~violator may enter a plea~~ defendant may answer by admitting or denying the infraction.

e. ~~The verdict of~~ If a municipal infraction is proven the court ~~for a municipal infraction~~ shall ~~be "guilty" of the municipal infraction or "not guilty" of the municipal infraction~~ enter a judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

7. A person ~~found guilty of a municipal infraction is liable for the~~ against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If ~~a person is found not guilty of a municipal infraction or~~ the action is dismissed, the city is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the city.

9. When ~~a violator has been found guilty of a municipal infraction~~ judgment has been entered against a defendant, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a ~~violator~~ defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

10. A ~~violator who has been found guilty of a municipal infraction~~ defendant who has a judgment entered against him or her may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.

11. This section does not preclude a peace officer of a city from issuing a criminal citation for a violation of a city code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted to exist by the ~~violator~~ defendant, constitutes a separate offense.

Sec. 7. Section 602.6405, subsection 1, Code 1987, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. They also have jurisdiction over violations of section 123.47 and section 123.49, subsection 2, paragraph "h".

Approved May 4, 1987

CHAPTER 100

LIFE-SUSTAINING PROCEDURES

H.F. 360

AN ACT relating to the decisions of guardians regarding life-sustaining procedures.

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

Section 1. Section 144A.7, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. The guardian of the person of the patient if one has been appointed, provided court approval is obtained in accordance with section 633.635, subsection 2, paragraph "c". This paragraph does not require the appointment of a guardian in order for a treatment decision to be made under this section.

Sec. 2. Section 633.635, subsection 2, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Consent to the withholding or withdrawal of life-sustaining procedures in accordance with chapter 144A.

Approved May 4, 1987

CHAPTER 101

PUBLIC SERVICE JOBS

H.F. 379

AN ACT relating to the employment of persons in public service jobs.

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

Section 1. Section 15.227, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. A person participating in the "young adult program" shall be between the ages of ~~nineteen~~ eighteen and twenty-four at the time of entry into the program, possess work skills at or above a minimum level prescribed by the regulating authority, and be an unemployed resident of ~~a county which is classified as economically distressed in accordance with standards adopted by the regulating authority~~ the state.

Sec. 2. Section 15.108, subsection 6, paragraph d, Code 1987, is amended by striking the paragraph.

Sec. 3. Sections 15.221 through 15.223, Code 1987, are repealed.

Approved May 4, 1987

CHAPTER 102

INTERSTATE ADOPTION ASSISTANCE AGREEMENTS

H.F. 490

AN ACT relating to interstate agreements for provision of medical assistance services to adoptive families who participate in the subsidized adoption or adoption assistance program.

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

Section 1. Section 600.22, Code 1987, is amended to read as follows:

600.22 RULES.

The department of human services shall adopt rules in accordance with the provisions of chapter 17A, which are necessary for the administration of sections 600.17 to 600.21 and 600.23.

Sec. 2. NEW SECTION. 600.23 ADOPTION ASSISTANCE COMPACT.

1. PURPOSE. The department of human services may enter into interstate agreements with state agencies of other states for the protection of children on behalf of whom adoption subsidy is being provided by the department of human services and to provide procedures for interstate children's adoption assistance payments, including medical payments.

2. COMPACT AUTHORIZATION AND DEFINITIONS.

a. The Iowa department of human services may enter into interstate agreements with state agencies of other states for the provision of medical services to adoptive families who participate in the subsidized adoption or adoption assistance program.

b. The Iowa department of human services may develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes set forth in this section. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

c. For the purposes of this section, the term "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

d. For the purposes of this section, the term "adoption assistance or subsidized adoption state" means the state that is signatory to an adoption assistance agreement in a particular case.

e. For the purposes of this section, the term "residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

3. COMPACT CONTENTS. A compact entered into pursuant to the authority conferred by this section shall have the following content:

a. A provision making it available for joinder by all states.

b. A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of one year between the date of the notice and the effective date of the withdrawal.

c. A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

d. A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance, and that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents, and the state agency providing the adoption assistance.

e. Such other provisions as may be appropriate to implement the proper administration of the compact.

4. MEDICAL ASSISTANCE.

a. A child with special needs residing in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance card from this state upon the filing of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the Iowa department of human services, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

b. The Iowa department of human services shall consider the holder of a medical assistance card pursuant to this section as any other holder of a medical assistance card under the laws

of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

c. The Iowa department of human services shall provide coverage and benefits for a child who is in another state and who is covered by an adoption subsidy agreement made prior to July 1, 1987 by the Iowa department of human services for the coverage or benefits, if any, not provided by the residence state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed for such expense. However, reimbursement shall not be made for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

d. A person who submits a claim for payment or reimbursement for services or benefits pursuant to this subsection or makes any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent is guilty of an aggravated misdemeanor.

e. This subsection applies only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption subsidy agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive medical assistance in accordance with the laws and procedures applicable to medical assistance.

Approved May 4, 1987

CHAPTER 103

COUNTY AND CITY BONDS AND LOAN AGREEMENTS

H.F. 523

AN ACT relating to the financial authority of political subdivisions by authorizing loan agreements, the issuance of bonds for additional purposes, and the payment of interest from bond proceeds.

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

Section 1. Section 331.402, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A county may enter into loan agreements to borrow money for any public purpose in accordance with the terms and procedures set forth in section 384.24A, and the references in that subsection to cities are applicable to counties, the reference to section 384.25 is applicable to section 331.443, and the references to the council are applicable to the board.

Sec. 2. Section 331.441, subsection 2, paragraph b, Code 1987, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (9) The acquisition, restoration, or demolition of abandoned, dilapidated, or dangerous buildings, structures or properties or the abatement of a nuisance.

NEW SUBPARAGRAPH. (10) The establishment or funding of programs to provide for or assist in providing for the acquisition, restoration, or demolition of housing, or for other purposes as may be authorized under chapter 403A.

Sec. 3. Section 331.441, subsection 2, paragraph c, subparagraph (11), Code 1987, is amended to read as follows:

(11) Any other ~~facilities or improvements~~ purpose which ~~are~~ is necessary for the operation of the county or the health and welfare of its citizens.

Sec. 4. Section 331.441, subsection 3, Code 1987, is amended to read as follows:

3. The "cost" of ~~any~~ a project for an essential county purpose or general county purpose includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights of way, supervision, inspection, testing, publications, printing and sale of bonds, interest during the period or estimated period of construction and for twelve months thereafter or for twelve months after the acquisition date, and provisions for contingencies.

Sec. 5. Section 384.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Payments required to be made from the debt service fund under a loan agreement.

Sec. 6. Section 384.24, subsection 3, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. t. The acquisition, restoration, or demolition of abandoned, dilapidated, or dangerous buildings, structures or properties or the abatement of a nuisance.

NEW LETTERED PARAGRAPH. u. The establishment or funding of programs to provide for or assist in providing for the acquisition, restoration, or demolition of housing, or for other purposes as may be authorized under chapter 403A.

Sec. 7. Section 384.24, subsection 4, paragraph i, Code 1987, is amended to read as follows:

i. Any other ~~facilities or improvements~~ purpose which ~~are~~ is necessary for the operation of the city or the health and welfare of its citizens.

Sec. 8. Section 384.24, subsection 5, Code 1987, is amended to read as follows:

5. The "cost" of ~~any~~ a project for an essential corporate purpose or general corporate purpose includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights of way, supervision, inspection, testing, publications, printing and sale of bonds, interest during the period or estimated period of construction and for twelve months thereafter or for twelve months after the acquisition date, and provisions for contingencies.

Sec. 9. NEW SECTION. 384.24A LOAN AGREEMENTS.

A city may enter into loan agreements to borrow money for any public purpose in accordance with the following terms and procedures:

1. A loan agreement entered into by a city may contain provisions similar to those sometimes found in loan agreements between private parties, including the issuance of notes to evidence its obligations.

2. A provision of a loan agreement which stipulates that a portion of the payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply.

3. The governing body shall follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose, to authorize a loan agreement made payable from the debt service fund, or to authorize any loan agreement which would result in the total of scheduled annual payments of principal or interest or both principal and interest of the city due from the general fund of the city in any future year with respect to all loan agreements in force on the date of the authorization, to exceed ten percent of the last certified general fund budget amount. In all other cases, the governing body shall

follow substantially the same authorization procedures required for the issuance of general obligation bonds as set out in section 384.25. Chapter 75 is not applicable. A city utility is a separate entity under this section whether it is governed by the council or another governing body.

4. A loan agreement 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.

Approved May 4, 1987

CHAPTER 104

DEBTS OF PUBLIC ENTITIES

H.F. 536

AN ACT relating to public bonds by specifying requirements for the issuance of certain bonds, providing for the use of bond proceeds, and providing for the security of certain bonds.

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

Section 1. NEW SECTION. 74.8 DESIGNATION OF PUBLIC WARRANTS.

Each public issuer of warrants may designate the warrants as tax-exempt public warrants if the issuer complies with the tax-exempt reporting requirements of the federal Internal Revenue Code.

Sec. 2. NEW SECTION. 76.16 DEBTOR STATUS PROHIBITED.

A city, county, or other political subdivision of this state shall not be a debtor under chapter 9 of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., except as otherwise specifically provided in this chapter.

Sec. 3. NEW SECTION. 76.17 VARIABLE RATE BONDS.

1. A public body authorized to issue bonds may elect to issue bonds bearing a variable or fluctuating rate of interest which is determined on one or more intervals by reference to an index or standard, or as fixed by an interest rate indexing or remarketing agent retained by the issuer of the bonds. A public issuer of public bonds may provide for additional security or liquidity, enter into agreements for, and expend funds for policies of insurance, letters of credit, lines of credit, or other forms of security issued by financial institutions for the payment of principal, premium, if any, and interest on the bonds. A public issuer of public bonds may also enter into contracts and pay for the services of underwriters, interest rate indexing agents, remarketing agents, trustees, financial consultants, depositories, and other services as determined by the governing body. In the case of general obligation bonds, fees for the services and costs of additional security and liquidity shall be considered incurred in lieu of interest and may be levied through the fund for payment of debt service on the bonds. Bonds issued under this section may be sold at public or private sale as determined by the governing body.

2. This section provides alternative and additional power for the issuance of bonds and is not an amendment to any other statute or a limitation upon powers under any other law.

3. A public issuer of public bonds may provide for the purchase of bonds before their maturity and the remarketing of purchased bonds without causing the redemption of the purchased bonds.

Sec. 4. NEW SECTION. 76.18 TAX-EXEMPT COVENANT.

A public issuer of bonds or other debt obligations may covenant that the issuer will comply with requirements or limitations imposed by the Internal Revenue Code to preserve the tax exemption of interest payable on the bonds or obligations and may carry out and perform other covenants, including but not limited to, the payment of any amounts required to be paid by the issuer to the United States government.

Sec. 5. Section 403.17, subsection 10, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. h. Expenditure of proceeds of bonds issued before October 7, 1986, for the construction of parking facilities on city blocks adjacent to an urban renewal area.

Sec. 6. Section 74A.5, Code 1987, is repealed.

Approved May 4, 1987

CHAPTER 105

COUNTY, CITY, AND CITY UTILITY INVESTMENTS

H.F. 324

AN ACT authorizing the joint investment of funds by counties, cities, and city utilities.

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

Section 1. Section 331.555, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The treasurer shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more counties, cities, or city utilities pursuant to a joint investment agreement.

Sec. 2. NEW SECTION. 384.21 JOINT INVESTMENT OF FUNDS.

A city or a city utility board shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more cities, utility boards, or counties pursuant to a joint investment agreement.

Sec. 3. Section 452.10, unnumbered paragraph 3, Code 1987, is amended by striking the unnumbered paragraph.

Approved May 5, 1987

CHAPTER 106

STATEWIDE NETWORK OF SMALL BUSINESS DEVELOPMENT CORPORATIONS

S.F. 493

AN ACT relating to the creation of a statewide regional network of small business economic development corportions* to assist in providing financing for small businesses in the state.

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

Section 1. Section 15.108, subsection 7, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Assist in the development, promotion, implementation, and administration of a statewide network of regional corporations designed to increase the availability of financing for small businesses.

Sec. 2. NEW SECTION. 15.261 PURPOSE.

The purpose of this part is to facilitate the establishment and expansion of small businesses in this state by coordinating the formation of a statewide regional network of private sector small business economic development corporations, which will serve as guarantors of loans made by commercial lending institutions to small business entrepreneurs, and to stimulate economic growth for small business economic development through the partnership of state or federal small business development financing programs.

Sec. 3. NEW SECTION. 15.262 DEFINITIONS.

As used in this part, unless the context otherwise requires:

1. "Small business" means an enterprise located in this state, except an enterprise organized to practice a profession, as defined in section 496C.2, which is operated for profit and under a single management, and has fewer than twenty employees or an average annual gross income of less than three million dollars over the last three years.

2. "Corporation" or "development corporation" means a private sector small business economic development corporation organized under chapter 504A or organized for pecuniary profit under chapter 496A and includes development corporations organized under chapter 496B.

3. "Region" means a private sector small business economic development region.

4. "Fund" means the private sector small business economic development corporation fund established under section 15.263.

5. "Contributor" means a private entity which commits to contribute money to a development corporation, organized under chapter 504A, upon the call of the corporation.

6. "Investor" means a private entity which invests money in a corporation organized for pecuniary profit under chapter 496A.

Sec. 4. NEW SECTION. 15.263 ESTABLISHMENT OF FUND.

There is established in the office of the treasurer of state a private sector small business economic development corporation fund. The fund may include appropriations and other moneys for the purpose of loan guarantees under this part. All state moneys allocated to a corporation shall be from moneys previously appropriated to the fund.

Interest accrued by the fund shall be credited to and deposited in the fund.

Sec. 5. NEW SECTION. 15.264 BOARD DUTIES AND ORGANIZATION — FUND.

The board shall:

1. Manage and administer through the office of the treasurer of state, state moneys appropriated to the fund.

2. Determine how the fund shall be allocated to the corporations. The board shall not allocate state moneys to a corporation in an amount that exceeds fifty percent of the amount committed to be contributed or invested in a corporation's account on call for the purposes of guaranteeing small business loans under this part.

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*According to enrolled Act

3. Establish regions that have the same area boundaries as that of the regional coordinating councils established pursuant to section 28.101, subsection 2.

4. Facilitate the establishment of at least one corporation in each region of the state by contacting and enlisting the participation of potential contributors, investors, and economic development entities.

5. Actively cooperate with the corporation to seek procurement of moneys available through federal funding allocated for small business assistance programs.

6. Review, at regular and frequent intervals, all loans guaranteed by state moneys under this part in order to ensure the compliance of all parties with this part.

7. Supervise the monitoring of corporations which review the operations of businesses started or expanded through state funding made available under this part.

8. a. Ensure that all operations of the board and corporations authorized under this part comply with the affirmative action requirements of chapter 19B.

b. Ensure that all loans guaranteed under this part are disbursed and collected without discrimination and in accordance with section 601A.10, subsection 2.

c. Ensure that the loans guaranteed under this part are disbursed and utilized in accordance with the targeted small business set-aside requirements of sections 73.15 through 73.21.

9. Adopt rules in accordance with chapter 17A as necessary or desirable for the supervision and the direction of the corporations for the uniform implementation of this part. These rules shall include the following:

a. Criteria for the making of loans which may be guaranteed by development corporations.

b. Requirements for the articles of incorporation and bylaws of the corporations.

c. Maximum amounts of loans and guarantees.

d. Maximum time for repayment schedules.

e. Conflict of interest prohibitions.

f. The provision for adequate reserves for loan guarantees.

g. The segregation of an accounting for moneys used for loan guarantees to the extent the moneys include state matching funds.

10. Meet at least once a month and as often as necessary.

11. Refrain from allocating any funds until at least one-third of the regions have established private sector small business economic development corporations.

Sec. 6. NEW SECTION. 15.265 POWERS OF CORPORATIONS.

1. A corporation has all powers otherwise granted it by law and by its articles of incorporation and bylaws.

2. A corporation may develop a loan guarantee program, subject to approval by the board, if:

a. State matching funds are requested to guarantee loans made by private lending institutions to small businesses in order to establish, maintain, or expand their operations.

b. The loan guarantee program conforms to rules adopted by the board and, in the opinion of the board, promotes the purposes of this part.

3. A corporation shall have the following duties and responsibilities:

a. The management and administration of moneys allocated to it from the fund.

b. Monitoring the operations of businesses started or expanded through state funding made available under this part.

c. The active cooperation with the board to seek procurement of moneys available through federal funding allocations for small business assistance programs.

d. Ensuring that all loans guaranteed by a corporation under this part are disbursed and collected without discrimination and in accordance with section 601A.10, subsection 2. Particular attention shall be given to targeted small businesses.

e. Each corporation shall meet at least once a month and as often as necessary.

f. Establishing joint ventures with area regional coordinating councils when practical and whenever feasible.

g. Coordinate its activities with the small business development centers, institutions under the control of the boards of regents, private colleges and universities and other public entities that are interested in economic development.

Sec. 7. NEW SECTION. 15.266 TAX LIABILITY — CREDIT.

Corporations organized in accordance with chapter 504A are exempt from the tax imposed under section 422.33. For purposes of avoiding federal tax liabilities, the articles of incorporation of the corporations created under this part shall be written in accordance with sections 504B.2 and 504B.3. Corporations organized for pecuniary profit are subject to taxes imposed under section 422.33.

Sec. 8. NEW SECTION. 15.267 OBLIGATIONS OF STATE — LIMITATIONS.

Loan guarantees made by a development corporation for which the state has contributed matching funds under this part shall be supported only by the moneys committed or contributed to the corporation or the fund. A loan guarantee agreement made by a corporation, contributor, or investor is not an obligation of the state or any of its subdivisions, except to the extent of moneys previously allocated to the corporation from the fund. A corporation or the board shall not pledge the credit or taxing power of the state and shall not make its obligations payable out of any moneys other than those committed or contributed to the corporation or previously appropriated to the fund.

Sec. 9. NEW SECTION. 15.268 NO RESTRICTION.

Nothing in this part shall be construed so as to restrict any corporation from fulfilling the purpose of this part if that corporation has not received state moneys under this part.

Sec. 10. CODE PLACEMENT. The Code editor shall codify new sections 15.261 through 15.268 as a new part in subchapter II of chapter 15.

Approved May 5, 1987

CHAPTER 107

IOWA SEAL AGRICULTURAL PRODUCTS

H.F. 576

AN ACT providing for the grading and marking of Iowa seal agricultural products, and providing penalties.

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

Section 1. NEW SECTION. 543B.1 IOWA SEAL.

A seal for agricultural products shall be created under the direction of the department of agriculture and land stewardship to identify agricultural products that have been produced or processed in the state. The department shall certify that agricultural products marked with the Iowa seal are of the quality and specifications warranted by the sellers of those products.

The department of agriculture and land stewardship shall adopt rules under chapter 17A to provide methods of identifying, marking, and grading agricultural products, to prevent any misleading use of the Iowa seal, and as necessary or advisable to fully implement this section.

A violation of a rule adopted by the department of agriculture and land stewardship to implement this section is a simple misdemeanor. A fraudulent use of the term "Iowa Seal" or of the identifying mark for the Iowa seal, or a deliberately misleading or unwarranted use of the term or identifying mark is a serious misdemeanor.

Approved May 5, 1987

CHAPTER 108

MOTOR VEHICLE PROPORTIONAL REGISTRATION

H.F. 527

AN ACT relating to proportional registration by providing for credits of registration fees when changing the method of registration of vehicles and by requiring owners of vehicles subject to proportional registration to make application to either the state department of transportation or the county treasurer for registration and issuance of certificates of title, and providing an effective date.

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

Section 1. Section 321.20, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Except as provided in this chapter, ~~every~~ an owner of a vehicle subject to registration shall make application to the county treasurer, of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department. However, upon the transfer of ownership, the owner of a vehicle subject to the proportional registration provisions of chapter 326 shall make application for registration and issuance of a certificate of title to either the department or the appropriate county treasurer. The application shall be accompanied by a fee of ten dollars, and ~~every application~~ shall bear the owner's signature ~~of the owner~~ written with pen and ink. ~~However, a~~ A nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home shall make application for a certificate of title under this section. The application shall contain:

Sec. 2. Section 321.24, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Upon receipt of the application for title and payment of the required fees for motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home, that taxes are not owing under chapter 135D, issue a certificate of title and, except for a mobile home, a registration receipt and shall file the application, the manufacturer's or importer's certificate, certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, the title number assigned to the owner of the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 423.7, the type of fuel used, and a description of the vehicle as determined by the department, and upon the reverse side a form for notice of transfer of the vehicle.

PARAGRAPH DIVIDED. The county treasurer shall maintain in the county record system information contained on the registration receipt. The information shall be accessible by registration number and shall be open for public inspection during reasonable business hours. Copies the department requires shall be sent to the department in the manner and at the time the department directs.

PARAGRAPH DIVIDED. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described including the nature of the security interest, date of notation, and name and address of the secured party. The certificate shall bear the seal of the county treasurer or of the department, and the signature of the county treasurer, ~~or that of~~ the deputy county treasurer, ~~and~~ or the department director or deputy designee. The certificate shall provide space for the signature of the owner. The

owner shall sign the certificate of title in the space provided with pen and ink upon its receipt. The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty by the owner, for reassignments by a licensed dealer, and for application for a new certificate of title by the transferee as provided in this chapter. All certificates of title shall be typewritten or printed by other mechanical means. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears ~~thereon~~ on it. Otherwise the certificate of title shall be delivered by the county treasurer or the department to the person holding the first security interest or encumbrance as shown in the certificate.

PARAGRAPH DIVIDED. The county treasurer or the department shall maintain in the county or department records system information contained on the certificate of title. The information shall be accessible by title certificate number for a period of three years from the date of notification of cancellation of title or that a new title has been issued as provided in this chapter. Copies the department requires shall be sent to the department in the manner and at the time the department directs. The department shall designate a uniform system of title numbers to indicate the county of issuance.

Sec. 3. Section 321.30, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The department or the county treasurer shall refuse registration and issuance of a certificate of title or any transfer of title and registration upon any of the following grounds:

Sec. 4. Section 321.30, subsection 3, Code 1987, is amended to read as follows:

3. That the department or the county treasurer has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle or that the granting of registration and issuance of a certificate of title would constitute a fraud against the rightful owner.

Sec. 5. Section 321.30, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The department or the county treasurer shall also refuse registration of ~~any~~ a vehicle if the applicant for registration of ~~such~~ the vehicle has failed to pay the required registration fees of any vehicle owned or previously owned when the registration fee was required to be paid by the applicant, and for which vehicle the registration was suspended or revoked under ~~the provisions of~~ section 321.101, subsection 4, until ~~such~~ the fees are paid together with any accrued penalties.

Sec. 6. NEW SECTION. 321.46A CHANGE FROM PROPORTIONAL REGISTRATION – CREDIT.

An owner changing a vehicle's registration from proportional registration under chapter 326 to registration under this chapter shall be entitled to a credit on the vehicle's registration fees under this chapter. The credit shall be allowed when the owner surrenders to the county treasurer proof of proportional registration provided by the department. The amount of the credit shall be calculated based on the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

Sec. 7. Section 321.126, subsection 4, Code 1987, is amended to read as follows:

4. If the motor vehicle is registered by the county treasurer during the current registration year and the owner or lessee registers the vehicle for ~~prorate~~ proportional registration under chapter 326, the owner of the registered vehicle shall surrender the registration plates to the county treasurer and may file a claim for refund. In lieu of a refund, a credit for the registration fees paid to the county treasurer may be applied by the department to the owner or lessee's proportional registration fees upon the surrender of the county plates and registration.

Sec. 8. Section 321.127, subsection 4, Code 1987, is amended to read as follows:

4. Refunds and credits for motor vehicles registered for ~~prorate~~ proportional registration under chapter 326 shall be paid or credited on the basis of unexpired complete calendar months remaining in the registration year from the date the claim or application is filed with the department.

Sec. 9. Section 326.30, Code 1987, is amended to read as follows:

326.30 MOTOR VEHICLE LAW APPLICABLE.

All provisions of chapter 321 insofar as applicable, are ~~hereby specifically~~ extended to include owners who register and title vehicles in this state on a proportional registration basis or who operate interstate on Iowa highways under reciprocity.

Sec. 10. Section 326.45, Code 1987, is amended to read as follows:

326.45 ISSUANCE — TITLE OBLIGATION.

Upon receiving application for and payment of the registration fee and notification of title ~~from the county treasurer~~, the department shall issue registration identification to the applicant carrier and send the certificate of title to the vehicle owner or lienholder. The department shall adopt rules pursuant to chapter 17A to process registration of vehicles titled in other states.

Sec. 11. This Act takes effect on January 1, 1988.

Approved May 5, 1987

CHAPTER 109

WATER DISTRICTS

H.F. 398

AN ACT relating to water districts, by providing for water service within two miles of a city and by providing for the determination and apportionment of cost attributed to the annexation of land.

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

Section 1. Section 357.1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city unless the city has approved a new water service plan submitted by the benefited district. If the new water service plan is not approved by the city, the plan may be subject to arbitration.

Sec. 2. Section 357A.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city by a rural water district incorporated under this chapter or chapter 504A unless the city has approved a new water service plan submitted by the district. If the new water service plan is not approved by the city, the plan may be subject to arbitration.

Sec. 3. NEW SECTION. 357A.21 ANNEXATION OF LAND BY A CITY.

A water district organized under chapter 357, 357A, or 504A shall be fairly compensated for losses resulting from annexation. The governing body of a city or water utility and the board of directors or trustees of the water district may agree to terms which provide that the facilities owned by the water district and located within the city shall be retained by the

water district for the purpose of transporting water to customers outside the city. If an agreement is not reached within ninety days, the issues shall be submitted to arbitration. An arbitrator shall be selected by a committee which includes one member of the governing body of the city or its designee, one member of the water district's board of directors or trustees or its designee, and a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association.

Sec. 4. Section 384.84, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

Approved May 5, 1987

CHAPTER 110

SUBSTANCE ABUSE GRANTS

H.F. 258

AN ACT relating to program grants under the Iowa department of public health for substance abuse programs.

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

Section 1. Section 125.59, subsection 1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the transferred amount for this subsection exceeds grant requests funded to the ten thousand dollar maximum, the Iowa department of public health may use the remainder to increase grants pursuant to subsection 2.

Approved May 5, 1987

CHAPTER 111

DEPARTMENT OF EMPLOYMENT SERVICES PROGRAMS

S.F. 449

AN ACT relating to the operation and administration of the department of employment services by correcting statutory omissions, inaccuracies, and inconsistencies to reflect or alter current practices, by limiting certain penalties, by continuing the reimbursable status of certain enterprises and businesses sold or transferred by reimbursable employers, and by authorizing the release of certain job service information to certain public or quasi-public officials and entities and certain business and labor organizations.

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

Section 1. Section 85.31, subsection 1, paragraph d, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the statewide average weekly wage paid employees as determined by ~~the division of job service of~~ the department of employment services under ~~the provisions of~~ section 96.3 and in effect at the time of the injury~~, provided, that~~. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the statewide average weekly wage as determined above. ~~However, the~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 2. Section 85.34, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 of this section. The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. The compensation shall be based upon the extent of the disability and upon the basis of eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-one and one-third percent of the statewide average weekly wage paid employees as determined by ~~the division of job service of~~ the department of employment services under section 96.3 and in effect at the time of the injury~~, provided that~~. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals ninety-two percent, one hundred twenty-two and two-thirds percent, one hundred fifty-three and one-third percent, and one hundred eighty-four percent, respectively, of the statewide average weekly wage as determined above. ~~However, the~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution, the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. For all cases of permanent partial disability compensation shall be paid as follows:

Sec. 3. Section 85.34, subsection 3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the statewide average weekly wage paid employees as determined by ~~the commissioner of the division of job service of~~ the department of employment services under section 96.3 and in effect at the time of the injury~~, provided that~~. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the statewide average weekly wage as determined above. ~~However, the~~ The minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. The weekly compensation is payable during the period of the employee's disability.

Sec. 4. Section 85.37, unnumbered paragraph 1, Code 1987, is amended to read as follows:

If an employee receives a personal injury causing temporary total disability, or causing a permanent partial disability for which compensation is payable during a healing period, compensation for the temporary total disability or for the healing period shall be upon the basis provided in this section. The weekly benefit amount payable to any employee for any one week shall be upon the basis of eighty percent of the employee's weekly spendable earnings, but shall not exceed an amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the statewide average weekly wage paid employees as determined by ~~the division of job service of~~ the department of employment services under section 96.3 and in effect at the time of the injury ~~provided that~~. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent, and two hundred percent, respectively, of the statewide average weekly wage as determined above. Total weekly compensation for any employee shall not exceed eighty percent per week of the employee's weekly spendable earnings. ~~However, the~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever ~~is~~ are less.

Sec. 5. Section 85.59, unnumbered paragraph 3, Code 1987, is amended to read as follows:

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~~ in the institution, 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 the benefits provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability is equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by ~~the division of job service of~~ the department of employment services under section 96.3 and in effect at the time of the injury.

Sec. 6. Section 85.59, unnumbered paragraph 6, Code 1987, is amended to read as follows:

If death results from the injury, death benefits shall be awarded and paid to the dependents of the inmate as in other workers' compensation cases except that the weekly rate shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by ~~the division of job service of~~ the department of employment services under section 96.3 and in effect at the time of the injury.

Sec. 7. Section 88A.10, subsection 2, Code 1987, is amended to read as follows:

2. ~~Any~~ A person who interferes with, impedes, or obstructs in any manner the commissioner ~~or any authorized representative of the division~~ in the performance of the commissioner's ~~or representative's~~ duties under this chapter is guilty of a simple misdemeanor. ~~Any~~ A person who bribes or attempts to bribe the commissioner ~~or the commissioner's designee shall be~~ is subject to section 722.1.

Sec. 8. Section 92.22, Code 1987, is amended to read as follows:

92.22 LABOR COMMISSIONER TO ENFORCE.

~~It shall be the duty of the~~ The labor commissioner~~, the labor commissioner's deputies, inspectors, and assistants, to~~ shall enforce ~~the provisions of~~ this chapter. ~~It shall also be the duty of all mayors~~ Mayors and police officers, ~~city marshals,~~ sheriffs, ~~and their deputies,~~ school superintendents, and school truant and attendance officers, within their several jurisdictions, ~~to~~ shall co-operate in the enforcement of ~~such provisions~~ this chapter and furnish the commissioner~~,~~ and the commissioner's ~~deputies and assistants~~ designees with all information coming to their knowledge regarding ~~any~~ violations of ~~such provisions~~ this chapter. All such officers and any person authorized in writing by ~~any~~ a court of record shall have the authority to enter, for the purpose of investigation, any of the establishments and places mentioned in this chapter and to freely question any person therein as to any violations of ~~such provisions~~ this chapter.

~~It shall be the duty of county~~ County attorneys ~~to~~ shall investigate all complaints made to them of violations of ~~any such provisions~~ this chapter, and ~~to~~ prosecute all such cases of violation within their respective counties.

Sec. 9. Section 96.3, subsection 4, unnumbered paragraph 3, Code 1987, is amended to read as follows:

For the purposes of this subsection, statewide average weekly wage means the amount computed by the ~~commissioner~~ department of employment services at least once a year on the basis of the aggregate amount of wages reported by employers in each preceding twelve-month period ending on December 31 and divided by the figure that results from fifty-two times the average of mid-month employment reported by employers for the same period. In determining the aggregate amount of wages paid statewide, the ~~commissioner~~ department of employment services shall disregard any limitation on the amount of wages subject to contributions under state law.

Sec. 10. Section 96.7, subsection 8, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. e. If an enterprise or business of a reimbursable government entity is sold or otherwise transferred to a subsequent employing unit and the successor employing unit continues to operate the enterprise or business, the successor employing unit shall assume the position of the reimbursable government entity with respect to the reimbursable government entity's payroll and reimbursable benefits to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the successor employer elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the employer's payroll prior to the sale or transfer of the enterprise or business.

NEW LETTERED PARAGRAPH. f. If a reimbursable instrumentality of the state or of a political subdivision is discontinued other than by sale or transfer to a subsequent employing unit as described in paragraph "e", the state or the political subdivision, respectively, shall

reimburse the division of job service for benefits paid to former employees of the instrumentality after the instrumentality is discontinued.

Sec. 11. Section 96.7, subsection 9, paragraph b, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) If an enterprise or business of a reimbursable nonprofit organization is sold or otherwise transferred to a subsequent employing unit and the successor employing unit continues to operate the enterprise or business, the successor employing unit shall assume the position of the reimbursable nonprofit organization with respect to the nonprofit organization's payroll and reimbursable benefits to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the successor employer elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the employer's payroll prior to the sale or transfer of the enterprise or business.

Sec. 12. Section 96.11, subsection 7, paragraph c, Code 1987, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (7) An employee of the department of employment services, a member of the general assembly, or a member of the United States congress in connection with the employee's or member's official duties.

NEW SUBPARAGRAPH. (8) A political subdivision, government entity, or nonprofit organization having an interest in the administration of job training programs established pursuant to the federal Job Training Partnership Act.

NEW SUBPARAGRAPH. (9) A designated representative of a business or labor organization having in excess of one hundred members.

Approved May 5, 1987

CHAPTER 112

POLITICAL CAMPAIGNS

S.F. 424

AN ACT relating to the administration of the campaign finance disclosure laws.

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

Section 1. Section 56.2, subsection 4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

"Contribution" shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate's committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association. "Contribution" shall not include refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value computed at a rate of twenty cents per mile does not exceed one hundred dollars in value in any one reporting period. "Contribution" shall not include something provided to a candidate for the candidate's personal consumption or use and not intended for or on behalf of the candidate's committee.

Sec. 2. Section 56.2, subsection 6, Code 1987, is amended to read as follows:

6. "Political committee" means a committee, but not a candidate's committee, which accepts contributions, makes expenditures, or incurs indebtedness in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office or ballot issue, or an association, lodge, society, cooperative, union,

fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization which makes contributions in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office or a ballot issue. "Political committee" also includes a committee which accepts contributions, makes expenditures, or incurs indebtedness in the aggregate of more than two hundred fifty dollars in a calendar year to cause the publication or broadcasting of material in which the public policy positions or voting record of an identifiable candidate is discussed and in which a reasonable person could find commentary favorable or unfavorable to those public policy positions or voting record.

Sec. 3. Section 56.3, subsection 2, Code 1987, is amended to read as follows:

2. ~~Every~~ A person who receives contributions in excess of one hundred dollars for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer the contributions and an account of the total of all contributions; including the name and address of ~~the persons~~ each person making a contribution in excess of ten dollars, the amount of such contribution, and the date on which the contributions were received. The treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee in a financial institution. All funds of a committee shall be segregated from any other funds of officers, members, or associates of the committee or the committee's candidate. However, if a candidate's committee receives contributions only from the candidate, or if a permanent organization temporarily engages in activity which qualifies it as a political committee and all expenditures of the organization are made from existing general operating funds and funds are not solicited or received for this purpose from sources other than operating funds, then that committee is not required to maintain a separate account in a financial institution.

Sec. 4. Section 56.4, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All statements and reports required to be filed under this chapter for a state office shall be filed with the commission. All statements and reports required to be filed under this chapter for a county, city, or school office shall be filed with the commissioner. Statements and reports on a ballot issue shall be filed with the commissioner responsible under section 47.2 for conducting the election at which the issue is voted upon, except that statements and reports on a statewide ballot issue shall be filed with the commission. Copies of any reports filed with a commissioner shall be provided by the commissioner to the commission on its request. State statutory political committees shall file all statements and reports with the commission. All other statutory political committees shall file the statements and reports with the commissioner with a copy sent to the commission.

Sec. 5. Section 56.5, subsection 5, Code 1987, is amended to read as follows:

5. ~~In lieu of filing the~~ A committee not domiciled in Iowa which makes a contribution to a candidate's committee or political committee domiciled in Iowa shall disclose each contribution to the commission. The committee shall either file a statement of organization under subsections 1 and 2 and ~~filing the~~ file disclosure reports, the same as those required of Iowa-domiciled committees, under section 56.6, ~~a political committee which is not domiciled in this state and makes a contribution to a candidate's committee or political committee in this state may~~ or shall file one copy of a verified statement ~~under this subsection~~ with the commission and a second copy with ~~a copy to~~ the treasurer of the committee receiving the contribution. The form shall be completed and filed at the time the contribution is made. The verified statement shall be on forms prescribed by the commission and be attached to the report required of the committee receiving the contribution under section 56.6. The ~~statement~~ form shall include the complete name, address, and telephone number of the contributing committee, the state or federal jurisdiction under which it is registered or operates, the identification of any parent entity or other affiliates or sponsors, its purpose, ~~and~~ the name and address of an Iowa

resident authorized to receive service of original notice and the name and address of the receiving committee, the amount of the cash or in-kind contribution, and the date the contribution was made.

Sec. 6. Section 56.6, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. A candidate's committee of a state officeholder shall file a letter report to be received within fourteen days of the receipt of any contribution from a political committee or from a lobbyist registered under the rules adopted by either house of the general assembly while the general assembly is in session. The committee may request, in writing, a fourteen-day extension on a letter report which shall be granted if received on or before the date the report is due. The letter report shall notify the commission of the following:

(1) The name of the candidate's committee.

(2) The name and complete address of the political committee or registered lobbyist making the contribution.

(3) The amount of the contribution.

(4) The date the contribution was received.

(5) In the event the contribution was caused by a fundraiser, an explanation of the sponsor and type of event held.

The provisions of this paragraph are in addition to any other reporting requirements of this chapter and any reporting rules adopted by either house of the general assembly.

Sec. 7. Section 56.6, subsection 3, paragraphs g and l, Code 1987, are amended to read as follows:

g. The name and mailing address of each person to whom disbursements or loan repayments have been made by the committee from contributions during the reporting period and the amount, purpose, and date of each disbursement except that disbursements of less than five dollars may be shown as miscellaneous disbursements so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars. If disbursements are made to a consultant, the consultant shall provide the committee with a statement of disbursements made by the consultant during the reporting period showing the name and address of the recipient, amount, purpose, and date to the same extent as if made by the candidate, which shall be included in the report by the committee.

l. ~~Such other~~ Other pertinent information ~~as may be~~ required by this chapter, ~~or~~ by rules adopted pursuant to this chapter, or forms approved by the commission.

Sec. 8. Section 56.14, Code 1987, is amended to read as follows:

56.14 POLITICAL ADVERTISEMENTS.

A person who causes the publication or distribution of published material after July 1, 1984, designed to promote or defeat the nomination or election of a candidate for public office or the passage of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. However, if the organization is a committee which has filed a statement of organization under this chapter, only the name of the committee is required to be included on the published material. This section does not apply to the editorials or news articles of a newspaper or magazine which are not political advertisements. For the purpose of this section, "published material" means any newspaper, magazine, shopper, outdoor advertising facility, poster, yard sign including hand lettered signs, direct mailing, brochure, or any other form of printed general public political advertising~~,~~; however, the identification need not be conspicuous on posters ~~and yard signs including hand lettered signs~~. This section requires that the identification on yard signs be in letters at least one inch high; however, if the yard sign is authorized by the candidate's committee or the candidate, no identification is required by this section. This section does not apply to bumper stickers, pins, buttons, pens, matchbooks, and similar small items upon which the inclusion of the disclaimer would be impracticable or

to published material which is subject to federal regulations regarding a disclaimer requirement. Yard signs are subject to removal by highway authorities as provided in section 319.13. Notice may be provided to the chairperson of the appropriate county central committee if the highway authorities are unable to provide notice to the candidate, candidate's committee, or political committee regarding the yard sign.

Approved May 5, 1987

CHAPTER 113

ABANDONED OR DANGEROUS BUILDINGS

S.F. 319

AN ACT relating to the condition of a building as a basis for the filing of a petition or hearing procedure.

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

Section 1. Section 657A.2, subsections 2 and 3, Code 1987, are amended to read as follows:

2. If a petition filed pursuant to this chapter alleges that a building is abandoned ~~and~~ or 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~~ or 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.

Sec. 2. Section 657A.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For the purpose of abatement in connection with property in a city with a population of less than one hundred thousand a petition for abatement must include the allegation that a building is abandoned and is in a dangerous or unsafe condition.

Approved May 5, 1987

CHAPTER 114

STANDARD OF PROOF FOR PROPERTY FORFEITURES

S.F. 341

AN ACT relating to the standard of proof required under forfeiture of property law.

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

Section 1. Section 809.14, subsection 1, Code 1987, is amended to read as follows:

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 by a preponderance of the evidence 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~~ the owner knew or should have known that the property was being used for a criminal purpose, there is a rebuttable presumption that the owner knew that the property was intended to be used in the commission of a crime.

Approved May 5, 1987

CHAPTER 115

CODE CORRECTIONS

S.F. 374

AN ACT relating to statutory corrections of a noncontroversial and nonsubstantive nature.

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

Section 1. Section 2.36, Code 1987, is amended to read as follows:

2.36 DUTIES OF COMMITTEE.

The committee shall review the present and proposed uses of communications by state agencies and the development of a statewide communications plan~~, including a review of the work of the state communications advisory council established in section 18.136~~. It shall meet as often as deemed necessary and annually shall make recommendations to the legislative council and the general assembly, accompanied by bill drafts to implement its recommendations.

Sec. 2. Section 2.42, subsection 15, Code 1987, is amended by striking the subsection.

Sec. 3. Section 4.1, subsection 22, Code 1987, is amended to read as follows:

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

Sec. 4. Section 8.31, unnumbered paragraph 6, Code 1987, is amended to read as follows:

The procedure to be employed in controlling the expenditures and receipts of the state fair board and the institutions under the state board of regents, whose collections are not deposited in the state treasury, ~~will be~~ is that outlined in section 421.31, subsection 4 6.

Sec. 5. Section 8.39, subsection 2, Code 1987, is amended to read as follows:

2. If the appropriation of ~~any~~ a department, institution, or agency is insufficient to properly meet the legitimate expenses of ~~such~~ the department, institution, or agency ~~of the state~~, the director, with the approval of the governor, ~~is authorized to~~ may make an interdepartmental transfer from any other department, institution, or agency of the state having an appropriation in excess of its ~~necessity~~ needs, of sufficient funds to meet that deficiency.

Sec. 6. Section 18.101, Code 1987, is amended to read as follows:

18.101 LEGISLATIVE JOURNALS AND BILLS.

The daily journals of the general assembly and the printed bills shall be sent by the superintendent of printing by mail to subscribers ~~therefor~~. The journals and bills for both houses for any one session may be purchased for ~~such~~ the sum ~~as is~~ fixed by the ~~state printing board~~ superintendent. The ~~said~~ superintendent shall cause to be printed a sufficient number of copies to fill orders received and reported to the superintendent.

Sec. 7. Section 19A.3, subsection 10, Code 1987, is amended to read as follows:

10. Residents, patients, or inmates ~~employed~~ working in state institutions, or persons on parole ~~employed~~ working in work experience programs for a period no longer than one year.

Sec. 8. Section 29A.43, Code 1987, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED — LEAVE OF ABSENCE.

~~No~~ A person~~, firm, or corporation,~~ shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States because of that membership ~~therein~~. ~~No~~ An employer, or agent of ~~any~~ an employer, shall not discharge ~~any~~ a person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or ~~elected~~ enlisted person from performing any military service ~~such~~ the person ~~may be~~ is called upon to perform by proper authority. ~~Any~~ A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary active duty for the purpose of military training or ordered on active state service~~, shall be~~ is entitled to a leave of absence during the period of ~~such~~ the duty or service, from the member's private employment, other than employment of a temporary nature, and upon completion of ~~such~~ the duty or service the employer shall restore ~~such~~ the person to the position held prior to ~~such~~ the leave of absence, or employ ~~such~~ the person in a similar position~~, provided, however, that such~~. However, the person shall give evidence to the employer of satisfactory completion of ~~such~~ the training or duty, and ~~further provided~~ that ~~such~~ the person is still qualified to perform the duties of ~~such~~ the position. ~~Such~~ The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. ~~Any~~ A person violating ~~any of the provisions~~ a provision of this section ~~shall be~~ is guilty of a simple misdemeanor.

Sec. 9. Section 50.29, Code 1987, is amended to read as follows:

50.29 CERTIFICATE OF ELECTION.

When any person is thus declared elected, there shall be delivered to that person a certificate of election, under the official seal of the county, in substance as follows:

STATE OF IOWA

County.

At an election ~~holden~~ held in said county on the day of , A.D. A B was elected to the office of for the term of years from the day of , A.D. (or if elected to fill a vacancy, ~~say~~ for the residue of the term ending on the day of , A.D.), and until a successor is elected and qualified.

C D ,
President of Board of Canvassers.
Witness, E F ,
County Commissioner of Elections
(clerk).

Such certificate ~~shall be~~ is presumptive evidence of the person's election and qualification.

Sec. 10. Section 50.41, Code 1987, is amended to read as follows:

50.41 CERTIFICATE OF ELECTION.

Each person declared elected by the state board of canvassers shall receive a certificate

~~thereof~~, signed by the governor, or, in the governor's absence, by the secretary of state, with the seal of state affixed, attested by the other canvassers, to be in substance as follows:
STATE OF IOWA:

To A B , ~~Greeting~~: It is hereby certified that, at an election ~~holden~~ held on the day of you were elected to the office of of ~~said state~~ Iowa, for the term of years, from ~~and after~~ the day of (or if to fill a vacancy, for the residue of the term, ending on the day of).

Given at the seat of government this day of

If the governor ~~be~~ is absent, the certificate of the election of the secretary of state shall be signed by the auditor. The certificate to members of the legislature shall describe, by the number, the district from which the member is elected.

Sec. 11. Section 83A.19, unnumbered paragraph 2, Code 1987, is amended to read as follows:

For certain postmining land uses, such as a sanitary land fill, the division~~, with the approval of the land reclamation advisory board,~~ may allow an extended reclamation period.

Sec. 12. Section 96.14, subsection 2, unnumbered paragraph 5, Code 1987, is amended to read as follows:

~~No~~ A penalty shall not be less than ten dollars for each delinquent report or each insufficient report not made sufficient within thirty days ~~as~~ after a request to do so. Interest, penalties, and costs shall be collected by the division in the same manner as provided by this chapter for contributions.

Sec. 13. Section 97B.41, subsection 3, paragraph b, subparagraph (12), Code 1987, is amended to read as follows:

(12) Employees of the Iowa dairy industry commission established under chapter 179, the Iowa beef cattle producers association established under chapter 181, the Iowa ~~swine~~ pork producers ~~association~~ council established under chapter ~~183~~ 183A, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean promotion board established under chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 196A.

Sec. 14. Section 99B.1, subsection 16, Code 1987, is amended to read as follows:

16. "Division" means the racing and gaming division of the department of commerce.

Sec. 15. Section 99B.19, Code 1987, is amended to read as follows:

99B.19 ATTORNEY GENERAL AND COUNTY ATTORNEY.

Upon request of the racing and gaming division of the department of commerce or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged by either department with violating this chapter, and a county attorney, at the request of the attorney general, shall appear and prosecute an action when brought in the county attorney's county.

Sec. 16. Section 99B.20, Code 1987, is amended to read as follows:

99B.20 DIVISION OF CRIMINAL INVESTIGATION.

The division of criminal investigation of the department of public safety may investigate to determine licensee compliance with the requirements of this chapter. Investigations may be conducted either on the criminal investigation division's own initiative or at the request of the racing and gaming division of the department of commerce. The criminal investigation division and the racing and gaming division shall cooperate to the maximum extent possible on an investigation.

Sec. 17. Section 99D.6, Code 1987, is amended to read as follows:

99D.6 CHAIRPERSON — ADMINISTRATOR — EMPLOYEES — DUTIES — BOND.

The commission shall elect in July of each year one of its members chairperson for the succeeding year. The commission shall appoint an administrator of the racing and gaming division of the department of commerce subject to confirmation by the senate. The administrator shall serve a four-year term. The term shall begin and end in the same manner as set forth in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The administrator may hire other assistants and employees as necessary to carry out the division's duties. Some or all of the information required of applicants in section 99D.8A, subsections 1 and 2, may also be required of employees of the division if the commission deems it necessary. The administrator shall keep a record of the proceedings of the commission, and preserve the books, records, and documents entrusted to the administrator's care. The commission shall require the administrator to post a bond in a sum it may fix, conditioned upon the faithful performance of the administrator's duties. Subject to the approval of the governor, the commission shall fix the compensation of the administrator within salary range five as set by the general assembly. The division shall have its headquarters in the city of Des Moines, and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

Sec. 18. Section 99E.31, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. To the Iowa development commission and the Iowa department of economic development the sum of ten million dollars to be allocated by the Iowa development commission or the Iowa department of economic development 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 Iowa development commission ~~and~~ or the Iowa department of economic development shall allocate for the fiscal year beginning July 1, 1985 the first five hundred thousand dollars, for the fiscal year beginning July 1, 1986, the first three million seven hundred fifty thousand dollars, and for the fiscal year beginning July 1, 1987 and for each succeeding fiscal year the first four million two hundred fifty thousand dollars to the Iowa state university of science and technology for agricultural biotechnology research and development. From the money allocated to the Iowa state university of science and technology for agricultural biotechnology research and development the amount of fifty thousand dollars for each of the fiscal years beginning July 1, 1986 and July 1, 1987 shall be used to develop a program in bioethics for research at the university. This program should address socio-economic and environmental implications of biotechnology research.

PARAGRAPH DIVIDED. 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 or the Iowa department of economic development. An independent college or university shall submit requests directly to the Iowa development commission or the Iowa department of economic development.

PARAGRAPH DIVIDED. The Iowa development commission ~~and~~ or the Iowa department of economic development shall disburse to the regents' institutions or an independent college or university the moneys for the various proposals requested unless the commission or department 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 or the Iowa department of economic development. Those funds allocated by the Iowa development commission or the Iowa department of economic development under this paragraph that are not expended by the institution of higher education shall not revert to the commission or department. The Iowa development commission and the Iowa department of economic development shall consult with the Iowa high technology council in making grants under this paragraph.

Sec. 19. Section 109B.1, subsection 3, Code 1987, is amended to read as follows:

3. Authorize the director to enter into written contracts for the removal of underused, undesirable, or injurious organisms from the waters of the state. The contracts shall specify all terms and conditions desired. Sections ~~109.115,~~ 109B.4, 109B.6, and 109B.14 do not apply to these contracts.

Sec. 20. Section 123.20, subsection 7, Code 1987, is amended to read as follows:

7. To accept intoxicating liquors ordered delivered to the alcoholic beverages division pursuant to ~~section 127.8, subsection 1~~ chapter 809, and offer for sale and deliver ~~such~~ the intoxicating liquors to class "E" liquor control licensees, unless the administrator determines that ~~such~~ the intoxicating liquors may be adulterated or contaminated. If the administrator determines that ~~such~~ the intoxicating liquors may be adulterated or contaminated, the administrator shall order their destruction.

Sec. 21. Section 123.151, Code 1987, is amended to read as follows:

123.151 POSTING NOTICE ON DRUNK DRIVING LAWS REQUIRED.

~~State liquor stores and holders~~ Holders of liquor control licenses, wine permits, or beer permits shall post in a prominent place in the ~~state liquor stores or~~ licensed premises notice explaining the operation of and penalties of the laws which prohibit the operation of a motor vehicle by a person who is intoxicated. The size, print size, location, and content of the notice shall be established by rule of the division.

Sec. 22. Section 135.11, subsection 17, Code 1987, is amended to read as follows:

17. Administer chapters 125, 135A, 135B, 135C, ~~135D,~~ 136A, 136C, 139, 140, 142, 144, and 147A.

Sec. 23. Section 135A.4, subsection 1, Code 1987, is amended to read as follows:

1. To require ~~such~~ reports, make ~~such~~ inspections and investigations, and~~, with the advice of the hospital advisory council,~~ prescribe ~~such regulations~~ rules as the director deems necessary. No reports shall be required, inspections and investigations made, or ~~regulations~~ rules adopted which would have the effect of discriminating against a hospital or other institution or facilities contemplated ~~hereunder~~ under this chapter, solely by reason of the school or system of practice employed or permitted to be employed by physicians ~~therein; provided that such~~ there, if the school or system of practice is recognized by the laws of this state.

Sec. 24. Section 135A.6, Code 1987, is amended to read as follows:

135A.6 SURVEY AND PLANNING ACTIVITIES.

The director ~~is authorized and directed to~~ shall make an inventory of existing hospitals and other health facilities, including public, nonprofit and proprietary hospitals and other health facilities, to survey the need for construction of hospitals and other health facilities, and, on the basis of ~~such~~ the inventory and survey, ~~to~~ shall develop a program for the construction of ~~such~~ public and other nonprofit hospitals and other health facilities~~, as~~ which will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital and other health facility services, and similar services to all the people of the state. ~~In making the inventory and survey and developing a construction program with respect to diagnostic or treatment centers the director shall, in the first instance, advise and consult with a subcommittee of the council, which subcommittee shall consist of the five individual doctors and the individual dentist then serving as members of the council.~~

Sec. 25. Section 135A.9, Code 1987, is amended to read as follows:

135A.9 STATE PLAN.

The director shall, ~~with the advice of the council,~~ prepare and submit to the surgeon general a state plan which shall include the hospital and other health facilities construction program developed under this chapter and which shall provide for the establishment, administration and operation of hospital and other health facilities construction activities in accordance with the requirements of the federal Act and regulations ~~thereunder~~ under it. The director shall, prior to the submission of ~~such~~ the plan to the surgeon general, give adequate publicity to a general description ~~to~~ of all the provisions proposed to be included ~~therein~~, and hold a public hearing at which all persons or organizations with a legitimate interest in ~~such~~ the plan may be given an opportunity to express their views. After approval of the plan by the surgeon general, the director shall make the plan or a copy ~~thereof~~ of it available upon request to all interested persons or organizations. The director shall from time to time review the hospital and other health facilities construction program and submit to the surgeon general any modifications ~~thereof~~ of it which the director ~~may find~~ finds necessary and may submit to the surgeon general ~~such~~ modifications of the state plan, not inconsistent with the requirements of the federal Act, as the director ~~may deem~~ deems advisable.

Sec. 26. Section 159.5, subsection 16, paragraph d, Code 1987, is amended to read as follows:

d. Establish, modify, or repeal rules relating to the frequency ~~for~~ with which facilities where water is placed in sealed containers, including, but not limited to, ice making and bottling facilities, are inspected and tested. The frequency standard shall not be less stringent than the frequency standard for testing of public water supplies under chapter 455B.

Sec. 27. Section 163.26, Code 1987, is amended to read as follows:

163.26 DEFINITIONS.

For the purposes of this division, ~~the following words shall have the meaning ascribed to them in this section: "Garbage"~~ "garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of foods, including animal carcasses or parts ~~thereof~~, and ~~shall include~~ includes all waste material, by-products of a kitchen, restaurant, hotel, or slaughterhouse, every refuse accumulation of animal, fruit, or vegetable matter, liquids or otherwise, except grain not consumed, that is collected from hog sales pen floors in public stockyards and fed under the control of the department of agriculture and land stewardship. Animals or parts of animals, which are processed by slaughterhouses or rendering establishments, and which as part of ~~such~~ the processing are heated to not less than 212 degrees F. for thirty minutes, ~~shall~~ are not ~~be deemed~~ garbage for purposes of this chapter.

Sec. 28. Section 163.30, subsection 3, unnumbered paragraph 3, Code 1987, is amended to read as follows:

~~No~~ A permittee shall not represent more than one dealer. Failure of ~~any such~~ a licensee or permittee to comply with ~~the provisions of~~ this chapter or ~~any~~ a rule made pursuant to this chapter is cause for revocation by the secretary of the permit or license after notice to the alleged offender and the holding of a hearing ~~thereon~~ by the secretary. ~~Such rules and regulations~~ Rules shall be made in accordance with chapter 17A. ~~Any~~ A rule, the violation of which is made the basis for revocation, except temporary emergency rules, shall first have been approved after public hearing as provided in section ~~17A.16~~ 17A.4 after giving twenty days' notice of ~~such~~ the hearing as follows:

Sec. 29. Section 173.2, subsections 4, 8, and 10, Code 1987, are amended to read as follows:

4. The president, or an accredited representative, of the ~~Iowa~~ state horticultural society.

8. The president, or an accredited representative, of the Iowa ~~swine~~ pork producers ~~association~~ council.

10. The president, or an accredited representative, of the Iowa sheep ~~association~~ and wool promotion board.

Sec. 30. Section 177.3, subsection 3, Code 1987, is amended to read as follows:

3. The secretary of agriculture or the secretary's designee.

Sec. 31. Section 178.3, subsection 4, Code 1987, is amended to read as follows:

4. The secretary of agriculture or the secretary's designee.

Sec. 32. Section 186.1, Code 1987, is amended to read as follows:

186.1 MEETINGS AND ORGANIZATION OF SOCIETY.

The state horticultural society shall hold meetings each year, at ~~such~~ times as it may fix, for the transaction of business. The officers and board of directors of the society shall be chosen as provided for in the constitution of the society, for the period and in the manner prescribed therein, but the secretary of agriculture or the secretary's designee shall be a member of the board of directors and of the executive committee. Any vacancy in the offices filled by the society may be filled by the executive committee for the unexpired portion of the term.

Sec. 33. Section 220.104, subsection 2, Code 1987, is amended to read as follows:

2. The authority may issue its bonds and notes for the projects set forth in section ~~220.94~~ 220.102 and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee or agent designated by the authority may enter into agreements to provide for any of the following:

Sec. 34. Section 237A.1, subsection 7, paragraph a, Code 1987, is amended to read as follows:

a. An instructional program administered by a public or nonpublic school system approved or accredited by the department of education or the state board of regents.

Sec. 35. Section 248A.3, subsection 1, Code 1987, is amended to read as follows:

1. The board of parole shall periodically review all applications by persons convicted of criminal offenses and shall recommend to the governor the reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of the rights of citizenship [for persons] who have by their conduct given satisfactory evidence that they will become or continue to be law-abiding citizens.

Sec. 36. Section 256.9, subsection 4, Code 1987, is amended to read as follows:

4. Employ personnel and assign duties and responsibilities of the department. The director shall appoint a deputy director and division administrators deemed necessary. They shall be appointed on the basis of their professional qualifications, experience in administration, and background. Members of the professional staff are not subject to chapter 19A and shall be employed pursuant to section 256.10.

Sec. 37. Section 259.4, subsection 2, Code 1987, is amended to read as follows:

2. Administer legislation pursuant to the ~~Act of Congress enacted by this state~~ federal acts cited in section 259.1, and direct the disbursement and administer the use of funds provided by the federal government and this state for the vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment.

Sec. 38. Section 261.19, Code 1987, is amended to read as follows:

261.19 PAYMENT OF SUBVENTION.

The registrar of the ~~college~~ university of osteopathic medicine and ~~surgery~~ health sciences shall file, not later than August 1 of each year, a certificate of enrollment which shall include the number, names, and addresses of all students enrolled, by class, and shall indicate which students are resident students. If the number of resident students does not equal thirty percent of the total enrollment of a class, the commission shall deduct an amount which equals the actual state contribution per student for each class member under the required percentage. The commission shall compute the amount of the subvention and shall transmit the funds

to the ~~college~~ university of osteopathic medicine and ~~surgery~~ health sciences by August 15 of each year for which funds are appropriated by the general assembly.

Sec. 39. Section 273.2, unnumbered paragraph 3, and subsections 2 and 4, Code 1987, are amended to read as follows:

The area education agency board shall furnish educational services and programs as provided in sections 273.1 to 273.9 and chapter 281 to the pupils enrolled in public or nonpublic schools located within its boundaries which are on the list of ~~approved~~ accredited schools pursuant to section ~~257.25.~~ 256.11. The programs and services provided shall be at least commensurate with programs and services existing on July 1, 1974. The programs and services provided to pupils enrolled in nonpublic schools shall be comparable to programs and services provided to pupils enrolled in public schools within constitutional guidelines.

2. Educational data processing pursuant to section ~~257.10, subsection 14.~~ 256.9, subsection 11.

4. Auxiliary services for nonpublic school pupils as provided in section ~~257.26.~~ 256.12. However, if auxiliary services are provided their funding shall be based on the type of service provided.

Sec. 40. Section 273.3, subsection 20, Code 1987, is amended to read as follows:

20. Pursuant to rules adopted by the state board of education, 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 education and are specifically requested by a school district or ~~approved~~ accredited nonpublic school.

Sec. 41. Section 280A.25, Code 1987, is amended by adding the following new unnumbered paragraph as unnumbered paragraph 1 preceding subsection 1:

NEW UNNUMBERED PARAGRAPH. The director shall:

Sec. 42. Section 285.1, subsection 12, Code 1987, is amended to read as follows:

12. The pro rata cost of transportation shall be based upon the actual cost for all the children transported in all school buses. It shall include one-seventh of the original net cost of the bus and ~~such~~ other items as ~~shall be~~ determined and approved by the director of the department of education but no part of the capital outlay cost for school buses and transportation equipment for which the school district is reimbursed from state funds or that portion of the cost of the operation of ~~any~~ a school bus used in transporting pupils to and from extra-curricular activities shall be included in determining ~~said~~ the pro rata cost. In ~~any~~ a district where, because of unusual conditions, the cost of transportation is in excess of the actual operating cost of the bus route used to furnish transportation to nonresident pupils, the board of the local district may charge a cost equal to the cost of other schools supplying such service to that area, upon receiving approval of the ~~state~~ director of ~~school transportation~~ the department of education.

Sec. 43. Section 285.16, Code 1987, is amended to read as follows:

285.16 "NONPUBLIC SCHOOL" DEFINED.

As used in this chapter, ~~the term~~ "nonpublic school" means those nonpublic schools ~~approved~~ accredited by the department of education as provided in section ~~257.25~~ 256.11 and nonpublic institutions which comply with state board of education standards for providing special education programs.

Sec. 44. Section 291.15, Code 1987, is amended to read as follows:

291.15 ANNUAL REPORT.

The treasurer shall make an annual report to the board at ~~its regular July meeting~~ a regular or special meeting held not later than August 15, which shall show the amount of the general fund and the schoolhouse fund held over, received, paid out, and on hand, the several funds to be separately stated, and the treasurer shall immediately file a copy of this report with the director of the department of education and a copy with the county treasurer.

Sec. 45. Section 301.29, Code 1987, is amended to read as follows:

301.29 "NONPUBLIC SCHOOL" DEFINED.

As used in this chapter, ~~the term~~ "nonpublic school" means those nonpublic schools ~~approved~~ accredited by the department of education as provided in section ~~257.25.~~ 256.11.

Sec. 46. Section 302.1, subsection 5, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 47. Section 312.2, subsection 10, Code 1987, is amended to read as follows:

10. The treasurer of state shall establish a great river road fund and at the request of the state department of transportation, shall credit monthly before making the allotments provided for in this section, sufficient funds to cover the anticipated costs, as identified by the state department of transportation, for the acquisition and construction of eligible highway-associated project components. ~~Reimbursement to this fund shall be made as necessary from the funds appropriated in section 308.4. In no case shall the unreimbursed allotment to the great river road fund exceed one million dollars less the cumulative sum as annually appropriated in section 308.4. Reimbursed funds shall be reallocated in accordance with the provisions of this section.~~

Sec. 48. Section 317.8, Code 1987, is amended to read as follows:

317.8 DUTY OF SECRETARY OF AGRICULTURE OR SECRETARY'S DESIGNEE.

The secretary of agriculture ~~shall be~~ or the secretary's designee is vested with the following duties, powers and responsibilities:

1. The secretary or the secretary's designee shall serve as state weed commissioner, and shall co-operate with all boards of supervisors and weed commissioners, and shall furnish blank forms for reports made by the supervisors and commissioners.

2. The secretary or the secretary's designee may, upon recommendation of the state botanist, temporarily declare noxious any new weed appearing in the state which possesses the characteristics of a serious pest.

3. The secretary or the secretary's designee shall aid the supervisors in the interpretation of the weed law, and make suggestions to promote extermination of noxious weeds.

4. The secretary or the secretary's designee 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. 49. Section 327A.17, Code 1987, is amended to read as follows:

327A.17 RULES.

~~The~~ Pursuant to chapter 17A, the department may ~~by general order or otherwise~~ prescribe rules applicable to liquid transport carriers. The ~~state~~ department may prescribe and enforce safety rules in the operation of liquid transport carriers and require a periodic inspection of the equipment of every liquid transport carrier from the standpoint of enforcement of safety rules, and the equipment shall be at all times subject to inspection by ~~properly authorized representatives of~~ the department.

Sec. 50. Section 327H.20, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The department may enter into agreements with railroad corporations, the United States government, ~~persons,~~ cities, ~~and~~ counties, and other persons for carrying out the purposes of this chapter. Agreements entered into between the department and railroad corporations under this section may require a railroad corporation to reimburse all or part of the costs paid from the railroad assistance fund from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or sidings defined in the agreement. An agreement which does not require the repayment of railroad assistance funds used for rehabilitation

projects shall require the railroad corporation to establish and maintain a separate corporation account to which an amount equal to all or part of the costs paid from the railroad assistance fund shall be credited from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or siding defined in the agreement. However, one-half of the funds credited to the railroad assistance fund shall be expended as nonreimbursable grants for rehabilitation programs. Credits to the corporation account by the railroad corporation may be used for the ~~improvement,~~ restoration, ~~or~~ conservation, improvement, and construction of the railroad corporation's main line, branch lines, switching yards and sidings within the state. The agreement shall stipulate the terms and conditions governing the use of credits to the corporation account as well as a penalty for the use of the account in a manner other than as provided in the agreement.

Sec. 51. Section 331.301, subsection 10, Code 1987, is amended to read as follows:

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 there to cities shall be applicable 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 division III, part 3 of chapter 331, and reference to the council shall be to the board.

Sec. 52. Section 331.323, subsection 2, paragraph b, Code 1987, is amended by striking the paragraph.

Sec. 53. Section 331.502, subsection 10, Code 1987, is amended by striking the subsection.

Sec. 54. Section 331.653, subsection 16, Code 1987, is amended by striking the subsection.

Sec. 55. Section 422.16, subsection 11, paragraph a, Code 1987, is amended to read as follows:

a. Every person or married couple filing a return shall make estimated tax payments if the person's or couple's Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars or more for the taxable year, except that, in the cases of farmers and fishers, the exceptions provided in the Internal Revenue Code of 1954 with respect to making estimated payments ~~shall~~ apply. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the last day of the fourth month of the taxpayer's tax year for which the estimated payments apply. The other installments shall be paid on or before June 30, September 30, and January 31. However, at the election of the person or married couple, any installment of the estimated tax may be paid prior to the date prescribed for its payment. If a person or married couple filing a return has reason to believe that the person's or couple's Iowa income tax may increase or decrease, either for purposes of meeting the requirement to make estimated tax payments or for the purpose of increasing or decreasing estimated tax payments, the person or married couple shall increase or decrease any subsequent estimated tax payments accordingly.

Sec. 56. Section 422.21, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Returns shall be in the form the director ~~may, from time to time, prescribe~~ prescribes, 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~~ is 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 if good cause exists, the director may allow further time for filing returns. The director shall cause to be prepared blank forms for 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 does not relieve the taxpayer from the obligation of making a return that is required. The department may as far as consistent with the Code draft income tax forms 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 1, paragraph "g"~~ shall show the county of the residence of the taxpayer.

Sec. 57. Section 422.45, subsection 32, Code 1987, is amended to read as follows:

32. Gross ~~sale~~ receipts from the sale of raffle tickets for a raffle licensed pursuant to section 99B.5.

Sec. 58. Section 442.13, subsection 14, paragraph b, unnumbered paragraph 4, Code 1987, is amended to read as follows:

If the amount appropriated under this lettered paragraph is insufficient to make the supplemental aid payments, the director of the department of management shall prorate the payments on the basis of the amount appropriated.

Sec. 59. Section 455A.6, subsection 6, paragraph b, Code 1987, is amended to read as follows:

b. Hear appeals in contested cases pursuant to chapter 17A on matters relating to actions taken by the director under chapter ~~83, 83A,~~ 84, 93, 455B, 455C, or 469.

Sec. 60. Section 455C.11, Code 1987, is amended to read as follows:

455C.11 ANNUAL APPROPRIATION.

For the fiscal year commencing July 1, 1979, and each fiscal year thereafter, there is appropriated from the beer and liquor control fund to the Iowa department of public health the sum of one hundred thousand dollars, or so much thereof as may be available, which appropriation shall be made only from the difference between the funds collected from the deposit required on beverage containers containing alcoholic liquor and the funds ~~dispersed~~ disbursed in the payment of the refund value on such beverage containers. The Iowa department of public health shall use the appropriated funds only for the care, maintenance and treatment of alcoholics under chapter 125.

Sec. 61. Section 467A.16, Code 1987, is amended to read as follows:

467A.16 PUBLICATION OF NOTICE.

The notice of hearing on the formation of a subdistrict shall be by publication once each week for two consecutive weeks in some newspaper of general circulation published in the county ~~(or district)~~, the last of which shall be not less than ten days prior to the day set for the hearing on the petition. Proof of such service shall be made by affidavit of the publisher, and be on file with ~~[the]~~ the secretary of the district at the time the hearing begins.

Sec. 62. Section 509B.3, subsection 6, paragraph b, Code 1987, is amended to read as follows:

b. At the end of the period for which contributions were made if the employee or member fails to make timely payment of a required contribution and if proper notice is given as provided in section 509B.5, subsection 2.

Sec. 63. Section 514F.1, Code 1987, is amended to read as follows:

514F.1 UTILIZATION AND COST CONTROL REVIEW COMMITTEES.

The boards of examiners under chapters 148, 150, 150A, 151, and 153 shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees. Persons governed by the various chapters of Title XX of the Code and self-insurers for health care benefits to employees may utilize the services of

the utilization and cost control review committees upon the payment of a reasonable fee for the services, to be determined by the respective boards of examiners. The respective boards of examiners under chapters 148, 150, 150A, 151, and 153 shall adopt rules necessary and proper for the implementation of this section pursuant to chapter 17A. It is the intent of this general assembly that conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.

Sec. 64. Section 515.20, Code 1987, is amended to read as follows:

515.20 GUARANTY CAPITAL.

A mutual company organized under this chapter may establish and maintain guaranty capital of at least fifty thousand dollars made up of multiples of ten thousand dollars, divided into shares of not less than fifty dollars each, to be invested as provided for the investment of insurance capital and funds by section 515.35. Guaranty shareholders shall be members of the corporation, and provision may be made for representation of the shareholders of the guaranty capital on the board of directors of the corporation. The representation shall not exceed one-third of the membership of the board. Guaranty shareholders in a mutual ~~companies~~ company are subject to the same regulations of law relative to their right to vote as apply to its policyholders. The guaranty capital shall be applied to the payment of the legal obligations of the corporation only when the corporation has exhausted its assets in excess of the unearned premium reserve and other liabilities. If the guaranty capital is thus impaired, the directors may restore the whole, or any part of the capital, by assessment on ~~its~~ the corporation's policyholders as provided for in section 515.18. By a legal vote of the policyholders of the corporation at any regular or special meeting of the policyholders of the corporation, the guaranty capital may be fully retired or may be reduced to an amount of not less than fifty thousand dollars, if the net surplus of the corporation together with the remaining guaranty capital is equal to or exceeds the amount of minimum assets required by this chapter for such companies, and if the commissioner of insurance consents to the action. Due notice of the proposed action on the part of the corporation shall be included in the notice given to policyholders and shareholders of any annual or special meeting and notice of the meeting shall also be given in accordance with the corporation's articles of incorporation. A company with ~~the~~ guaranty capital, which has ceased to do business, shall not distribute among its shareholders or policyholders any part of its assets, or guaranty capital, until it has fully performed, or legally canceled, all of its policy obligations. Shareholders of the guaranty capital are entitled to interest on the par value of their shares at a rate to be fixed by the board of directors and approved by the commissioner, cumulative, payable semiannually, and payable only out of the surplus earnings of the company. However, the surplus account of the company shall not be reduced by the payment of the interest below the figure maintained at the time the guaranty capital was established. In addition, the interest payment shall not be made unless the surplus assets remaining after the payment of the interest at least equal the amount required by the statutes of Iowa to permit the corporation to continue in business. In the event of the dissolution and liquidation of a corporation having guaranty capital under this section, the shareholders of the capital are entitled, after the payment of all valid obligations of the company, to receive the par value of their respective shares, together with any unpaid interest on their shares, before there may be any distribution of the assets of the corporation among its policyholders. These provisions are in addition to and independent of the provisions contained in section 515.19.

Sec. 65. Section 521A.2, subsection 3, paragraph c, Code 1987, is amended to read as follows:

c. With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries ~~than permitted pursuant to paragraphs "a" and "b". However~~, if after the investment the insurer's

surplus as regards policyholders ~~shall be~~ is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Sec. 66. Section 521A.4, subsection 1, Code 1987, is amended to read as follows:

1. REGISTRATION. An insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards which are substantially similar to those contained in this section and section 521A.5, subsection 1, paragraph "a", and are adopted by statute or regulation in the jurisdiction of its domicile. The insurer shall also file a copy of the summary of its registration statement as required by subsection 4 in each state in which that insurer is authorized to do business if requested to do so by the commissioner of that state. An insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration and annually thereafter by March 31 of each year for the previous calendar year unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of the company's domiciliary jurisdiction.

Sec. 67. Section 521A.11A, subsection 5, Code 1987, is amended to read as follows:

5. To the extent that a person liable under subsection 3 is insolvent or otherwise fails to pay claims due from the person pursuant to this section, the person's parent corporation, holding company, affiliate, or other person who otherwise controlled it at the time the distribution was paid, is separately liable for ~~the~~ its share of any resulting deficiency in the amount recovered from the parent corporation, holding company, affiliate, or other person who otherwise controlled it.

Sec. 68. Section 546.6, Code 1987, is amended to read as follows:

546.6 RACING AND GAMING DIVISION.

The racing and gaming division shall combine and coordinate the supervision of pari-mutuel betting and the conducting of games of skill, games of chance, or raffles in the state. The division shall enforce and implement chapters 99B and 99D. The division is headed by the administrator of racing and gaming who shall be appointed pursuant to section 99D.6. The state racing commission shall perform duties within the division as prescribed in chapter 99D.

Sec. 69. Section 595.10, subsection 1, Code 1987, is amended to read as follows:

1. A judge of the supreme court, court of appeals, or district court, including a district associate judge, or a judicial magistrate, and including a senior judge as defined in section 602.9202, subsection 1.

Sec. 70. Section 601K.1, subsection 3, Code 1987, is amended to read as follows:

3. Division ~~of~~ on the status of women.

Sec. 71. Section 601K.12, Code 1987, is amended to read as follows:

601K.12 COMMISSION ~~CREATED~~ OF SPANISH-SPEAKING PEOPLE — TERMS — COMPENSATION.

~~A~~ The commission of Spanish-speaking people ~~which shall consist~~ consists of nine members, appointed by the governor from a list of nominees submitted by the governor's Spanish-speaking peoples task force. The members of the commission shall be appointed during the month of June and shall serve for terms of two years commencing July 1 of each odd-numbered year. Members appointed shall continue to serve until their respective successors are appointed. Vacancies in the membership of the commission shall be filled by the original appointing authority and in the manner of the original appointments. Members shall receive actual

expenses incurred while serving in their official capacity. Members may also be eligible to receive compensation as provided in section 7E.6.

Sec. 72. Section 601K.51, subsections 2 and 3, Code 1987, are amended to read as follows:

2. "Division" means the division ~~of~~ on the status of women of the department of human rights.

3. "Administrator" means the administrator of the division ~~of~~ on the status of women of the department of human rights.

Sec. 73. Section 601K.94, subsection 2, Code 1987, is amended to read as follows:

2. Notwithstanding subsection 1, a public agency shall establish an advisory board or may contract with a delegate agency to assist the governing board. The advisory board or delegate agency board shall be composed of the same type of membership as a board of directors for community action agencies under ~~section 601K.95~~ subsection 1. However, the public agency acting as the community action agency shall determine annual program budget requests.

Sec. 74. Section 601K.112, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A commission on the deaf is established, consisting of seven members appointed by the governor, subject to confirmation by the senate. Lists of nominees for appointment to membership on the commission shall be submitted by the Iowa association ~~for~~ of the deaf, the Iowa school for the deaf, and the commission of persons with disabilities. At least four members shall be persons who cannot hear human speech with or without use of amplification. All members shall reside in Iowa. The members of the commission shall appoint the chairperson of the commission. A majority of the members of the commission ~~shall constitute~~ constitutes a quorum.

Sec. 75. Section 601K.114, subsections 1 through 3, Code 1987, are amended to read as follows:

1. Interpret to communities and to interested persons the needs of the deaf and how their needs may be met through the use of ~~resource workers~~ service providers.

2. Obtain without additional cost to the state available office space in public and private agencies which ~~resource workers~~ service providers may utilize in carrying out service projects for deaf persons.

3. Establish service projects for deaf persons throughout the state. Projects shall not be undertaken by ~~resource workers~~ service providers for compensation which would duplicate existing services when those services are available to deaf people through paid interpreters or other persons able to communicate with deaf people.

As used in this section, "service projects" includes interpretation services for persons who are deaf, referral and counseling services for deaf people in the areas of adult education, legal aid, employment, medical, finance, housing, recreation, and other personal assistance and social programs.

"~~Resource workers~~ Service providers" are persons who, ~~on a volunteer basis or~~ for compensation or on a volunteer basis, carry out service projects.

Sec. 76. Section 602.6404, subsection 1, Code 1987, is amended to read as follows:

1. A magistrate shall be ~~an elector~~ a resident of the county of appointment during the magistrate's term of office. A magistrate shall serve within the judicial district in which appointed, as directed by the chief judge, provided that the chief judge may assign a magistrate to hold court outside of the county of the magistrate's residence only if it is necessary for the orderly administration of justice. A magistrate is subject to reassignment under section 602.6108.

Sec. 77. Section 602.8102, subsection 31, Code 1987, is amended by striking the subsection.

Sec. 78. Section 602.8102, subsection 46, Code 1987, is amended to read as follows:

46. Carry out duties relating to reprieves, pardons, commutations, remission of fines and forfeitures, and restoration of citizenship as provided in sections 248A.5 and 248A.6.

Sec. 79. Section 610.1, Code 1987, is amended to read as follows:

610.1 AFFIDAVIT — CONTENTS — TOLLING OF LIMITATIONS.

A court of the district court, court of appeals, or supreme court shall authorize the commencement, prosecution, or defense of a suit, action, proceeding, or appeal, whether civil or criminal, without the prepayment of fees, costs, or security upon a showing that the person is unable to pay such costs or give security. The person shall submit an affidavit stating the nature of the suit, action, proceeding, or appeal and the affiant's belief that there is an entitlement to redress. Such affidavit shall also include a brief financial statement showing the person's inability to pay costs, fees, or give security. Any authorization to proceed without prepayment of fees, costs, or security under this chapter may be made by the court without hearing. The filing of an affidavit to proceed without the prepayment of fees, costs, or security tolls the applicable statute of limitations. Upon the denial of an application and affidavit to proceed without the prepayment of fees, costs, or security, the person shall have the remainder of the limitations period in which to pay fees, costs, or give security. This section does not allow the deferral of the cost of a transcript.

Sec. 80. Section 654.15, subsection 2, paragraph c, subparagraph (4), Code 1987, is amended to read as follows:

(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 ~~deferred interest and then against the~~ principal due on the written instrument.

Sec. 81. Section 679A.10, Code 1987, is amended to read as follows:

679A.10 FEES AND EXPENSES OF ARBITRATION.

Unless otherwise provided in the agreement to arbitrate, and except for ~~council~~ counsel fees, the arbitrators' expenses and fees and any other expenses incurred in the conduct of the arbitration shall be paid as provided in the award.

Sec. 82. Section 725.3, Code 1987, is amended to read as follows:

725.3 PANDERING.

1. A person who persuades, arranges, coerces, or otherwise causes another, not a minor, to become a prostitute~~,~~ or to return to the practice of prostitution after having abandoned it, or keeps or maintains any premises for the purposes of prostitution or takes a share in the income from such premises knowing the character and content of such income, commits a class "D" felony.

2. A person who persuades, arranges, coerces, or otherwise causes a minor to become a prostitute~~,~~ or to return to the practice of prostitution after having abandoned it, or keeps or maintains any premises for the purpose of prostitution involving minors or knowingly shares in the income from such premises knowing the character and content of such income, commits a class "C" felony.

Sec. 83. Sections 11.29 and 311.31, Code 1987, are repealed.

Approved May 5, 1987

CHAPTER 116

HOMESTEAD PLATTING AND EXEMPTION

S.F. 179

AN ACT to provide that a single person may claim a homestead exempt from judicial sale.

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

Section 1. Section 561.4, Code 1987, is amended to read as follows:

561.4 SELECTING — PLATTING.

The owner, husband~~,~~ or wife, or a single person, may select the homestead and cause it to be platted, but a failure to do so shall not render the same liable when it otherwise would not be, and a selection by the owner shall control. When selected, it shall be designated by a legal description, or if ~~incapable thereof~~ impossible it shall be marked off by permanent, visible monuments, and the description ~~thereof~~ shall give the direction and distance of the starting point from some corner of the dwelling, which description, with the plat, shall be filed and recorded by the recorder of the proper county in the homestead book, which shall be, as nearly as may be, in the form of the record books for deeds, with an index kept in the same manner.

Sec. 2. Section 561.5, Code 1987, is amended to read as follows:

561.5 PLATTED BY OFFICER HAVING EXECUTION.

Should the homestead not be platted and recorded at the time levy is made upon real property in which a homestead is included, the officer having the execution shall give notice in writing to ~~said~~ the owner~~, and the spouse of such owner,~~ or owners if found within the county, to plat and record the same within ten days after service ~~thereof~~; after which time ~~said~~ the officer shall cause ~~said~~ the homestead to be platted and recorded ~~as above~~, and the expense ~~thereof~~ shall be added to the costs in the case.

Sec. 3. Section 561.16, Code 1987, is amended to read as follows:

561.16 EXEMPTION.

The homestead of every person is exempt from judicial sale where there is no special declaration of statute to the contrary~~, provided that persons.~~ Persons who reside together as a single household unit are entitled to claim in the aggregate only one homestead to be exempt from judicial sale. A single person may claim only one homestead to be exempt from judicial sale. For purposes of this section, "household unit" means all persons of whatever ages, whether or not related, who habitually reside together in the same household as a group.

Approved May 6, 1987

CHAPTER 117

FOSTER CARE TRAINING AND CONFIDENTIALITY

S.F. 290

AN ACT relating to the requirement for foster parent training, confidentiality requirements for foster care review boards, and incorporating a penalty.

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

Section 1. Section 237.5A, Code 1987, is amended to read as follows:

237.5A FOSTER PARENT TRAINING.

As a condition for initial licensure, each individual licensee shall complete twelve hours of foster parent training offered or approved by the department. Prior to annual renewal of licensure, each individual licensee shall also complete six hours of foster parent training. The training shall include but is not ~~be~~ limited to physical care, education, learning disabilities, referral

to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

Sec. 2. Section 237.21, subsection 3, Code 1987, is amended to read as follows:

3. Members of the state board and local boards and the employees of the department are subject to standards of confidentiality pursuant to sections 217.30, ~~and~~ 235A.15, and 600.16. Members of the state and local boards and employees of the department who disclose information or records of the board or department, other than as provided in subsection 2, are guilty of a ~~serious~~ simple misdemeanor.

Approved May 6, 1987

CHAPTER 118

CORRECTIONAL PROGRAMS FOR OWI OFFENDERS AND OTHERS

S.F. 469

AN ACT relating to the confinement and treatment of persons convicted of a violation of operating a motor vehicle while intoxicated by requiring counties to provide temporary confinement for offenders under the supervision of the department of corrections who violate the conditions of treatment programs, by providing that a work release program may include out-of-state work or treatment placement, by specifying that an offender committing a third offense shall serve the minimum thirty-day term in the county jail, and may be sentenced to up to one year in the county jail, by providing that a person convicted of a second or subsequent offense shall be ordered to undergo a substance abuse evaluation, by providing that a person convicted of a third or subsequent offense or an offender whose substance abuse evaluation recommended treatment may be sentenced to the custody of the department of corrections who shall assign the person to a facility pursuant to section 246.513 or to treatment in the community under supervision of the department, by requiring judicial district departments of correctional services to provide programs for offenders under chapter 321J, by providing that a requirement for a mandatory minimum sentence for repeat offenders shall not apply to offenders under chapter 321J, and by providing that an offender under chapter 321J who is under the supervision of the department of corrections shall receive a clothing allowance and expense money allotted to inmates when the offender is assigned to a community-based corrections program.

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

Section 1. Section 246.513, subsection 1, unnumbered paragraph 1, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

The department of corrections in cooperation with judicial district departments of correctional services shall establish in each judicial district bed space for the confinement and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The offenders shall first be assigned to the Iowa medical classification facility at Oakdale for classification and after classification may be assigned to a residential facility operated by any judicial district department of correctional services. The facilities established shall meet all the following requirements:

Sec. 2. Section 246.513, Code 1987, is amended by adding the following new subsection after subsection 3, and renumbering the subsequent subsection:

NEW SUBSECTION. 4. Upon request by the director a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a treatment program if space is available. The department shall negotiate a reimbursement rate with each county for the temporary confinement of offenders allegedly violating the conditions of assignment to a treatment program who are in the custody of the director or who are housed or supervised by the judicial district department of correctional services. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director.

Sec. 3. Section 246.901, Code 1987, is amended to read as follows:

246.901 PROGRAM.

The Iowa department of corrections, in consultation with the board of parole, shall establish a work release program under which the board of parole may grant inmates sentenced to an institution under the jurisdiction of the department the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions the program may also include an out-of-state work or treatment placement or release for the purpose of seeking employment and attendance at an educational institution. An inmate may be placed on work release status in the inmate's own home, under appropriate circumstances, which may include child care and housekeeping in the inmate's own home.

Sec. 4. Section 321J.2, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. A class "D" felony for a third offense and each subsequent offense and shall be imprisoned in the county jail ~~or community-based correctional facility~~ for a determinate sentence of not more than one year but not less than thirty days, ~~which minimum term cannot be suspended notwithstanding section 901.5, subsection 3, and section 907.3, subsection 2~~ or committed to the custody of the director of the department of corrections, and assessed a fine of not less than seven hundred fifty dollars. The minimum jail term of thirty days cannot be suspended notwithstanding section 901.5, subsection 3, and section 907.3, subsection 2, however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest. If a person is committed to the custody of the director of the department of corrections pursuant to this paragraph and the sentence is suspended, the sentencing court shall order that the offender serve the thirty-day minimum term in the county jail. If the sentence which commits the person to the custody of the director of the department of corrections is later imposed by the court, all time served in a county jail toward the thirty-day minimum term shall count as time served toward the sentence which committed the person to the custody of the director of the department of corrections. A person convicted of a second or subsequent offense shall be ordered to undergo a substance abuse evaluation prior to sentencing. If a person is convicted of a third or subsequent offense or if the evaluation recommends treatment, the offender may be committed to the custody of the director of the department of corrections, who, if the sentence is not suspended, shall assign the person to a facility pursuant to section 246.513 or the offender may be committed to treatment in the community under the provisions of section 907.6.

Sec. 5. Section 321J.3, subsection 1, Code 1987, is amended to read as follows:

1. On a conviction for a violation of section 321J.2, the court may order the defendant to attend a course for drinking drivers under section 321J.22. If the defendant submitted to a chemical test on arrest for the violation of section 321J.2 and the test indicated an alcohol concentration of .20 or higher, or if the defendant is charged with a second or subsequent offense, the court shall order the defendant, on conviction, to undergo a substance abuse evaluation and the court may order the defendant to follow the recommendations proposed in the

substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court-ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence. The court may prescribe the length of time for the evaluation and treatment or it may request that the area school conducting the course for drinking drivers which the person is ordered to attend or the treatment program to which the person is committed immediately report to the court when the person has received maximum benefit from the course for drinking drivers or treatment program or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44. A defendant who fails to carry out the order of the court or who fails to successfully complete or attend a course for drinking drivers or an ordered substance abuse treatment program shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court.

Sec. 6. Section 905.7, subsections 1 and 3, Code 1987, are amended to read as follows:

1. Provide pretrial release, presentence investigations, probation services, parole services, work release services, programs for offenders convicted under chapter 321J, and residential treatment centers throughout the district, as necessary.

3. Follow practices and procedures which maximize the availability of federal funding for the district department's community-based correctional program and assist the department of transportation which is authorized to follow practices and procedures designed to maximize the availability of federal funding for the enforcement and implementation of drunk driver prevention and other highway safety programs.

Sec. 7. Section 905.10, Code 1987, is amended to read as follows:

905.10 POSTINSTITUTIONAL PROGRAMS AND SERVICES.

Persons participating in postinstitutional services, except those persons paroled and those persons contracted to the district department, remain under the jurisdiction of the Iowa department of corrections. The district department of correctional services shall maintain adequate personnel to provide postinstitutional residential services, programs for offenders convicted under chapter 321J, parole services, and supervision of persons transferred into the state under the interstate compact for supervision of parolees and probationers.

Sec. 8. Section 906.5, unnumbered paragraph 2, Code 1987, is amended to read as follows:

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if ~~the~~:

1. The sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

2. The sentence being served is on a conviction for operating a motor vehicle while under the influence of alcohol or a drug under chapter 321J.

Sec. 9. Section 906.9, Code 1987, is amended to read as follows:

906.9 CLOTHING, TRANSPORTATION, AND MONEY.

When an inmate is discharged, paroled, ~~or~~ placed on work release, or placed in a community-based correctional program under section 246.513, the warden or superintendent shall furnish the inmate, at state expense, appropriate clothing and transportation to the place in this state indicated in the inmate's discharge, parole, ~~or~~ work release plan, or community-based corrections assignment. When an inmate is discharged, paroled, ~~or~~ placed on work release, or placed in a community-based correctional program under section 246.513, the warden or superintendent shall provide the inmate, at state expense, money in accordance with the following schedule:

1. Upon discharge or parole, one hundred dollars.
2. Upon being placed on work release, fifty dollars.
3. Upon going from an educational work release to parole or discharge, fifty dollars.
4. Upon being placed in a community-based correctional program under section 246.513, fifty dollars.

Those inmates receiving payment under subsection 2, ~~or~~ 3, or 4 ~~of this section~~ shall not be eligible for payment under subsection 1 ~~of this section~~ unless they are returned to the institution. The warden or superintendent shall maintain an account of all funds expended pursuant to this section.

Approved May 6, 1987

CHAPTER 119

THERAPEUTICALLY CERTIFIED OPTOMETRISTS

S.F. 216

AN ACT allowing therapeutically certified optometrists to employ and supply certain pharmaceutical agents and to treat certain conditions.

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

Section 1. Section 154.1, unnumbered paragraph 3, Code 1987, is amended to read as follows:

Therapeutically certified optometrists may employ the following pharmaceuticals; topical and oral antimicrobial agents, topical and oral antihistamines, topical and oral antiglaucoma agents, topical anti-inflammatory agents, topical and oral analgesic agents and topical anesthetic agents and notwithstanding section 147.107, may without charge supply any of the above listed pharmaceuticals to commence a course of therapy. 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, subsection 6, Code 1987, is amended to read as follows:

6. 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. Effective July 1, 1987, the board shall require that therapeutically certified optometrists prior to the utilization of topical and oral antiglaucoma agents, oral antimicrobial agents and oral analgesic agents shall complete an additional forty-four hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, 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. Upon completion of the additional forty-four hours of education, a therapeutically certified optometrist shall also pass an oral or written examination prescribed by the board. The board shall suspend the optometrists therapeutic certificate for failure to comply with this subsection by July 1, 1988.

The board shall adopt rules requiring an additional twenty hours per biennium of continuing education in the treatment and management of ocular disease for all therapeutically certified optometrists. The department of ophthalmology of the school of medicine of the State University of Iowa shall be one of the providers of this continuing education.

Sec. 3. Section 155.6, Code 1987, is amended to read as follows:

155.6 SALES BY UNLICENSED PERSON.

~~No~~ An unlicensed person or licensed pharmacist shall not allow anyone who is not a licensed pharmacist to fill the prescriptions of licensed physicians, dentists, podiatrists, therapeutically certified optometrists, or veterinarians, except a person who is registered with the board of pharmacy examiners pursuant to the practical experience requirements of this chapter and unless the same be done under the immediate personal supervision of a licensed pharmacist. All drugs and medicines requiring a prescription which are sold, exposed or offered for sale shall be under the immediate personal supervision of a licensed pharmacist at all times except for temporary absences. However, during a period of temporary absence of a licensed pharmacist, no drugs or medicines requiring a prescription shall be sold or offered for sale in the pharmacy except proprietary medicines or domestic remedies.

Sec. 4. Section 155.29, subsection 3, Code 1987, is amended to read as follows:

3. For the purpose of obtaining a prescription drug, falsely assume the title of or claim to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatrist, therapeutically certified optometrist, veterinarian, or other authorized person.

Sec. 5. Section 155.35, Code 1987, is amended to read as follows:

155.35 NAME AND STRENGTH OF DRUG ON PRESCRIPTION LABEL.

Unless the prescription indicates to the contrary, the label of any drug sold and dispensed on the prescription of a licensed physician, therapeutically certified optometrist, dentist or podiatrist shall include the name and strength of the drug.

Sec. 6. Section 155.36, Code 1987, is amended to read as follows:

155.36 NONEQUIVALENT DRUG OR DRUG PRODUCT LIST.

The board shall be responsible for designating drugs or drug products which, because of the lack of demonstrated bioavailability, would pose an actual threat to the health, safety, and welfare of the people of Iowa if ~~such~~ the drugs or drug products were subject to dispensing under ~~the provision of~~ section 155.37. Within one hundred eighty days after July 1, 1976, the board shall cause to be issued a list of those drugs or drug products which have been demonstrated as being nonequivalent and are not interchangeable as determined by the federal food and drug administration. The board shall mail a copy of the nonequivalent drug or drug product list to each pharmacy registered with it and each physician, dentist, podiatrist and veterinarian licensed to practice in this state. Thereafter, the board shall from time to time make additions to or deletions from the nonequivalent drug or drug product list as determined by the

federal food and drug administration. Notification of ~~such~~ additions or deletions shall be made promptly to each pharmacist registered with the board and each physician, dentist, podiatrist, therapeutically certified optometrist, and veterinarian licensed to practice in this state.

Sec. 7. Section 155.37, subsection 1, paragraphs a and b, Code 1987, are amended to read as follows:

1. a. If a physician, dentist, podiatrist, therapeutically certified optometrist, or veterinarian prescribes, either in writing or orally, a drug by its brand or trade name and does not specifically state that only that designated brand or trade name drug product is to be dispensed, and if the pharmacy to which the prescription is presented or communicated has in stock one or more other drug products with the same generic name and demonstrated bioavailability as the one prescribed, the pharmacist may exercise professional judgment in the economic interest of the patient or the patient's adult representative who is purchasing the prescription by selecting a drug product generically equivalent to but of lesser cost than the one prescribed for dispensing and sale to the patient. If the pharmacist does so, the pharmacist shall inform the patient or the patient's adult representative of the savings which the patient will obtain as a result of substitution and pass on to the patient or the patient's representative no less than fifty percent of the difference in actual acquisition costs between the drug prescribed and the drug substituted.

b. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 239, 249, 249A, 252, 253, or 255, the pharmacist shall exercise professional judgment by selecting a drug product of the same generic name and demonstrated bioavailability but of a lesser cost than the one prescribed for dispensing and sale to the person unless the physician, therapeutically certified optometrist, dentist, or podiatrist specifically states that only that designated brand or trade name drug product is to be dispensed. However, a pharmacy to which the prescription is presented or communicated is not required to substitute a drug product of the same generic name and demonstrated bioavailability but of lesser cost unless the pharmacy has in stock one or more such drug products.

Approved May 7, 1987

CHAPTER 120

MOTOR VEHICLE SPEED LIMITS AND SAFETY BELTS

S.F. 311

AN ACT relating to motor vehicle law including speed limits by limiting the special treatment of speeding violations of ten miles per hour or less over the legal speed limit to speed zones equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour, by requiring the state department of transportation to adopt rules providing exemptions for mandatory seat belt requirements under certain circumstances and by increasing the speed limit to sixty-five miles per hour on fully controlled-access, divided, multilaned highways including the interstate highway system, and providing penalties and a conditional effective date.

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

Section 1. Section 321.210, unnumbered paragraph 10, Code 1987, is amended to read as follows:

The department shall not consider or assess any points for speeding violations of ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour in determining a license suspension under this section. This paragraph shall apply to only the first two such violations which occur within any twelve-month period.

Sec. 2. Section 321.285, subsection 8, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Notwithstanding any other speed restrictions, the speed ~~limits~~ limit for all vehicular traffic, except vehicles subject to the provisions of section 321.286 on fully controlled-access, divided, multilaned highways including the national system of interstate highways designated by the federal highway administration and this state (23 U.S.C. sec. 103 (e) ~~1977~~) ~~shall be fifty-five~~ is sixty-five miles per hour. However, the department or ~~the~~ cities~~,~~ with the approval of the department~~,~~ may establish a lower speed limit upon such highways located within the corporate limits of ~~any~~ a city and used as city alternate routes, commonly referred to as "freeways." For the purposes of this subsection a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. ~~It is further provided that a~~ A minimum speed of forty miles per hour, road conditions permitting, ~~shall be~~ is established on the highways referred to in this subsection.

Sec. 3. Section 321.286, subsection 1, Code 1987, is amended to read as follows:

1. ~~Fifty-five~~ Sixty-five miles per hour on all fully controlled-access, divided, multilaned highways including interstate highways.

Sec. 4. Section 321.287, Code 1987, is amended to read as follows:

321.287 BUS SPEED LIMITS.

~~No~~ A passenger-carrying motor vehicle used as a common carrier~~, except school buses,~~ shall not be driven upon the highways at a ~~greater rate of~~ speed ~~than fifty-five miles per hour at any time~~ in excess of the posted maximum speed limit. ~~No~~ A school bus shall not be operated in violation of section 321.377.

Sec. 5. Section 321.445, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall adopt rules pursuant to chapter 17A providing exceptions from application of subsections 1 and 2 for front seats and front seat passengers of motor vehicles owned, leased, rented, or primarily used by physically handicapped persons who use collapsible wheelchairs.

Sec. 6. Section 321A.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The abstract of operating record provided under this section shall designate which speeding violations are for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed limit equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour.

Sec. 7. Section 507B.4, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 12. Failure of a person to comply with section 516B.3.

Sec. 8. NEW SECTION. 516B.3 MINOR TRAFFIC VIOLATIONS NOT CONSIDERED IN ESTABLISHING RATES.

1. The commissioner shall require that insurance companies transacting business in this state not consider speeding violations for ten miles per hour or less over the legal speed limit in speed zones that have a legal speed equal to or greater than thirty-five miles per hour but not greater than fifty-five miles per hour for the purpose of establishing rates for motor vehicle insurance charged by the insurer and shall require that insurance companies not cancel or refuse to renew any such policy for such violations. In any twelve-month period, this section applies only to the first two such violations which occur.

2. If the rate for motor vehicle insurance is based on an operating record of a period longer than twelve months in length, the twelve-month periods under subsection 1 shall not overlap.

Sec. 9. Section 805.8, subsection 2, paragraph g, Code 1987, is amended to read as follows:

g. (1) For excessive speed violations when not more than five miles per hour in excess of the limit under sections 111.36, 321.236, subsections 5 and 11, 321.285, 321.286 and 321.287, the scheduled fine is ten dollars.

(2) Excessive speed in conjunction with a violation of section 321.278 is not a scheduled violation, whatever the amount of excess speed.

(3) For excessive speed violations when in excess of the limit under ~~those~~ sections 111.36, 321.236, subsections 5 and 11, 321.285, 321.286, and 321.287 by five or less miles per hour the fine is ten dollars, by more than five and not more than ten miles per hour the fine is twenty dollars, by more than ten and not more than fifteen miles per hour the fine is thirty dollars, by more than fifteen and not more than twenty miles per hour the fine is forty dollars, and by more than twenty miles per hour the fine is forty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

(4) Notwithstanding subparagraphs (1) and (3), for excessive speed violations in speed zones greater than fifty-five miles per hour when in excess of the limit by five miles per hour or less the fine is ten dollars, by more than five and not more than ten miles per hour the fine is twenty dollars, by more than ten and not more than fifteen miles per hour the fine is forty dollars, by more than fifteen and not more than twenty miles per hour the fine is sixty dollars, and by more than twenty miles per hour the fine is sixty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

(5) Excessive speed in whatever amount by a school bus is not a scheduled violation under any section listed in a subparagraph of this paragraph "g".

Sec. 10. Section 516B.3, created under this Act, applies to insurance policies which are issued or renewed on or after July 1, 1987. Section 6 of this Act applies to abstracts of operating records issued on or after July 1, 1987.

Sec. 11. CONDITIONAL EFFECTIVE DATE AND APPLICATION. This Act takes effect from and after the date of its enactment or the date federal legislation which modifies 23 U.S.C.§ 154 by approving speed limits of at least sixty-five miles per hour becomes law, whichever occurs later. If the modification to 23 U.S.C.§ 154 allowing speed limits of at least sixty-five miles per hour does not apply to all fully controlled-access, divided, multilaned highways, this Act, except for sections 1, 4, 5, 6, 7, 8, 9 and 10, applies only to such highways or sections of

highways for which a sixty-five mile per hour speed limit is permissible under the modification to 23 U.S.C. § 154 and subsequent modifications to 23 U.S.C.§ 154.

Approved May 12, 1987

CHAPTER 121

COURT APPOINTED ADVOCATES FOR CHILDREN

H.F. 515

AN ACT relating to the appointment of court appointed special advocates, and providing an effective date.

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

Section 1. Section 232.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Court appointed special advocate" means a person duly certified by the judicial department for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

Sec. 2. Section 232.2, subsection 20, Code 1987, is amended to read as follows:

20. "Guardian ad litem" means a person appointed by the court to represent the interests of ~~the~~ a child in any judicial proceeding to which the child is a party, and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions pursuant to section 232.54, subsections 1 and 4, and section 232.103, subsection 2, paragraph "c".

Sec. 3. Section 232.13, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

232.13 STATE LIABILITY.

1. For purposes of chapter 25A, the following persons shall be considered state employees:

a. A child given a work assignment of value to the state or the public under this chapter.

b. A court appointed special advocate.

2. The state of Iowa is exclusively liable for and shall pay any compensation becoming due a person under section 85.59.

Sec. 4. Section 232.89, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The court may appoint a special advocate, as defined in section 232.2, subsection 9A, to act as guardian ad litem. The court appointed special advocate 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. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the court appointed special advocate shall file reports to the court as required by the court.

Sec. 5. Section 232.126, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The court may appoint a special advocate, as defined in section 232.2, subsection 9A, to act as guardian ad litem. The court appointed special advocate 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. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the court appointed special advocate shall file reports to the court as required by the court.

Sec. 6. Section 910A.15, Code 1987, is amended to read as follows:

910A.15 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. However, the guardian ad litem shall file reports to the court as required by the court.

References in this section to a guardian ad litem shall be interpreted to include references to a court appointed special advocate as defined in section 232.2, subsection 9A.

Sec. 7. This Act, being deemed of immediate importance, takes effect ten days after the date of enactment.

Approved May 13, 1987

CHAPTER 122

CONTROLLED SUBSTANCES

H.F. 492

AN ACT regarding schedule I, schedule II, and schedule IV controlled substances.

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

Section 1. Section 204.204, subsection 9, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. N-[1-(2-phenylethyl)-4-piperidyl] N-(4-fluorophenyl)-propanamide (para-fluorofentanyl), its optical isomers, salts, and salts of isomers.

Sec. 2. Section 204.206, subsection 3, Code 1987, is amended by adding the following new paragraph and relettering the subsequent paragraphs:

NEW PARAGRAPH. b. Alfentanyl.

Sec. 3. Section 204.210, subsection 3, Code 1987, is amended by adding the following new paragraphs:

NEW PARAGRAPH. at. Midazolam.

NEW PARAGRAPH. au. Quazepam.

Approved May 13, 1987

CHAPTER 123

ABANDONMENT OF VEHICLES

H.F. 262

AN ACT relating to the number of days wherein a vehicle shall not be considered abandoned.

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

Section 1. Section 321.89, subsection 1, paragraph b, unnumbered paragraph 2, Code 1987, is amended to read as follows:

However a vehicle shall not be considered abandoned for a period of ~~fifteen~~ five days if its owner or operator is unable to move the vehicle and notifies the police authority responsible for the geographical location of the vehicle and requests assistance in the removal of the vehicle.

Approved May 13, 1987

CHAPTER 124

MOTORBOAT OPERATION

H.F. 142

AN ACT relating to the operation of motorboats.

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

Section 1. Section 106.31, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. A motorboat equipped with any power unit mounted or carried aboard the vessel may be operated at a no-wake speed on all artificial lakes of more than one hundred acres in size under the custody of the ~~commission~~ department. However, on Big Creek lake and lake Macbride, a motorboat with a power unit exceeding ten horsepower may be operated only when permitted by rule and the rule shall not authorize such use during the period beginning on the Friday before Memorial Day and ending on Labor Day inclusively. This paragraph does not limit motorboat horsepower on natural lakes under the custody of the ~~commission~~ department or limit the ~~commission's~~ department's authority to establish special speed zoning regulations.

Sec. 2. Section 106.31, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. As provided in section 111A.5, county conservation boards may make regulations concerning horsepower limits and no-wake speeds on artificial lakes under their jurisdiction, except for state-owned artificial lakes managed by a county conservation board under a management agreement.

Approved May 13, 1987

CHAPTER 125

LOW-INCOME HOUSING CREDITS

S.F. 499

AN ACT relating to the federal low-income housing credit allowance.

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

Section 1. Section 220.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 36. "State housing credit ceiling" means the state housing credit ceiling as defined in I.R.C.§ 42(h)(3)(C).

NEW SUBSECTION. 37. "Low-income housing credit" means the low-income housing credit as defined in I.R.C.§ 42(a).

Sec. 2. Section 220.1, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

The authority shall establish by rule further definitions applicable to this chapter, and clarification of the definitions in this section, as necessary to assure eligibility for funds available under federal housing laws, or to assure compliance with federal tax laws relating to the issuance of tax exempt mortgage subsidy bonds pursuant to I.R.C.§ 103A, or relating to the issuance of tax exempt residential rental property bonds for qualified residential housing under I.R.C.§ 103, or relating to the allowance of low-income credits under I.R.C.§ 42.

Sec. 3. NEW SECTION. 220.52 STATE HOUSING CREDIT CEILING ALLOCATION.

1. The authority is designated the housing credit agency for the allowance of low-income housing credit under the state housing credit ceiling.

2. The authority shall adopt rules and allocation procedures which will ensure the maximum use of available tax credits in order to encourage development of low-income housing in the state. The authority shall consider the following factors in the adoption and application of the allocation rules:

a. Timeliness of the application.

b. Location of the proposed housing project.

c. Relative need in the proposed area for low-income housing.

d. Availability of low-income housing in the proposed area.

e. Economic feasibility of the proposed project.

f. Ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

The authority shall adopt rules specifying the application procedure and the allowance of low-income housing credits under the state housing credit ceiling.

3. The authority shall not allow more than ninety percent of the low-income housing credits under the state housing credit ceiling to projects other than qualified low-income housing projects as defined in I.R.C.§ 42(h)(5)(B).

Approved May 13, 1987

CHAPTER 126

TAXES ON PROPERTY OF GOVERNMENTAL BODIES

S.F. 458

AN ACT relating to the abatement of taxes by the county.

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

Section 1. NEW SECTION. 445.63 ABATEMENT OF TAXES.

When delinquent mobile home taxes, regular property taxes, or special assessments are owing against property owned or claimed by the state or a political subdivision of this state and the

taxes or special assessments are owing before the property is acquired by the state or a political subdivision of this state, the county treasurer shall give notice to the appropriate governing body which shall pay the amount of the delinquent mobile home taxes, regular property taxes, or special assessments due. If the governing body fails to immediately pay the taxes or special assessments due, the board of supervisors may abate all of the delinquent mobile home taxes, regular property taxes, or special assessments.

Approved May 13, 1987

CHAPTER 127

AGRICULTURAL LOAN ASSISTANCE AGREEMENTS

S.F. 146

AN ACT relating to the agricultural loan assistance program of the Iowa agricultural development authority.

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

Section 1. Section 175.35, subsection 5, paragraph a, Code 1987, is amended to read as follows:

a. Enter into an agreement with the lending institution and the farmer to supplement the assistance to be received pursuant to the federal program in which agreement the lending institution shall agree to reduce for ~~one year~~ up to three years the interest rate on the farmer's operating loan to the rate determined by the authority to be necessary to qualify the farmer and lending institution for participation in the federal program and the farmer shall agree to comply with the rules and requirements established by the authority.

Sec. 2. Section 175.35, subsection 6, paragraph c, Code 1987, is amended to read as follows:

c. Not give a grant pursuant to subsection 5, paragraph "b" in an amount greater than three percent per annum of up to one hundred thousand dollars of the principal balance of the farmer's operating loan outstanding from time to time, for the term of the loan or for ~~one year~~ three years, whichever is less.

Sec. 3. Section 175.35, subsection 7, paragraphs a and b, Code 1987, are amended to read as follows:

a. Enter into an agreement with the lending institution and the farmer in which the lending institution shall agree to reduce for ~~one year~~ up to three years the interest rate on the farmer's operating loan to a rate determined by the authority below the lending institution's farm operating loan rate as certified to the authority and the farmer shall agree to comply with the rules and requirements established by the authority.

b. Agree to give to the lending institution, for the benefit of the farmer, a grant in the amount, as determined by the authority, up to three percent per annum of up to one hundred thousand dollars of the principal balance of the farmer's operating loan outstanding from time to time, for the term of the loan or for ~~one year~~ three years, whichever is less, to partially reimburse the lending institution for the reduction of the interest rate on the borrower's operating loan. However, the grant shall not exceed fifty percent of the amount of interest foregone by the lending institution pursuant to the rate reduction under paragraph "a".

Approved May 13, 1987

CHAPTER 128

TEMPORARY CERTIFICATES FOR MEDICAL AND PODIATRY PRACTITIONERS

H.F. 346

AN ACT relating to temporary certificates issued by the board of medical examiners and the board of podiatry examiners.

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

Section 1. Section 148.10, Code 1987, is amended to read as follows:

148.10 TEMPORARY CERTIFICATE.

The medical examiners may, in their discretion, issue a temporary certificate authorizing the licensee to practice medicine and surgery or osteopathic medicine and surgery ~~whenever~~ in a specific location or locations and for a specified period of time if, in the opinion of the medical examiners, a need exists ~~therefor~~ and the person possesses the qualifications prescribed by the medical examiners for ~~such~~ the license, which shall be substantially equivalent to those required for licensure under this chapter or chapter 150A, as the case may be. The medical examiners shall determine in each instance those eligible for this license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure ~~shall be~~ are mandatory for this temporary license except as specifically designated by the medical examiners. The granting of a temporary license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor are the medical examiners in any way obligated to so license ~~such~~ the person.

The temporary certificate shall be issued for a period not to exceed one year and~~, at the discretion of the medical examiners~~ may be renewed, but ~~no~~ a person shall ~~be entitled to~~ not practice medicine and surgery or osteopathic medicine and surgery in excess of three years while holding a temporary certificate. The fee for this license and the fee for renewal of this license shall be set by the medical examiners ~~and if extended beyond one year a renewal fee per year shall be set by the medical examiners~~. The fees shall be based on the administrative costs of issuing and renewing the licenses. The medical examiners may cancel a temporary certificate at any time, without a hearing, for reasons deemed sufficient to the medical examiners.

When the medical examiners cancel a temporary certificate they shall promptly notify the licensee by registered United States mail, at the licensee's last-named address, as reflected by the files of the medical examiners, and the temporary certificate ~~shall become~~ is terminated and of no further force and effect three days after the giving of ~~said~~ the notice to the licensee.

Sec. 2. Section 149.7, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The podiatry examiners may issue a temporary certificate ~~to an academic staff member of a podiatry school in this state~~ authorizing the licensee named in the certificate to practice podiatry if, in the opinion of the podiatry examiners, ~~determine that~~ a need exists and the person possesses the qualifications prescribed by the podiatry examiners for the certificate, which shall be substantially equivalent to those required for regular licensure under this chapter. The podiatry examiners shall determine in each instance the applicant's eligibility for the certificate, whether or not ~~examinations~~ an examination shall be given, and the type of ~~examinations~~ examination. The requirements of the law pertaining to regular permanent licensure shall not be mandatory for this temporary certificate except as specifically designated by the podiatry examiners. The granting of a temporary certificate does not in any way indicate that the person licensed is necessarily eligible for regular licensure, and the podiatry examiners are not obligated to license the person.

Approved May 14, 1987

CHAPTER 129

CONSPIRACY

H.F. 375

AN ACT relating to the crime of conspiracy, and providing penalties.

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

Section 1. Section 706.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

706.1 CONSPIRACY.

1. A person commits conspiracy with another if, with the intent to promote or facilitate the commission of a crime which is an aggravated misdemeanor or felony, the person does either of the following:

a. Agrees with another that they or one or more of them will engage in conduct constituting the crime or an attempt or solicitation to commit the crime.

b. Agrees to aid another in the planning or commission of the crime or of an attempt or solicitation to commit the crime.

2. It is not necessary for the conspirator to know the identity of each and every conspirator.

3. A person shall not be convicted of conspiracy unless it is alleged and proven that at least one conspirator committed an overt act evidencing a design to accomplish the purpose of the conspiracy by criminal means.

4. A person shall not be convicted of conspiracy if the only other person or persons involved in the conspiracy were acting at the behest of or as agents of a law enforcement agency in an investigation of the criminal activity alleged at the time of the formation of the conspiracy.

Approved May 14, 1987

CHAPTER 130

MOBILE HOME CERTIFICATES OF TITLE

H.F. 494

AN ACT requiring mobile home dealers to apply for a certificate of title for certain used mobile homes acquired by the dealers and making penalties applicable.

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

Section 1. Section 321.24, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home, that taxes are not owing under chapter 135D, issue a certificate of title and, except for a mobile home, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, the title number assigned to the owner of the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 423.7, the type of fuel used, and a description of the vehicle as determined by the department and upon the reverse side a form for notice of transfer of the vehicle.

PARAGRAPH DIVIDED. The county treasurer shall maintain in the county record system information contained on the registration receipt. The information shall be accessible by registration number and shall be open for public inspection during reasonable business

hours. Copies the department requires shall be sent to the department in the manner and at the time the department directs.

PARAGRAPH DIVIDED. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances, as shown in the application, upon the vehicle described including the nature of the security interest, date of notation, and name and address of the secured party. The certificate shall bear the seal of the county treasurer, the signature of the county treasurer or that of the deputy county treasurer, and shall provide space for the signature of the owner. The owner shall sign the certificate of title in the space provided with pen and ink upon its receipt. The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty by the owner, for reassignments by a licensed dealer and for application for a new certificate of title by the transferee as provided in this chapter. However, titles for mobile homes shall not be reassigned by licensed dealers. All certificates of title shall be typewritten or printed by other mechanical means.

PARAGRAPH DIVIDED. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears ~~thereon~~ on the certificate. Otherwise the certificate of title shall be delivered by the county treasurer to the person holding the first security interest or encumbrance as shown in the certificate. The county treasurer shall maintain in the county records system information contained on the certificate of title. The information shall be accessible by title certificate number for a period of three years from the date of notification of cancellation of title or that a new title has been issued as provided in this chapter. Copies the department requires shall be sent to the department in the manner and at the time the department directs. The department shall designate a uniform system of title numbers to indicate the county of issuance.

Sec. 2. Section 321.45, subsection 4, Code 1987, is amended to read as follows:

4. Within seven days of the sale and delivery of a mobile home, the dealer making the sale shall certify to the county treasurer of the county where the unit is delivered, the name and address of the purchaser, the point of delivery to the purchaser, and the make, year of manufacture, taxable size, and identification number of the unit. A mobile home dealer, as defined in section 322B.2, shall within fifteen days of acquiring a used mobile home, titled in Iowa, apply for and obtain from the county treasurer of the dealer's county of residence a new certificate of title for the mobile home.

Sec. 3. Section 321.46, subsection 2, Code 1987, is amended to read as follows:

2. Upon filing the application for a new registration and a new title, the applicant shall pay a title fee of ten dollars and a registration fee prorated for the remaining unexpired months of the registration year. However, no title fee shall be charged to a mobile home dealer applying for a certificate of title for a used mobile home, titled in Iowa, as required under section 321.45, subsection 4. The county treasurer, if satisfied of the genuineness and regularity of the application, and in the case of a mobile home, that taxes are not owing under chapter 135D, and that applicant has complied with all the requirements of this chapter, shall issue a new certificate of title and, except for a mobile home, a registration card to the purchaser or transferee, shall cancel the prior registration for the vehicle, and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24. Mobile homes titled under chapter 448 that have been subject under section 446.18 to a scavenger sale in a county, shall be titled in the county's name, with no fee and the county treasurer shall issue the title.

Sec. 4. Section 321.49, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A mobile home dealer who acquires a used mobile home, titled in Iowa, and who does not apply for and obtain a certificate of title from the county treasurer of the dealer's county of residence within fifteen days of the date of acquisition, as required

under section 321.45, subsection 4, is subject to a penalty of ten dollars. A certificate of title shall not be issued to the mobile home dealer until the penalty is paid.

Sec. 5. Section 321.104, subsection 6, Code 1987, is amended to read as follows:

6. For a dealer to sell or transfer a mobile home without delivering to the purchaser or transferee a certificate of title, or a manufacturer's or importer's certificate properly assigned to the purchaser, or to transfer a mobile home without disclosing to the purchaser the owner of the mobile home in a manner prescribed by the department pursuant to rules, or to fail to certify within seven days to the proper county treasurer the information required under section 321.45, subsection 4, or to fail to apply for and obtain a certificate of title for a used mobile home, titled in Iowa, acquired by the dealer within fifteen days from the date of acquisition as required under section 321.45, subsection 4.

Sec. 6. Section 322B.6, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Failing to apply for and obtain from a county treasurer a certificate of title for a used mobile home, titled in Iowa, acquired by the dealer within fifteen days from the date of acquisition, as required under section 321.45, subsection 4.

Approved May 14, 1987

CHAPTER 131

LONG-TERM CARE INSURANCE

S.F. 276

AN ACT relating to the regulation of long-term care insurance.

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

Section 1. NEW SECTION. 514G.1 PURPOSE.

The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance, to protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

Sec. 2. NEW SECTION. 514G.2 SCOPE.

This chapter applies to policies delivered or issued for delivery in this state on or after the effective date of this Act. This chapter does not supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws not in conflict with this chapter, except that laws and rules designated and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance. A policy which is not advertised, marketed, or offered as long-term care insurance or nursing home insurance need not meet the requirements of this chapter.

Sec. 3. NEW SECTION. 514G.3 SHORT TITLE.

This chapter may be known and cited as the "Long-Term Care Insurance Act".

Sec. 4. NEW SECTION. 514G.4 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

1. "Long-term care insurance" means an insurance policy, insurance contract, insurance certificate, or rider, which is advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care service, provided in a

setting other than an acute care unit of a hospital; and includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations, or any similar organization. "Long-term care insurance" does not include an insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

2. "Applicant" means either of the following:

a. A person seeking to contract for an individual long-term care insurance policy for the benefit of that person.

b. The proposed certificate holder of a group long-term care insurance policy.

3. "Certificate" means a certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

4. "Commissioner" means the insurance commissioner.

5. "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to any of the following:

a. One or more employers or labor organizations, or to a trust, or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations.

b. A professional, trade, or occupational association for its members or former or retired members, or a combination thereof, if the association is both:

(1) Composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation.

(2) Maintained in good faith for purposes other than obtaining insurance.

c. An association, a trust, or the trustee of a fund established, created, or maintained for the benefit of members of one or more associations.

d. A group other than as described in paragraphs "a" through "c", subject to a finding by the commissioner that all of the following are true:

(1) The issuance of a group policy is not contrary to the best interest of the public.

(2) The issuance of the group policy would result in economies of acquisition or administration.

(3) The benefits are reasonable in relation to the premiums charged.

6. "Policy" means a policy, contract, subscriber agreement, rider, endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepared health plan, health maintenance organization, or any similar organization.

Sec. 5. NEW SECTION. 514G.5 LIMITS OF GROUP LONG-TERM CARE INSURANCE.

Group long-term care insurance coverage shall not be offered to a resident of this state under a group policy issued in another state to a group described in section 514G.4, subsection 5, paragraph "d", unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that long-term care insurance requirements have been met.

Sec. 6. NEW SECTION. 514G.6 LIMITATIONS ON ASSOCIATIONS.

1. Prior to advertising, marketing, or offering a policy within this state, an association or a trust or the trustee of a fund established, created, or maintained for the benefit of members of one or more associations, or the insurer of the association or associations, shall file evidence with the commissioner that the association has at the outset a minimum of one hundred persons and has been organized and maintained in good faith for purposes other than that of obtaining insurance; has been in active existence for at least one year; and has a constitution and bylaws which provide all of the following:

a. The association must hold regular meetings not less than annually to further the purposes of the members.

b. Except for credit unions, the association must collect dues or solicit contributions from members.

c. The members must have voting privileges and representation on the governing board and committees.

2. Thirty days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those organizational requirements.

Sec. 7. NEW SECTION. 514G.7 DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE.

1. RULES. The commissioner may adopt rules for full and fair disclosure of the terms and benefits of a long-term care insurance policy, including but not limited to rules setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

2. PROHIBITIONS. A long-term care insurance policy shall not:

a. Be cancelled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder.

b. Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

3. PREEXISTING CONDITIONS.

a. A long-term care insurance policy or certificate shall not use a definition of "preexisting condition" which is more restrictive than the following: "Preexisting condition" means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care, or treatment, or a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within the limitation periods specified below:

(1) Six months preceding the effective date of coverage of an insured person who is sixty-five years of age or older on the effective date of coverage.

(2) Twenty-four months preceding the effective date of coverage of an insured person who is under age sixty-five on the effective date of coverage.

b. A long-term care insurance policy shall not exclude coverage for a loss or confinement which is the result of a preexisting condition unless the loss or confinement begins within the shortest applicable period specified below:

(1) Six months following the effective date of coverage of an insured person who is sixty-five years of age or older on the effective date of coverage.

(2) Twenty-four months following the effective date of coverage of an insured person who is under age sixty-five on the effective date of coverage.

c. The commissioner may extend the limitation periods in paragraphs "a" and "b" of this subsection to specific age group categories in specific policy forms, upon findings that the extension is in the best interest of the public.

d. The definition of "preexisting condition" does not prohibit either of the following:

(1) An insurer from using an application form designed to elicit the complete health history of an applicant.

(2) An insurer from underwriting in accordance with that insurer's established underwriting standards based on the answers on an application conforming with subparagraph (1).

4. PRIOR INSTITUTIONALIZATION. A long-term care insurance policy which provides benefits only following institutionalization shall not condition the benefits upon admission to

a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

5. RULES. The commissioner may adopt rules establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the rules.

6. RIGHT TO RETURN AFTER EXAMINATION.

a. Except as provided in paragraph "b", an individual long-term care insurance policyholder has the right to return the policy within ten days of its delivery and to have the premium refunded, if, after examination of the policy, the policyholder is not satisfied for any reason. Individual long-term care insurance policies must have a notice prominently printed on the first page of the policy or attached to the first page stating in substance that the policyholder has the right to return the policy within ten days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

b. A person insured under a long-term care insurance policy issued pursuant to a direct response solicitation has the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies issued pursuant to a direct response solicitation must have a notice prominently printed on the first page or attached to the first page stating in substance that the insured person has the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

7. OUTLINE OF COVERAGE. An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall deliver the outline no later than at the time of policy delivery. An outline of coverage must include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement of the renewal provisions, including any reservation in the policy of a right to change premiums.

d. A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.

8. CERTIFICATES. A certificate issued pursuant to a group long-term care insurance policy which is delivered or issued for delivery in this state shall include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement that the group master policy determines governing contractual provisions.

9. COMPLIANCE REQUIRED. A policy shall not be advertised, marketed, or offered as long-term care or nursing home insurance unless it complies with this chapter.

Sec. 8. NEW SECTION. 514G.8 ADMINISTRATIVE PROCEDURES.

Rules adopted pursuant to this chapter must be in accordance with the provisions of section 505.8.

Approved May 15, 1987

CHAPTER 132

INSURANCE REGULATION

H.F. 506

AN ACT relating to the regulation of the insurance business conducted in the state by the insurance division of the department of commerce.

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

Section 1. Section 505.13, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

505.13 OTHER INSURANCE – REPORTS BY THE DIVISION.

1. The commissioner shall annually cause the preparation and printing of a report to be delivered to the governor. The report shall contain information from the statements required of insurance companies, other than life insurance companies, organized or doing business in the state. The reports shall be delivered on or before the first day of August each year.

2. The commissioner shall semiannually cause the preparation and printing of a report to be delivered to the general assembly on or before the thirty-first day of July and the thirty-first day of December each year. The report shall contain information on the state of the insurance business and any impending problems foreseen by the commissioner which would affect the insurance business conducted in the state or the regulation of that insurance business by the division.

Sec. 2. NEW SECTION. 505.15 ACTUARIAL STAFF.

The commissioner may appoint a staff of actuaries as necessary to carry out the duties of the division. The actuarial staff shall:

1. Perform analyses of rate filings.
2. Perform audits of submitted loss data.
3. Conduct rate hearings and serve as expert witnesses.
4. Prepare, review, and dispense data on the insurance business.
5. Assist in public education concerning the insurance business.
6. Identify any impending problem areas in the insurance business.
7. Assist in examinations of insurance companies.

Sec. 3. Section 515.80, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.80 CANCELLATION OF POLICY OR CONTRACT.

1. A policy or contract of insurance which has not been previously renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

2. A commercial line policy or contract of insurance which has been renewed or which has been in effect for more than sixty days may not be canceled unless at least one of the following conditions occurs:

a. Nonpayment of premium.

b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.

c. Actions by the insured which substantially change or increase the risk insured.

d. Determination by the commissioner that the continuation of the policy would jeopardize the insurer's solvency or would constitute a violation of the law of this or any other state.

e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a policy or contract term or condition.

3. A policy or contract of insurance may be canceled at any time if the insurer loses reinsurance coverage which provides coverage to the insurer for a significant portion of the underlying risk insured and if the commissioner determines that cancellation because of loss of reinsurance coverage is justified. In determining whether a cancellation for loss of reinsurance coverage is justified, the commissioner shall consider the following factors:

a. The volatility of the premiums charged for reinsurance in the market.

b. The number of reinsurers in the market.

c. The variance in the premiums for reinsurance offered by the reinsurers in the market.

d. The attempt by the insurer to obtain alternate reinsurance.

e. Any other factors deemed necessary by the commissioner.

4. A policy or contract of insurance shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

5. This section applies to all forms of property and casualty insurance written pursuant to this chapter.

Sec. 4. Section 515.81, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.81 NONRENEWAL OF POLICY OR CONTRACT.

An insurer shall not fail to renew a policy or contract of insurance except by notice to the insured as provided in this section. Nonrenewal of a policy or contract includes a decision by the insurer not to renew the policy or contract, an increase in the premium of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract. However, a premium charge which is assessed after the beginning date of the policy period for which the premium is due shall not be deemed a premium increase for the purpose of this section.

A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

This section applies to all forms of property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal.

Sec. 5. Section 515A.4, subsection 1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of ~~the~~ this chapter, the commissioner shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include ~~(a)~~ the experience or judgment of the insurer or rating organization making the filing, ~~(b)~~ its interpretation of any statistical data it relies upon, ~~(c)~~ the experience of other insurers or rating organizations, or ~~(d)~~ any other relevant factors. A filing and any supporting information shall be open to public inspection ~~after the~~ upon filing ~~becomes~~

~~effective~~. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

Sec. 6. NEW SECTION. 515A.20 DEFINITIONS.

As used in sections 515A.21 through 515A.25 unless the context otherwise requires:

1. "Market" means the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including, but not limited to, consideration of coverage, policy terms, rate classifications, and underwriting. A geographic component is a geographical area in which buyers have a reasonable degree of access to the insurance product through sales outlets or other marketing mechanisms.

2. "Competitive market" means a market for which an order is in effect pursuant to section 515A.22 that a reasonable degree of competition does exist.

3. "Noncompetitive market" means a market which has not been found to be competitive pursuant to section 515A.22.

Sec. 7. NEW SECTION. 515A.21 SCOPE OF APPLICATION.

Section 515A.20 and sections 515A.22 through 515A.25 apply to all forms of casualty insurance except those described in sections 515A.11 and 515A.15, and those excluded by section 515A.2.

Sec. 8. NEW SECTION. 515A.22 COMPETITIVE MARKET.

1. A noncompetitive market is presumed to exist unless the commissioner determines after a hearing that a reasonable degree of competition exists in the market and the commissioner issues an order to that effect. Such an order shall not become effective until sixty days after the date of the order and shall expire not later than one year thereafter unless the commissioner renews the order. Any affected insurer or insured may petition for a hearing on the renewal of an order relating to competitive status.

2. In determining whether a reasonable degree of competition exists, the commissioner shall consider relevant factors of workable competition pertaining to the market structure, market performance, and market conduct, and the practical opportunities available to consumers in the market to obtain pricing and other consumer information and to compare and obtain insurance from competing insurers. Such factors may include, but are not limited to, the following:

a. The size and number of insurers actually engaged in the market.

b. The profitability for insurers generally in the market segment and whether that profitability is unreasonably high.

c. The price variance on premiums offered in the market.

d. The availability of consumer information concerning the product and sales outlets or other sales mechanisms.

e. The efforts of insurers to provide consumer information.

f. Consumer complaints regarding the market generally.

Sec. 9. NEW SECTION. 515A.23 NONCOMPETITIVE MARKET.

Unless the commissioner has determined a market to be competitive, the provisions of sections 515A.1 through 515A.19 apply.

Sec. 10. NEW SECTION. 515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

1. Subject to the exception specified in section 515A.4, subsection 5, a competitive filing shall become effective when filed and shall be deemed to meet the requirements of section 515A.3 as long as the filing remains in effect unless it is disapproved upon review by the commissioner.

2. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information which are used in this state. The rates and supplementary rate information shall be filed not later than fifteen days after the effective date of the rates.

3. In a competitive market, if the commissioner finds that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty days prior to the effective date of the rates all the rates and supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

Sec. 11. NEW SECTION. 515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE MARKET.

1. If the commissioner believes that an insurer's rate filing in a competitive market violates the requirements of section 515A.3, the commissioner may require the insurer to file supporting information. If after reviewing the supporting information the commissioner continues to believe that the filing violates section 515A.3, the commissioner shall notify the insurer of the insurer's right to petition for a hearing on any subsequent order relating to the filing.

2. The commissioner may disapprove prefiled rates that have not become effective. However, the commissioner shall notify the insurer whose rates have been disapproved of the insurer's right to petition for a hearing on the disapproval within thirty days after the disapproval.

3. If the commissioner disapproves a filing in a competitive market, the commissioner shall issue an order specifying the reasons the filing fails to meet the requirements of section 515A.3. For rates in effect at the time of disapproval, the commissioner shall inform the insurer within a reasonable period of time the date when further use of the rates for policies or contracts of insurance is prohibited. The order shall be issued within thirty days of disapproval, or within thirty days of a hearing on the disapproval if a hearing is held. The order may include a provision for premium adjustment for the period after the effective date of the order for policies or contracts in effect on the date of the order.

4. Whenever an insurer has filed no legally effective rates as a result of the commissioner's disapproval of a filing, the commissioner shall on request of the insurer work with the insurer to develop interim rates for the insurer that are sufficient to protect the interest of all parties and the commissioner may order that a specified portion of the premium be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately. The commissioner may waive distribution if the commissioner determines that the amount involved would not warrant such action.

Approved May 15, 1987

CHAPTER 133

DECLARATIONS OF VALUF ON TRANSFERS BY FEDERAL AGENCIES AND INSTRUMENTALITIES

H.F. 590

AN ACT relating to the declaration of value on the transfer of property by certain federal agencies and instrumentalities.

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

Section 1. Section 428A.1, unnumbered paragraph 2, Code 1987, 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 5, 7 to 13, and 16 to 18, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or 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 and finance 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 and finance requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue and finance, at times as directed by the director of revenue and finance. 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 and finance 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. Section 428A.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The county recorder shall refuse to record any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed, except those transfers exempt from tax under section 428A.2, subsections 2 to 5, and 7 to 13, or under section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, until the declaration of value has been submitted to the county recorder. A declaration of value shall not be required with a deed given in fulfillment of a recorded real estate contract provided the deed has a notation that it is given in fulfillment of a contract.

Approved May 15, 1987

CHAPTER 134

WATER VESSEL CERTIFICATES OF TITLE

H.F. 595

AN ACT to establish a system of certificates of title for vessels and providing an effective date.

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

Section 1. Section 106.2, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 29. "Certificate" means a certificate of title.

NEW SUBSECTION. 30. "Dealer" means a person who engages in whole or in part in the business of buying, selling, or exchanging vessels either outright or on conditional sale, bailment, lease, security interest, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yachtbroker is a dealer.

NEW SUBSECTION. 31. "Lienholder" means a person holding a security interest.

NEW SUBSECTION. 32. "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

NEW SUBSECTION. 33. "Security interest" means an interest which is reserved or created by an agreement which secures payment or performance of an obligation and is valid against third parties generally.

NEW SUBSECTION. 34. "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

NEW SUBSECTION. 35. "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

NEW SUBSECTION. 36. "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are watercraft. The term includes the vessel's motor, spars, sails, and accessories.

NEW SUBSECTION. 37. "Proceeds" includes whatever is received when collateral or proceeds are sold, exchanged, collected, or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks, and the like are cash "proceeds". All other proceeds are "noncash proceeds".

Sec. 2. Section 106.2, subsections 1 and 16, Code 1987, are amended by striking the subsections.

Sec. 3. Section 106.5, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The registration certificate shall indicate if the vessel is subject to the requirement of a certificate of title and the county from which the certificate of title is issued.

Sec. 4. NEW SECTION. 106.72 OWNER'S CERTIFICATE OF TITLE — IN GENERAL.

1. Except as provided in subsection 4, an owner of a vessel seventeen feet or longer in length principally used on the waters of the state and to be numbered pursuant to section 106.4 shall apply to the county recorder of the county in which the owner resides for a certificate of title for the vessel. The requirement of a certificate of title does not apply to canoes or inflatable vessels regardless of length.

2. Each certificate of title shall contain the information and shall be issued in a form the department prescribes.

3. A person who, on the effective date of this Act, is the owner of a vessel seventeen feet or longer in length with a valid certificate of number issued by the state is not required to file an application for a certificate of title for the vessel unless the person transfers an interest in the vessel.

4. Every owner of a vessel subject to titling under this chapter shall apply to the county recorder for issuance of a certificate of title for the vessel within thirty days after acquisition. The application shall be on forms the department prescribes, and accompanied by the required fee. The application shall be signed and sworn to before a notary public or other person who administers oaths, or shall include a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the vessel or the fair market value if no sale immediately preceded the transfer, and any additional information the department requires. If the application is made for a vessel last previously registered or titled in another state or foreign country, it shall contain this information and any other information the department requires.

5. If a dealer buys or acquires a used vessel for resale, the dealer shall report the acquisition to the county recorder on the forms the department provides, or the dealer may apply for and obtain a certificate of title as provided in this chapter. If a dealer buys or acquires a used unnumbered vessel, the dealer shall apply for a certificate of title in the dealer's name within fifteen days. If a dealer buys or acquires a new vessel for resale, the dealer may apply

for a certificate of title in the dealer's name.

6. Every dealer transferring a vessel requiring titling under this chapter shall assign the title to the new owner, or in the case of a new vessel assign the certificate of origin. Within fifteen days the dealer shall forward all moneys and applications to the county recorder.

7. The county recorder shall maintain a record of any certificate of title it issues.

8. A person shall not sell, assign, or transfer a vessel titled by the state without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the purchaser or transferee. A person shall not purchase or otherwise acquire a vessel required to be titled by the state without obtaining a certificate of title for it in that person's name.

9. A person who owns a vessel which is not required to have a certificate of title may apply for and receive a certificate of title for the vessel and the vessel shall subsequently be subject to the requirements of this Act as though the vessel was required to be titled.

Sec. 5. NEW SECTION. 106.73 FEES — DUPLICATES.

1. The county recorder shall charge a five dollar fee to issue a certificate of title, a transfer of title, a duplicate, or a corrected certificate of title.

2. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the county recorder's records, shall within thirty days obtain a duplicate by applying to the county recorder. The applicant shall furnish information the department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction. Mutilated or illegible certificates shall be returned to the department with the application for a duplicate.

3. The duplicate certificate of title shall be marked plainly "duplicate" across its face, and mailed or delivered to the applicant.

4. If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the department for cancellation.

5. The funds collected under this section shall be placed in the general fund of the county and used for the expenses of the county conservation board if one exists in that county.

Sec. 6. NEW SECTION. 106.74 OBTAINING MANUFACTURER'S OR IMPORTER'S CERTIFICATE OF ORIGIN.

A manufacturer or dealer shall not transfer ownership of a new vessel without supplying the transferee with the manufacturer's or importer's certificate of origin signed by the manufacturer's or importer's authorized agent. The certificate shall contain information the department requires. The department may adopt rules providing for the issuance of a certificate of origin for a vessel by the department upon good cause shown by the owner.

Sec. 7. NEW SECTION. 106.75 HULL IDENTIFICATION NUMBER OF VESSEL.

1. Every vessel whose construction began after October 31, 1972, shall have a hull identification number assigned and affixed as required by the federal Boat Safety Act of 1971. The department shall determine the procedures for application and for issuance of the hull identification number for homebuilt boats.

2. A person shall not destroy, remove, alter, cover, or deface the manufacturer's hull identification number, the plate bearing it, or any hull identification number the department assigns to a vessel without the department's permission.

3. A person other than a manufacturer who constructs a vessel or uses an unconventional device as a vessel for navigation shall submit an affidavit which describes the vessel or device to the department. In cooperation with the county recorder, the department shall assign a hull identification number to the vessel or device. The applicant shall cause the number to be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the waterline of the vessel or device in such a way that alteration, removal, or replacement would be obvious and evident.

Sec. 8. NEW SECTION. 106.76 DEALER'S RECORD OF VESSELS BOUGHT, SOLD, OR TRANSFERRED.

Every dealer shall maintain for three years a record of any vessel bought, sold, exchanged, or received for sale or exchange. This record shall be open to inspection by department representatives during reasonable business hours.

Sec. 9. NEW SECTION. 106.77 TRANSFER OR REPOSSESSION OF VESSEL BY OPERATION OF LAW.

1. If ownership of a vessel is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the vessel by operation of law, shall mail or deliver to the county recorder satisfactory proof of ownership as the county recorder requires, together with an application for a new certificate of title, and the required fee. A title tax is not required on these transactions.

2. If a lienholder repossesses a vessel by operation of law and holds it for resale, the lienholder shall secure a new certificate of title and shall pay the required fee.

Sec. 10. NEW SECTION. 106.78 SECURITY INTEREST IN VESSELS – EXEMPTIONS.

Sections 106.72 through 106.77 and 106.79 through 106.85 do not apply to or affect any of the following:

1. A lien given by statute or rule of law to a supplier of services or materials for a vessel.

2. A lien given by statute to the United States, this state, or any political subdivision of this state.

3. A security interest in a vessel created by a manufacturer or dealer who holds the vessel for sale, but a buyer in the ordinary course of trade from the manufacturer or dealer takes free of the security interest.

4. A lien arising out of an attachment of a vessel.

5. A security interest claimed on proceeds if the original security interest did not have to be noted on the certificate of title in order to be perfected.

6. A vessel for which a certificate of title is not required under this chapter.

7. A security interest perfected under chapter 554 before the effective date of this Act.

Sec. 11. NEW SECTION. 106.79 PERFECTION AND TITLES.

1. In addition to the requirements of chapter 554, a security interest created in this state in a vessel required to have a certificate of title is not perfected unless and until the security interest is noted on the certificate of title.

2. The certificate of title shall be filed with the county recorder when the financing statement for that security interest or assigning the security interest is filed and a new or endorsed certificate of title shall be issued to the secured party with the name and address of the secured party upon it.

3. The secured party shall file the certificate of title with the county recorder when a termination or release statement is filed and a new or endorsed certificate shall be issued to the owner.

Sec. 12. NEW SECTION. 106.85 FORMS – INVESTIGATIONS.

1. The department shall prescribe and provide suitable forms for applications, certificates of title, notices of security interests, and all other notices and forms, other than those provided under chapter 554, necessary to carry out sections 106.72 through 106.79.

2. The department may make necessary investigations to procure information required to carry out sections 106.72 through 106.79.

Sec. 13. This Act takes effect January 1, 1988.

Approved May 15, 1987

CHAPTER 135

UNDERGROUND FACILITIES AND EXCAVATIONS

H.F. 646

AN ACT relating to the exchange of information regarding underground facilities and excavations affecting underground facilities.

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

Section 1. NEW SECTION. 479A.1 DEFINITIONS.

1. "Excavation" means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives and includes, without limitation, grading, trenching, tiling, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing, driving, and demolition of structures.

2. "One-call system" means an organization or office established by two or more underground facility operators for the purpose of receiving notice of intent to excavate from an excavator and transmitting the information in the notice to the participating underground facility operators.

3. "Person" means a person as defined in section 4.1, subsection 13.

4. "Underground facility" means an item of personal property which is buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic, or telegraphic communications, electric energy, oil, gas, or other substances, and includes but is not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to such property.

5. "Excavator" means a person proposing to engage or engaging in excavation.

6. "Underground facility operator" means a person owning or operating underground facilities including, but not limited to, public, private, and municipal utilities.

Sec. 2. NEW SECTION. 479A.2 PUBLIC DEPOSIT OF LOCATION INFORMATION.

1. Within six months after the effective date of this Act, every underground facility operator shall deposit with the county recorder sufficient copies of information, in a form which can be easily received and updated, delineating the townships and cities within the county in which underground facilities are owned or operated by the underground facility operator, except that the underground facility operator is not required to deposit information relating to underground facilities located on real property owned by the underground facility operator. However, for underground facilities located in a city with a population of two thousand or more within a county with a population of twenty-five thousand or more, based on the most recent federal decennial census, the underground facility operator shall deposit the information with the clerk of that city rather than with the county recorder. The underground facility operator shall promptly update the information on deposit. The information shall include the underground facility operator's name, address, and a telephone number or numbers answered twenty-four hours a day, seven days a week.

2. In lieu of depositing information describing the underground facilities owned or operated within a county or city as required by this section, an underground facility operator may designate a one-call system to receive notice of intent to excavate from an excavator and shall deposit only the name, address, and a telephone number or numbers, answered twenty-four hours a day, seven days a week, of the one-call system with the county recorder or city clerk respectively.

3. County recorders and city clerks shall not assess any fees for the depositing of information by underground facility operators or by a one-call system in the recorder's or clerk's office.

Sec. 3. NEW SECTION. 479A.3 NOTICE TO EXCAVATORS.

1. The county recorder or the city clerk, respectively, shall provide access to any pertinent information on deposit by township or city to the excavator, or shall provide the name, address,

and a telephone number or numbers, answered twenty-four hours a day, seven days a week, of a pertinent one-call system.

2. Counties and county recorders, and cities and city clerks are immune from any civil or criminal liability for receiving and providing access to the information required to be deposited with and made available from the recorders' or clerks' offices by this chapter.

Approved May 15, 1987

CHAPTER 136

TAXES ON MOBILE HOME RENTALS

H.F. 605

AN ACT relating to the state sales, services, and use tax and the local option hotel-motel tax on the rental of the mobile homes and the spaces within them.

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

Section 1. Section 422.43, subsections 7 and 11, Code 1987, are amended to read as follows:

7. ~~There is hereby imposed a~~ A like rate of tax is imposed upon the gross receipts from the renting of ~~any and all~~ rooms, apartments, or sleeping quarters in ~~any~~ a hotel, motel, inn, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. "Renting" and "rent" include any kind of direct or indirect charge for such rooms, apartments, or sleeping quarters, or ~~the~~ their use ~~thereof~~. For the purposes of this division, such renting is regarded as a sale of tangible personal property at retail. However, ~~such~~ this tax ~~shall~~ does not apply to the gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

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, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; 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.

PARAGRAPH DIVIDED. 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. 2. Section 422A.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the gross receipts from the renting of ~~any and all~~ sleeping rooms, apartments, or sleeping quarters in ~~any~~ a hotel, motel, inn, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals; except the gross receipts from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the state of Iowa. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. "Renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or ~~the~~ their use ~~thereof~~. However, ~~such~~ the tax ~~shall~~ does not apply to the gross receipts from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

Approved May 20, 1987

CHAPTER 137

DEBT COLLECTION PRACTICES AND CIVIL ACTIONS

H.F. 655

AN ACT relating to civil actions by removing the one hundred mile limit on subpoenas to witnesses in civil cases, by limiting the award of lost time and transportation costs in small claims actions, and by requiring actions to be brought in small claims court in a court having actual jurisdiction.

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

Section 1. Section 622.66, Code 1987, is amended to read as follows:

622.66 HOW FAR COMPELLED TO ATTEND.

Witnesses in civil cases cannot be compelled to attend the district or ~~superior~~ appellate court out of the state where they are served, ~~nor at a distance of more than one hundred miles from the place of their residence, or from that where they are served with a subpoena, unless within the same county~~.

Sec. 2. Section 625.22, Code 1987, is amended to read as follows:

625.22 ATTORNEY'S FEES — COSTS.

When judgment is recovered upon a written contract containing an agreement to pay an

attorney's fee, the court shall allow and tax as a part of the costs a reasonable attorney's fee to be determined by the court.

In an action against the maker to recover payment on a dishonored check or draft, as defined in section 554.3104, the plaintiff, if successful, may recover, in addition to all other costs or surcharges provided by law, all court costs incurred, including a reasonable attorney's fee, or an individual's cost of processing a small claims recovery such as lost time and transportation costs from the maker of the check or draft. However, lost time and transportation costs of an assignee shall not be awarded under section 631.14 to a person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539. Only actual out-of-pocket expenses incurred in obtaining the small claim recovery may be awarded to the assignee. Any ~~such~~ additional charges shall be determined by the court. If the defendant is successful in the action and the court determines the action was frivolous, the court may award the defendant reasonable attorney's fees.

Sec. 3. Section 537.7102, subsection 1, Code 1987, is amended to read as follows:

1. "Debt" means an actual or alleged obligation arising out of a consumer credit transaction, or a transaction which would have been a consumer credit transaction either if a finance charge was made, if the obligation was not payable in installments, if a lease was for a term of four months or less, or if a lease was of an interest in land. A debt includes a check as defined in section 554.3104 given in a transaction which was a consumer credit sale or in a transaction which would have been a consumer credit sale if credit was granted and if a finance charge was made.

Sec. 4. Section 537.7103, subsection 5, paragraph c, Code 1987, is amended to read as follows:

c. The collection of or the attempt to collect from the debtor a part or all of the debt collector's fee for services rendered, unless ~~the~~ both of the following are applicable:

(1) The fee is reasonably related to the actions taken by the debt collector.

(2) The debt collector is legally entitled to collect the fee from the debtor.

Sec. 5. Section 631.14, Code 1987, is amended to read as follows:

631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.

Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee. A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539, which assignments constitute small claims, may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney, provided that in an action brought to recover payment on a dishonored check or draft, as defined in section 554.3104, the action is brought in the county of residence of the maker of the check or draft or in the county where the draft or check was first presented. Any person, however, may be represented in a small claims action by an attorney.

Approved May 20, 1987

CHAPTER 138

RISK RETENTION GROUP TAXES

H.F. 673

AN ACT to impose the premium tax on risk retention groups.

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

Section 1. NEW SECTION. 432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue and finance an amount equal to two percent of the gross amount of the premiums received during the previous calendar year for risks placed in this state. A resident or nonresident agent shall report and pay the taxes on the premiums for risks that the agent has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Approved May 20, 1987

CHAPTER 139

USE OF CORRECTIONAL INSTITUTION RESOURCES BY ISU

H.F. 241

AN ACT requiring Iowa state university of science and technology to use resources connected with institutions of the Iowa department of corrections, in order to conduct agricultural research, development, and testing projects.

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

Section 1. Section 246.108, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. n. Cooperate with Iowa state university of science and technology to provide, for purposes of agricultural research, development, and testing, the use of resources, including property, facilities, labor, and services, connected with institutions listed in section 246.102. However, use of the resources by the university is subject to approval by the director. Before granting approval, the director shall require that the university compensate the department for the use of the resources, on terms specified by the director.

Sec. 2. Section 246.302, subsection 2, Code 1987, is amended to read as follows:

2. Determine priorities on the use of agricultural resources and labor for farming and nursery operations, and cooperate with Iowa state university of science and technology in all approved uses connected with the institution.

Sec. 3. NEW SECTION. 266.37 INSTITUTIONAL FACILITIES.

Iowa state university of science and technology shall use resources, including property, facilities, labor, and services, connected with institutions listed in section 246.102, under the authority of the Iowa department of corrections, to the extent practicable, for research, development, and testing of technological, horticultural, biological, and economic factors involved in improving the performance of Iowa agricultural products. However, use by the university is subject to the approval of the director of the department of corrections.

Approved May 21, 1987

CHAPTER 140

ADOPTIONS

H.F. 505

AN ACT relating to adoption decrees for children born outside of the United States.

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

Section 1. Section 600.15, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. A decree establishing a parent-child relationship by adoption which is issued pursuant to due process of law by a court of any other jurisdiction in ~~or outside~~ the United States shall be recognized in this state.

Sec. 2. Section 600.15, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. A document ~~certified by the department as being proper~~ approved by the immigration and naturalization service of the United States department of justice shall be accepted by the department of human services as evidence of termination of parental rights in a jurisdiction outside the United States ~~shall be~~ and recognized in this state.

Sec. 3. Section 600.15, subsection 2, Code 1987, is amended to read as follows:

2. If ~~there is a proxy~~ an adoption has occurred in the minor person's country of origin, a further adoption must occur in the state where the adopting parents reside in accordance with the adoption laws of that state.

Sec. 4. APPLICABILITY. Section 3 of this Act applies to adoptions finalized on or after the effective date of this Act.

Approved May 21, 1987

CHAPTER 141

WORLD TRADE AND INVESTMENT

H.F. 636

AN ACT relating to international trade by establishing the Iowa export business finance program, directing the department of economic development, to the extent funds are available, to provide for certain economic development activities and services, and suggesting the legislative council study the feasibility of establishing a world trade institute and its programs and activities.

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

Section 1. Section 220.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 36. "Export business" means a profit or nonprofit business, including but not limited to, an individual, partnership, corporation, joint venture, association, or cooperative that does international exporting from the state where at least twenty-five percent of the value of the international exports is derived from goods or services whose final production process occurs in the state.

NEW SUBSECTION. 37. "International exports" means goods or services transported or sent from the United States to a foreign country.

NEW SUBSECTION. 38. "Export business finance program" means the program established under sections 220.121 to 220.125.

Sec. 2. Section 220.2, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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 export business finance program, and other finance programs. 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, business and international trade interests, and any other person specially interested in community housing, finance, small business, or export business development.

Sec. 3. NEW SECTION. 220.121 LEGISLATIVE FINDINGS — PURPOSES — PUBLIC POLICY.

1. The general assembly finds and declares as follows:

a. The economy of the state of Iowa and opportunities for employment within the state are increasingly dependent upon the international exports of Iowa manufactured goods and services and the growth of international export markets for those manufactured goods and services.

b. Other states have utilized or are preparing to utilize the resources of their state governments to stimulate, facilitate, and promote international exports.

c. Competition among businesses and countries will endure and intensify as more countries seek to expand their international export capacities.

d. Expanding international export markets is essential in order to maintain a vigorous and growing economy and to provide adequate job opportunities for Iowa citizens.

e. Iowa has a responsibility to create employment opportunities by encouraging and stimulating the development of international export sales and markets by export businesses.

f. Iowa export businesses find it increasingly difficult to compete with foreign exporters which benefit from their governmentally supported financing programs.

g. Increased export sales may best be stimulated by making financial assistance available to export businesses to develop and expand international export markets and to ensure the competitiveness of Iowa products and services in foreign markets, thereby increasing employment opportunities available to the citizens of Iowa.

h. Export businesses seeking to enter foreign markets face severe problems financing and ensuring their transactions.

i. Export business expansion and development is dependent upon the availability of financing for expansion at interest rates, terms, and conditions which are reasonable to export businesses.

j. Private and public financing for export businesses with reasonable rates, terms, and conditions is unavailable to assist export business expansion and development.

k. The Iowa export business finance program is necessary to encourage the investment of private capital in export business expansion and development.

2. The purposes of the export business finance program are to:

a. Promote the business prosperity and economic welfare of Iowa and Iowans.

b. Provide financial assistance for the location of new or the expansion of existing export businesses in Iowa through the sale of bonds and notes, subsidies, loans, guarantees, insurance, grants, investments, contracts, or other transactions.

c. Provide employment opportunities and thereby improve the standard of living of Iowans.

d. Promote industrial, commercial, and recreational development in Iowa.

3. All of the purposes stated in this section are public purposes and uses for which public moneys provided by the sale of bonds and notes, or otherwise available through appropriations, grants, contributions, or declared surplus moneys may be used.

4. It is the public policy of the state through the establishment of the export business finance program to promote the economic welfare of Iowans and to improve employment opportunities for Iowans. To advance the public policy the authority may provide financial assistance for export businesses through the sale of bonds and notes, loans, guarantees, insurance, grants, subsidies, investments, contracts, or other transactions.

Sec. 4. NEW SECTION. 220.122 IOWA EXPORT BUSINESS FINANCE PROGRAM.

The authority shall initiate a program to assist the development and expansion of export business in the state. The authority may issue bonds and notes the proceeds of which shall be used to provide financial assistance for export businesses. The authority may also provide financial assistance to export businesses through the use of loans, guarantees, insurance, grants, subsidies, investments, contracts, or other transactions.

Sec. 5. NEW SECTION. 220.123 EXPORT BUSINESS DEVELOPMENT PROGRAM — POWERS.

In assisting Iowa export businesses, the authority has all the powers specified in section 220.5 and in this part including, but not limited to, the following:

1. The authority may provide financial assistance, including guarantees described in subsection 2, to mortgage lenders or export businesses to finance international exports from the state which, in the judgment of the authority, will create or maintain employment in Iowa. Financial assistance shall only be provided where at least twenty-five percent of the value of the international exports is derived from goods or services whose final production process occurs in the state. The authority may charge reasonable fees for providing financial assistance.

2. The authority may provide guarantees for international exports against political or commercial loss, in whole or in part, of principal and interest. The guarantees may include, without limitation, insurance against a loss up to a stated amount which shall be set by the authority. Guarantees may include a pool of individual export transactions. A guarantee entered into by the authority shall not constitute a general obligation of the state of Iowa. Guarantees made by the authority shall not be terminated, canceled, or otherwise revoked except in accordance with the terms of the guarantees.

3. The authority shall provide financial assistance only to the extent that the financial assistance is reasonably necessary to stimulate or facilitate the making of an international export transaction including, without limitation, the making of the international export transaction upon terms which will enable the transaction to be reasonably competitive with transactions in other states or in foreign countries. The authority may condition the provision of financial assistance upon such other terms and conditions as it may deem desirable to carry out the purposes of the program. Prior to providing financial assistance, the participating mortgage lender shall make an investigation of a line of credit to the export business in order to determine its viability, the economic benefits to be derived from the line of credit, the prospects for repayment, and other facts as it deems necessary in order to determine that financial assistance is consistent with the purposes of the program.

Sec. 6. NEW SECTION. 220.124 ADVISORY BOARD.

The executive director may appoint a three-member advisory board to advise the authority on matters relating to international exporting and the export business finance program. Advisory board members shall be selected primarily for knowledge in the areas of international trade, finance, or business management.

Sec. 7. NEW SECTION. 220.125 COORDINATION OF PROGRAMS.

The authority shall coordinate with the department of economic development the marketing and educational aspects of the export business finance program. The authority and the department shall also coordinate economic development efforts and existing programs with the export business finance program.

Sec. 8. It is the intent of the general assembly that the legislative council study the feasibility of establishing a world trade institute and the programs to be offered by and the activities of the institute. The programs and activities to be considered include, but are not limited to, the following:

1. Conducting ongoing research for potential markets, matching those markets with Iowa firms, and forming strategies to penetrate those markets.
2. *Monitoring changing world economic and political conditions.*

Sec. 9. To the extent funds are available, the department of economic development, for the fiscal period beginning July 1, 1987, and ending June 30, 1989, may provide for a foreign visitor reception and information center in the state and may lease permanent exhibit space for the fiscal period in world trade centers or trade expos located in the United States. The department shall use these spaces as a showcase for products of Iowa businesses or shall sublease the spaces to appropriate businesses that wish to showcase their products.

Sec. 10. To the extent funds are available, the department of economic development, for the fiscal year beginning July 1, 1987, and ending June 30, 1988, may enter into a one-year agreement with a foreign investment company or an investment or merchant bank with international contacts to represent Iowa to its clients as a potential location for foreign direct investment.

Sec. 11. To the extent funds are available, the department of economic development, for the fiscal year beginning July 1, 1987, and ending June 30, 1988, may encourage and increase participation in trade shows and missions by providing low or no-interest loans to businesses for their costs of participating in trade shows and missions and by sending staff to additional trade shows and missions.

Approved May 21, 1987

CHAPTER 142

FORECLOSURE AND REDEMPTION OF MORTGAGES AND DEEDS OF TRUST

H.F. 599

AN ACT relating to mortgage foreclosures by removing certain restrictions on redemption in certain cases, establishing an alternative mortgage foreclosure proceeding with final judicial sale and rights in lieu of redemption, providing a cause of action against the receiver in certain cases, permitting the use of independent appraisers to determine the value of the homestead, providing for certain redemption rights, providing for a right of repurchase, establishing nonjudicial foreclosure proceedings upon waiver of deficiency judgments, providing dates of applicability, and providing an effective date.

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

Section 1. Section 628.4, Code 1987, is amended to read as follows:

628.4 REDEMPTION PROHIBITED.

A party who has ~~taken an appeal from the district court, or~~ stayed execution on the judgment, is not entitled to redeem.

Sec. 2. Section 654.5, Code 1987, is amended to read as follows:

654.5 JUDGMENT — SALE AND REDEMPTION.

When a mortgage or deed of trust is foreclosed, the court shall render judgment for the entire amount found to be due, and must direct the mortgaged property, or so much thereof as is necessary, to be sold to satisfy the ~~same~~ judgment, with interest and costs. A special execution shall issue accordingly, and the sale ~~thereunder shall be~~ under the special execution is subject to redemption as in cases of sale under general execution unless the plaintiff has elected foreclosure without redemption under section 654.20.

Sec. 3. Section 654.14, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the owner or person in actual possession of agricultural land as defined in section 172C.1 is not afforded a right of first refusal in leasing the mortgaged premises by the receiver, the owner or person in actual possession has a cause of action against the receiver to recover either actual damages or a one thousand dollar penalty, and costs, including reasonable attorney's fees. The receiver shall deliver notice to the owner or person in actual possession, or the attorney of the owner or person in actual possession of an offer made to the receiver, the terms of the offer, and the name and address of the person making the offer. The delivery shall be made personally with receipt returned or by certified or registered mail, with the proper postage on the envelope, addressed to the owner or person in actual possession or the attorney of the owner or person in actual possession. An offer shall be deemed to have been refused if the owner or person in actual possession or the attorney of the owner or person in actual possession does not respond within ten days following the date that the notice is mailed.

Sec. 4. Section 654.16, unnumbered paragraph 2, Code 1987, is amended to read as follows:

If the designated homestead is ~~not~~ sold ~~separately, but rather is sold in conjunction with the nonhomestead property~~ at a foreclosure sale in order to satisfy the judgment, the court shall determine the fair market value of the designated homestead. The court may consult with the county appraisers appointed pursuant to section 450.24, or with one or more independent appraisers, to determine the fair market value of the designated homestead. ~~The mortgagor may redeem the homestead separately by tendering the fair market value of the homestead pursuant to chapter 628.~~

Sec. 5. Section 654.16, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The mortgagor may redeem the designated homestead by tendering the fair market value, as determined pursuant to this section, of the designated homestead at any time within two years from the date of the foreclosure sale, pursuant to the procedures set forth in chapter 628. However, this paragraph shall not apply to a member institution which has purchased a designated homestead at a foreclosure sale.

NEW UNNUMBERED PARAGRAPH. The mortgagor may redeem the designated homestead from a member institution, which has purchased the designated homestead at a foreclosure sale, by tendering the fair market value of the designated homestead within one year from the date of the foreclosure sale, pursuant to the procedures set forth in chapter 628.

NEW UNNUMBERED PARAGRAPH. If the member institution which has purchased the designated homestead at a foreclosure sale is not a state bank as defined in section 524.103, the following shall apply:

1. At the time the sheriff's deed is issued, the institution shall notify the mortgagor of the mortgagor's right of first refusal. A copy of this unnumbered paragraph and subsections 1 through 5 and titled "Notice of Right of First Refusal" is sufficient notice.

2. If within one year after a sheriff's deed is issued to the institution, the institution proposes to sell or otherwise dispose of the designated homestead, in a transaction other than a public auction, the institution shall first offer the mortgagor the opportunity to repurchase the designated homestead on the same terms the institution proposes to sell or dispose of the designated homestead. If the institution seeks to sell or otherwise dispose of the designated homestead by public auction within one year after a sheriff's deed is issued to the institution, the mortgagor must be given sixty days' notice of all of the following:

a. The date, time, place, and procedures of the auction sale.

b. Any minimum terms or limitations imposed upon the auction.

3. The institution is not required to offer the mortgagor financing for the purchase of the homestead.

4. The mortgagor has ten business days after being given notice of the terms of the proposed sale or disposition, other than a public auction, in which to exercise the right to repurchase the homestead by submitting a binding offer to the institution on the same terms as the proposed sale or other disposition, with closing to occur within thirty days after the offer unless otherwise agreed by the institution. After the expiration of either the period for offer or the period for closing, without submission of an offer or a closing occurring, the institution may sell or otherwise dispose of the designated homestead to any other person on the terms upon which it was offered to the mortgagor.

5. Notice of the mortgagor's right of first refusal, a proposed sale, auction, or other disposition, or the submission of a binding offer by the mortgagor, is considered given on the date the notice or offer is personally served on the other party or on the date the notice or offer is mailed to the other party's last known address by registered or certified mail, return receipt requested. The right of first refusal provided in this section is not assignable, but may be exercised by the mortgagor's successor in interest, receiver, personal representative, executor, or heir only in case of bankruptcy, receivership, or death of the mortgagor.

NEW UNNUMBERED PARAGRAPH. As used in this section, "member institution" means any lending institution that is a member of the federal deposit insurance corporation, the federal savings and loan insurance corporation, the national credit union administration, or an affiliate of such institution.

Sec. 6. NEW SECTION. 654.20 FORECLOSURE WITHOUT REDEMPTION.

If the mortgaged property is not used for an agricultural purpose as defined in section 535.13, the plaintiff in an action to foreclose a real estate mortgage may include in the petition an election for foreclosure without redemption. The election is effective only if the first page of the petition contains the following notice in capital letters of the same type or print size as the rest of the petition:

NOTICE

THE PLAINTIFF HAS ELECTED FORECLOSURE WITHOUT REDEMPTION. THIS MEANS THAT THE SALE OF THE MORTGAGED PROPERTY WILL OCCUR PROMPTLY AFTER ENTRY OF JUDGMENT UNLESS YOU FILE WITH THE COURT A WRITTEN DEMAND TO DELAY THE SALE. IF YOU FILE A WRITTEN DEMAND, THE SALE WILL BE DELAYED UNTIL TWELVE MONTHS (or SIX MONTHS if the petition includes a waiver of deficiency judgment) FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE BUT NOT A ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE NO RIGHT OF REDEMPTION AFTER THE SALE. THE PURCHASER AT THE SALE WILL BE ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED PROPERTY. YOU MAY PURCHASE AT THE SALE.

If the plaintiff has not included in the petition a waiver of deficiency judgment, then the notice shall include the following:

IF YOU DO NOT FILE A WRITTEN DEMAND TO DELAY THE SALE AND IF THE MORTGAGED PROPERTY IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING, THEN A DEFICIENCY JUDGMENT WILL NOT BE ENTERED AGAINST YOU. IF YOU DO FILE A WRITTEN DEMAND TO DELAY THE SALE, THEN A DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST YOU IF THE PROCEEDS FROM THE SALE OF THE MORTGAGED PROPERTY ARE INSUFFICIENT TO SATISFY THE AMOUNT OF THE MORTGAGE DEBT AND COSTS.

IF THE MORTGAGED PROPERTY IS NOT YOUR RESIDENCE OR IS NOT A ONE-FAMILY OR TWO-FAMILY DWELLING, THEN A DEFICIENCY JUDGMENT MAY BE ENTERED AGAINST YOU WHETHER OR NOT YOU FILE A WRITTEN DEMAND TO DELAY THE SALE.

If the election for foreclosure without redemption is made, then sections 654.21 through 654.26 apply.

Sec. 7. NEW SECTION. 654.21 DEMAND FOR DELAY OF SALE.

At any time prior to entry of judgment, the mortgagor may file a demand for delay of sale. If the demand is filed, the sale shall be held promptly after the expiration of two months from entry of judgment. However, if the demand is filed and the mortgaged property is the residence of the mortgagor and is a one-family or two-family dwelling, the sale shall be held promptly after the expiration of twelve months, or six months if the petition includes a waiver of deficiency judgment, from entry of judgment. If the demand is filed, the mortgagor and mortgagee subsequently may file a stipulation that the sale may be held promptly after the stipulation is filed and that the mortgagee waives the right to entry of a deficiency judgment. If the stipulation is filed, the sale shall be held promptly after the filing. At any time prior to judgment, the mortgagor may pay the plaintiff the amount claimed in the petition and, if paid, the foreclosure action shall be dismissed. At any time after judgment and before the sale, the mortgagor may pay the plaintiff the amount of the judgment and, if paid, the judgment shall be satisfied of record and the sale shall not be held.

Sec. 8. NEW SECTION. 654.22 NO DEMAND FOR DELAY OF SALE.

If the mortgagor does not file a demand for delay of sale, the sale shall be held promptly after entry of judgment.

Sec. 9. NEW SECTION. 654.23 NO REDEMPTION RIGHTS AFTER SALE.

The mortgagor has no right to redeem after sale. Junior lienholders have no right to redeem after sale. The mortgagor or a junior lienholder may purchase at the sale and, if so, acquire the same title as would any other purchaser. If the mortgagor at the sale bids an amount equal to the judgment, the property shall be sold to the mortgagor even though other persons may

bid an amount which is more than the judgment. If the mortgagor purchases at the sale, the liens of junior lienholders shall not be extinguished. If a person other than the mortgagor purchases at the sale, the liens of junior lienholders are extinguished.

Sec. 10. NEW SECTION. 654.24 DEED AND POSSESSION.

The purchaser at the sale is entitled to an immediate deed and immediate possession.

Sec. 11. NEW SECTION. 654.25 APPLICATION OF OTHER STATUTES.

If the plaintiff has elected foreclosure without redemption, chapter 628 does not apply. A provision in a mortgage permitted by section 628.26 or 628.27 shall not be construed as an agreement by the mortgagee not to elect foreclosure without redemption. The election may be made in any petition filed on or after the effective date of this Act. The election for foreclosure without redemption is not a waiver of the plaintiff's rights under section 654.6 except as provided in section 654.26.

Sec. 12. NEW SECTION. 654.26 NO DEFICIENCY JUDGMENT IN CERTAIN CASES.

If the plaintiff has elected foreclosure without redemption, the plaintiff may include in the petition a waiver of deficiency judgment. If the plaintiff has elected foreclosure without redemption and does not include in the petition a waiver of deficiency judgment, if the mortgaged property is the residence of the mortgagor and is a one-family or two-family dwelling, and if the mortgagor does not file a demand for delay of sale under section 654.21, then the plaintiff shall not be entitled to the entry of a deficiency judgment under section 654.6.

Sec. 13. Section 654.2B, Code 1987, is amended to read as follows:

654.2B REQUIREMENTS OF NOTICE OF RIGHT TO CURE.

The notice of right to cure shall be in writing and shall conspicuously state the name, address, and telephone number of the creditor to which payment is to be made, a brief identification of the obligation secured by the deed of trust or mortgage and of the borrower's right to cure the default, a statement of the nature of the right to cure the default, a statement of the nature of the alleged default, a statement of the total payment, including an itemization of any delinquency or deferral charges, or other performance necessary to cure the alleged default, and the exact date by which the amount must be paid or performance tendered and a statement that if the borrower does not cure the alleged default that the creditor is entitled to proceed with initiating a foreclosure action or procedure.

Sec. 14. NEW SECTION. 654.27 NOTICE, RIGHT TO CURE DEFAULT.

1. Except as provided in section 654.2A, a creditor shall comply with this section before initiating an action pursuant to this chapter or initiating the procedure established pursuant to chapter 655A to foreclose on a deed of trust or mortgage.

2. A creditor who believes in good faith that a borrower on a deed of trust or mortgage on a homestead is in default shall give the borrower a notice of right to cure as provided in section 654.2B. A creditor gives the notice when the creditor delivers the notice to the consumer or mails the notice to the borrower's residence as defined in section 537.1201, subsection 4.

3. The borrower has a right to cure the default within thirty days from the date the creditor gives the notice.

4. a. The creditor shall not accelerate the maturity of the unpaid balance of the obligation, demand or otherwise take possession of the land, otherwise than by accepting a voluntary surrender of it, or otherwise attempt to enforce the obligation until thirty days after a proper notice of right to cure is given.

b. Until the expiration of thirty days after notice is given, the borrower may cure the default by tendering either the amount of all unpaid installments due at the time of tender, without

acceleration, or the amount stated in the notice of right to cure, whichever is less, or by tendering any other performance necessary to cure a default which is described in the notice of right to cure.

5. The act of curing a default restores to the borrower the borrower's rights under the obligation and the deed of trust or mortgage.

6. This section does not prohibit the creditor from enforcing the creditor's interest in the land at any time after the creditor has complied with this section and the borrower did not cure the alleged default.

7. A borrower has a right to cure the default unless, the creditor has given the borrower a proper notice of right to cure with respect to a prior default which occurred within three hundred sixty-five days of the present default.

8. This section does not apply if the creditor is an individual or individuals, or if the mortgaged property is property other than a one-family or two-family dwelling which is the residence of the mortgagor.

9. An affidavit signed by an officer of the creditor that the creditor has complied with this section is deemed to be conclusive evidence of compliance by all persons other than the creditor and the mortgagor.

Sec. 15. NEW SECTION. 654.28 RIGHTS RESERVED.

A mortgage or deed of trust shall not contain the notice under section 654.20.

Sec. 16. NEW SECTION. 628.1A APPLICATION OF THIS CHAPTER.

This chapter does not apply in an action to foreclose a real estate mortgage if the plaintiff has elected foreclosure without redemption under section 654.20.

Sec. 17. NEW SECTION. 655A.1 TITLE.

This chapter shall be known as the "Nonjudicial Foreclosure of Nonagricultural Mortgages".

Sec. 18. NEW SECTION. 655A.2 CONDITIONS PRESCRIBED.

Except as provided in section 655A.9, a mortgage may be foreclosed, at the option of the mortgagee, as provided in this chapter.

Sec. 19. NEW SECTION. 655A.3 NOTICE.

1. The nonjudicial foreclosure is initiated by the mortgagee by serving on the mortgagor a written notice which shall:

a. Reasonably identify the mortgage and accurately describe the real estate covered.

b. Specify the terms of the mortgage with which the mortgagor has not complied. The terms shall not include any obligation arising from acceleration of the indebtedness secured by the mortgage.

c. State that, unless within thirty days after the completed service of the notice the mortgagor performs the terms in default or files with the recorder of the county where the mortgaged property is located a rejection of the notice pursuant to section 655A.6 and serves a copy of the rejection upon the mortgagee, the mortgage will be foreclosed.

The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF ORIGINAL NOTICES. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.

IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE

THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

2. The mortgagee shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the mortgagor, and on all junior lienholders of record.

3. As used in this chapter, "mortgagee" and "mortgagor" include a successor in interest.

Sec. 20. NEW SECTION. 655A.4 SERVICE.

Notice or rejection of notice under this chapter shall be served as provided in the rules of civil procedure for service of original notice.

Sec. 21. NEW SECTION. 655A.5 COMPLIANCE WITH NOTICE.

If the mortgagor or a junior lienholder performs, within thirty days of completed service of notice, the breached terms specified in the notice, then the right to foreclose for the breach is terminated.

Sec. 22. NEW SECTION. 655A.6 REJECTION OF NOTICE.

If either the mortgagor, or successor in interest of record including a contract purchaser, within thirty days of service of the notice pursuant to section 655A.3, files with the recorder of the county where the mortgaged property is located, a rejection of the notice reasonably identifying the notice which is rejected together with proofs of service required under section 655A.4 that the rejection has been served on the mortgagee, the notice served upon the mortgagor pursuant to section 655A.3 is of no force or effect.

Sec. 23. NEW SECTION. 655A.7 PROOF AND RECORD OF SERVICE.

If the terms and conditions as to which there is default are not performed within the thirty days, the party serving the notice or causing it to be served shall file for record in the office of the county recorder a copy of the notice with proofs of service required under section 655A.4 attached or endorsed on it and, in case of service by publication, a personal affidavit that personal service could not be made within this state, and when those documents are filed and recorded, the record is constructive notice to all parties of the due foreclosure of the mortgage.

Sec. 24. NEW SECTION. 655A.8 EFFECT OF FORECLOSURE.

Upon completion of the filings required under section 655A.7 and if no rejection of notice has been filed pursuant to section 655A.6, then without further act or deed:

1. The mortgagee acquires and succeeds to all interest of the mortgagor in the real estate.
2. All liens which are inferior to the lien of the foreclosed mortgage are extinguished.
3. The indebtedness secured by the foreclosed mortgage is extinguished.

Sec. 25. NEW SECTION. 655A.9 APPLICATION OF CHAPTER.

This chapter does not apply to real estate used for an agricultural purpose as defined in section 535.13.

Sec. 26. Section 1 of this Act applies to all general and special execution sales held on, after, or within one year before the effective date of this Act.

Sec. 27. Section 3 of this Act applies to all leases executed by receivers on or after the effective date of this Act.

Sec. 28. Section 654.16, Code 1987, as amended by sections 4 and 5 of this Act, applies to all foreclosure sales of agricultural land held on or after the effective date of this Act, and to foreclosure sales of agricultural land held within one year before the effective date of this Act if the holder of the sheriff's certificate of sale is a mortgagee who has not sold or otherwise disposed of the agricultural land and whose mortgage was enforced by the foreclosure sale.

Sec. 29. This Act, being deemed of immediate importance, takes effect on the tenth day after its enactment.

Approved May 25, 1987

CHAPTER 143

DRAINAGE DISTRICT IMPROVEMENTS

H.F. 345

AN ACT relating to the procedures for authorization of drainage district improvements.

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

Section 1. Section 455.135, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. When the board determines that improvements are necessary or desirable, it shall appoint an engineer to make surveys as seem appropriate to determine the nature and extent of the needed improvements, and to file a report showing what improvements are recommended and their estimated costs, which report may be amended before final action. If the estimated cost of the improvements does not exceed five thousand dollars, or twenty-five percent of the original cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done without notice. If the estimated cost of the improvements does not exceed ten thousand dollars or twenty-five percent of the original cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done after holding a hearing and publishing notice of that hearing in a newspaper of general circulation published in the county not less than twenty days before the day set for the hearing. The board shall also mail a copy of the notice to any state agency which is a landowner in the district. The board shall not divide proposed improvements into separate programs in order to avoid the limitation for making improvements without notice. If the board deems it desirable to make improvements where the estimated cost exceeds ~~that~~ the ten thousand dollar or twenty-five percent limit, it shall set a date for a hearing on the matter of constructing the proposed improvements and also on the matter of whether there shall be a reclassification of benefits for the cost of the proposed improvements, and shall give notice as provided in sections 455.20 to 455.24. At the hearing the board shall hear objections to the feasibility of the proposed improvements and arguments for or against a reclassification presented by or for any taxpayer of the district. Following the hearing the board shall order that the improvements it deems desirable and feasible be made, and shall also determine whether there should be a reclassification of benefits for the cost of improvements. If it is determined that a reclassification of benefits should be made the board shall proceed as provided in section 455.45. In lieu of publishing the notice of a hearing as provided by this subsection the board may mail a copy of the notice to each address where a landowner in the district resides by first class mail if the cost of mailing is less than publication of the notice. The mailing shall be made during the time the notice would otherwise be required to be published.

Approved May 26, 1987

CHAPTER 144

MEAT AND POULTRY INSPECTION

H.F. 602

AN ACT providing for the appointment of a person to administer the inspection of meat and poultry under chapter 189A.

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

Section 1. Section 189A.5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The secretary shall administer this chapter ~~and shall employ veterinarians to administer this chapter~~ and may appoint a person to act as the secretary's designee in the administration of this chapter. The secretary shall employ veterinarians licensed in the state of Iowa as veterinary inspectors. The secretary is also authorized to employ as meat inspectors other persons who have qualified and are skilled in the inspection of meat and poultry products and any other additional employees the secretary deems necessary to carry out the provisions of this chapter. The meat inspectors shall be under the supervision of the secretary's designee or a veterinary inspector if no designee is appointed. The secretary may also enter into contracts with qualified individuals to perform inspection services as the secretary may designate for a fee per head or per unit volume to be determined by the secretary provided ~~such~~ the persons are not employed in ~~the~~ an establishment in which the inspection takes place. The secretary may utilize any employee, agent, or equipment of the department in the enforcement of this chapter, and may assign to inspectors other duties related to the acceptance of meat and poultry products.

Approved May 26, 1987

CHAPTER 145

ETHANOL-BLENDED GASOLINE

H.F. 621

AN ACT requiring the state vehicle dispatcher and other state agencies to solicit bids for ethanol-blended gasoline when advertising for bids for gasoline.

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

Section 1. Section 18.115, subsection 9, Code 1987, is amended to read as follows:

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

and vehicle replacement parts for all state-owned vehicles. The state vehicle dispatcher and other state agencies, when advertising for bids for gasoline, shall also seek bids for ethanol-blended gasoline.

Approved May 26, 1987

CHAPTER 146

AUTHORIZED FARM CORPORATIONS AND TRUSTS

H.F. 633

AN ACT relating to restrictions on the number of acres of agricultural land that authorized farm corporations or authorized trusts may acquire or otherwise obtain or lease, restricting persons from being shareholders or beneficiaries in more than a certain number of authorized farm corporations or authorized trusts, and providing penalties.

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

Section 1. NEW SECTION. 172C.5 RESTRICTIONS ON AUTHORIZED FARM CORPORATIONS AND AUTHORIZED TRUSTS.

An authorized farm corporation or authorized trust shall not, on or after July 1, 1987, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the authorized farm corporation or authorized trust would then exceed one thousand five hundred acres. However, this paragraph does not apply to agricultural land that is leased by an authorized farm corporation or authorized trust to the immediate prior owner of the land for the purpose of farming, as defined in section 172C.1. Upon cessation of the lease to the immediate prior owner, the authorized farm corporation or authorized trust shall, within three years following the date of the cessation, sell or otherwise dispose of the agricultural land leased to the immediate prior owner. This paragraph also does not apply to land that is held or acquired and maintained to protect significant elements of the state's natural open space heritage, including but not limited to significant river, lake, wetland, prairie, forest areas, other biologically significant areas, land containing significant archaeological, historical, or cultural value, or fish or wildlife habitats, as defined in rules adopted by the department of natural resources.

A person shall not after July 1, 1987 become a stockholder of any authorized farm corporation if the person is a stockholder of any other authorized farm corporation or a beneficiary of an authorized trust. A person shall not after July 1, 1987 become a beneficiary of an authorized trust if the person is a beneficiary of another authorized trust or a stockholder of an authorized farm corporation.

Any authorized farm corporation or authorized trust violating the provisions of this section shall upon conviction, be punished by a fine of not more than fifty thousand dollars and shall divest itself of any land acquired in violation of this section within one year after conviction. A penalty of not more than one thousand dollars shall be imposed on a person who becomes a stockholder of an authorized farm corporation or a beneficiary of an authorized trust in violation of this section. The person shall divest the interest held by the person in the corporation or trust to comply with this section. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

Approved May 26, 1987

CHAPTER 147

GRAIN DEALER AND AGRICULTURAL WAREHOUSE OPERATOR REGULATION

H.F. 411

AN ACT relating to the grain indemnity fund, by further defining the term "grain dealer", limiting financial reporting by grain dealers and warehouse operators, eliminating credit sale contracts from its protection, providing for distribution of receivership assets excluding proceeds of the fund, raising minimum net worth requirements, and providing definitions, eliminating participation by federally licensed warehouses, and providing a penalty for late payment of fees, eligibility standards, for the appointment of additional members to the Iowa grain indemnity fund board, the adjustment of fees, a procedure for determining the value of losses, and requirements for recovery from the fund.

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

Section 1. Section 542.1, subsection 3, Code 1987, 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" does not 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 who purchases grain for sale in a nonregistered customer-formula feed regulated by chapter 198, who purchases less than a total of fifty thousand bushels of grain annually from producers, and who is also exempt as an incidental warehouse operator under chapter 543; a person engaged in the business of selling agricultural seeds regulated by chapter 199; a person buying grain only as a farm manager; an executor, administrator, trustee, guardian, or conservator of an estate; a bargaining agent as defined in section 542A.1; or a custom livestock feeder.

Sec. 2. Section 542.3, subsection 4, paragraph b, Code 1987, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 3. Section 542.3, subsection 5, paragraph b, Code 1987, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public

accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 4. Section 542.15, subsection 8, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

8. A licensed grain dealer who purchases grain by credit sale contract shall obtain from the seller a signed acknowledgement stating that the seller has received notice that grain purchased by credit sale contract is not protected by the grain depositors and sellers indemnity fund. The form for the acknowledgement shall be prescribed by the department, and the licensed grain dealer and the seller shall each be provided a copy.

Sec. 5. Section 543.4, subsection 4, Code 1987, is amended to read as follows:

4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy, deficiency bond, or irrevocable letter of credit, less expenses incurred by the department in connection with the receivership, ~~plus the proceeds from the grain depositors and sellers indemnity fund in an amount determined pursuant to section 543A.3~~ to depositors as their interests are determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.

Sec. 6. Section 543.6, subsection 4, paragraphs a and b, Code 1987, are amended to read as follows:

a. The warehouse operator shall have and maintain a net worth of at least ~~twenty~~ twenty-five cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 warehouse operator if the person has a net worth of less than twenty-five thousand dollars.

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited

financial statement specified in this paragraph, and if a warehouse operator makes this election the department shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the certified financial statement.

Sec. 7. Section 543.6, subsection 5, paragraphs a and b, Code 1987, are amended to read as follows:

a. The warehouse operator shall have and maintain a net worth of at least ~~twenty~~ twenty-five cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 2 warehouse operator if the person has a net worth of less than ten thousand dollars.

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the department shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three-calendar-month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the qualified financial statement.

Sec. 8. Section 543A.1, subsections 3 and 4, Code 1987, are amended to read as follows:

3. "Depositor" means a person who deposits grain in a state warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt issued by a state warehouse, or who is lawfully entitled to possession of the grain.

4. "Fund" means the grain depositors and sellers ~~indemnification~~ indemnity fund created in section 543A.3.

Sec. 9. Section 543A.1, subsections 6 and 7, Code 1987, are amended by striking the subsections, inserting in lieu thereof the following, and renumbering subsequent subsections:

6. "Assessable grain" means all grain to which a licensed grain dealer obtains title except if title transfers by credit sale contract, and all grain received by a licensed warehouse operator. However, assessable grain does not include the following:

a. Grain purchased by an Iowa licensed grain dealer from another licensed grain dealer, regardless of which jurisdiction licenses the other grain dealer.

b. Grain deposited in a licensed grain warehouse for custom drying, cleaning, conditioning, or processing if the grain is redelivered to the depositor immediately, as defined by rules adopted by the department.

Sec. 10. Section 543A.1, subsection 11, Code 1987, is amended to read as follows:

~~11~~ 10. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, ~~and includes~~ but excludes a person who executes a credit sale contract as a seller.

Sec. 11. Section 543A.2, Code 1987, is amended to read as follows:

543A.2 PERSONS PARTICIPATING IN FUND.

All licensed grain dealers and licensed warehouse operators shall participate in the fund. ~~In addition, a grain warehouse licensed under the United States Warehouse Act, 7 U.S.C. 241, may participate in the fund and be subject to this chapter if a cooperative agreement exists both between the federal agency and the department and between the federal licensee and the department. The agreement between the department and the federal licensee shall be ratified each year the federal licensee elects to participate in the fund. A participating federally licensed grain warehouse shall meet the minimum net worth requirements of section 543.6.~~

Sec. 12. Section 543A.3, subsections 1 and 2, Code 1987, are amended to read as follows:

1. The grain depositors and sellers indemnity fund is created in the state treasury. The general fund of the state is not liable for claims presented against the grain depositors and sellers indemnity fund under section 543A.6. The fund consists of a per-bushel fee on assessable grain ~~sold~~ remitted by licensed grain dealers, and licensed warehouse operators, ~~and participating federally licensed grain warehouses~~; an annual fee charged to and remitted by licensed grain dealers, and licensed warehouse operators, ~~and participating federally licensed grain warehouses~~; sums collected by the department by legal action on behalf of the fund; and interest, property, or securities acquired through the use of moneys in the fund. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 543A.6 and to pay the administrative costs of this chapter.

2. The grain dealer, or warehouse operator, ~~or participating federally licensed warehouse~~ shall forward the per-bushel fee to the department in the manner and using the forms prescribed by the department. If the per-bushel fee has not been ~~forwarded to~~ received by the department by the date required by the department, the grain dealer, or warehouse operator, ~~or participating federally licensed warehouse~~ is subject to ~~an interest~~ a penalty of ten dollars for each day the grain dealer, or warehouse operator, ~~or participating federally licensed warehouse fails to forward the fee~~ is delinquent. ~~Interest shall be simple interest, and shall be the maximum lawful rate of interest for the month the payment was due.~~ If the per-bushel fee has not been ~~forwarded to~~ received by the department within thirty days after the payment was due, the grain dealer's or warehouse operator's license ~~or the participating warehouse operator's cooperative agreement~~ shall be suspended. The per-bushel fee shall be collected only once on each bushel of grain.

Sec. 13. Section 543A.3, subsection 3, paragraph a, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All licensed grain dealers, and licensed warehouse operators, ~~and participating federally licensed grain warehouses~~ shall annually remit a fee to be deposited into the fund which is determined as follows:

Sec. 14. Section 543A.3, subsection 3, paragraph b, Code 1987, is amended to read as follows:

b. Payment of the required amount shall be made before the grain dealer's or warehouse operator's license is renewed, ~~or before the participating federal licensee's agreement with the department is ratified~~.

Sec. 15. Section 543A.3, subsection 4, Code 1987, is amended to read as follows:

4. A person who applies for a grain dealer's or warehouse operator's license ~~or a federal licensee who elects to participate in the fund~~ who has not ~~previously~~ paid the full fee required by subsection 3, shall pay that amount before the license is issued ~~or the agreement is ratified~~.

Sec. 16. Section 543A.4, Code 1987, is amended to read as follows:

543A.4 INDEMNITY FUND BOARD.

The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary ~~of the department~~ of agriculture or a designee who shall serve as president; the commissioner of insurance or a designee who shall serve as secretary; the state treasurer or a designee who shall serve as treasurer; and ~~two~~ four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, ~~one~~ two of whom shall be ~~a representative~~ representatives of ~~grain depositors and sellers~~ producers and who shall be actively participating producers, and ~~one~~ two of whom shall be ~~a representative~~ representatives of grain dealers and warehouse operators and who shall be actively participating grain dealers and warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the grain industry representatives is three years, and the representatives are eligible for reappointment. However, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The grain industry representatives are entitled to forty dollars per diem for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. ~~Three~~ Four members of the board constitute a quorum, and the affirmative vote of ~~three~~ four members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

Sec. 17. Section 543A.5, Code 1987, is amended to read as follows:

543A.5 ADJUSTMENTS TO FEE.

1. The board shall review annually the debits of and credits to the grain depositors and sellers indemnity fund created in section 543A.3 and shall make any adjustments in the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, that are necessary to maintain the fund within the limits established under this section. Not later than the first day of May of each year, the board shall determine the proposed amount of the per-bushel fee based on the expected volume of grain on which the fee is to be collected and that is likely to be handled under this chapter, and shall also determine any adjustment to the dealer-warehouse fee. ~~The per-bushel fee and the dealer-warehouse fee shall be adjusted on a pro rata basis.~~ The board shall make any changes in the previous year's fees in accordance with chapter 17A. Changes in the fees shall become effective on the following first day of July. The per-bushel fee shall not exceed one-quarter cent per bushel on all ~~grains on which the fee is to be paid~~ assessable grain. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all ~~other grains on which the fee is paid~~ assessable grain.

2. If, at the end of any fiscal year, the assets of the fund exceed six million dollars, less any encumbered balances or pending or unsettled claims, the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, shall be waived until the board reinstates the fees ~~on a pro rata basis~~. The board shall reinstate the ~~fee~~ fees if the assets of the fund, less any unencumbered balances or pending or unsettled claims, are three million dollars or less.

Sec. 18. Section 543A.6, subsection 1, Code 1987, is amended to read as follows:

1. ~~When a depositor or seller has made a demand for settlement of an obligation concerning grain on which a fee was required to be remitted under section 543A.3 and the licensed grain dealer or licensed warehouse operator has failed to honor the demand, the depositor or seller, after providing the department with evidence of the demand and the dishonoring of the demand, may file a claim with the department for indemnification of damages from the grain depositors and sellers indemnity fund~~ A depositor or seller may file a claim concerning assessable

grain with the department for indemnification of a loss from the grain depositors and sellers indemnity fund. A claim shall be filed in the manner prescribed by the board. A claim shall not be filed prior to the earlier of: 1) the revocation, termination, or cancellation of the license of the grain dealer or warehouse operator; and 2) the filing of a petition in bankruptcy by a grain dealer or warehouse operator. However, to be timely a claim shall be filed within one hundred twenty days of the revocation, termination, or cancellation of the license of the grain dealer or warehouse operator. The value of a loss is to be measured as follows:

a. The board shall ~~establish~~ determine the dollar value of ~~the loss~~ a claim incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered to the licensed warehouse operator~~, and by a seller who has delivered grain sold on a credit sale contract to a licensed~~ or grain dealer. The value shall be based on the average fair market price being paid for the grain to producers by the three licensed grain dealers nearest the warehouse operator or grain dealer ~~for the grain~~ on the earlier of the following:

(1) The date of license ~~suspension or the~~ revocation, termination, or cancellation.

(2) The date on which ~~the department received notice that the receipt, scale weight ticket, or credit sale contract was dishonored by~~ the licensed warehouse operator or licensed grain dealer filed a petition in bankruptcy.

However, the board may accept the valuation of a claim as determined by a court of competent jurisdiction as the value of the claim. All depositors filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at time of payment from the fund.

b. The dollar value of ~~the loss~~ a claim incurred by a seller who has sold grain or delivered grain for sale or exchange and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of the sale. However, the board may accept the valuation of a claim as determined by a court of competent jurisdiction as the value of the claim. The value of the loss is the outstanding balance on the validated claim at the time of payment from the fund.

Sec. 19. Section 543A.6, subsections 2, 3, and 5, Code 1987, are amended to read as follows:

2. The grain depositors and sellers indemnity fund is liable to a depositor or seller for a claim which arises on or after May 15, 1986, for ninety percent of the loss, as determined under subsection 1, but not more than one hundred fifty thousand dollars per claimant. ~~The aggregate amount recovered by a depositor or seller under all remedies shall not exceed ninety percent of the value of the loss. If the moneys recovered by a depositor or seller under all remedies exceed ninety percent of the value of the loss, the depositor or seller shall reimburse the fund in the amount that exceeds ninety percent of the value of the loss.~~

3. The board shall determine the validity of all claims presented against the fund. ~~A claim filed under this section for losses on grain other than grain stored in a warehouse operated by a licensed warehouse operator is not valid unless the seller has made a demand for settlement of the obligation within twelve months after the grain is priced or delivered for sale, whichever occurs later except that if the notice provided in section 542.12 has been given, the seller must make the demand for settlement of the obligation within the one hundred twenty-day period.~~ A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides. The ~~department~~ board shall provide for payment from the fund to a depositor or seller whose claim has been found to be valid.

5. ~~If a depositor or seller files an action for legal or equitable remedies in a state or federal court having jurisdiction in those matters that includes a claim against grain upon which the depositor or seller may file a claim against the fund at a later date, the depositor or seller shall also file with the department a copy of the action filed with the court.~~ In the event of payment of a loss under this section, the ~~department shall be~~ fund is subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor

or seller against any person regarding the loss. The depositor or seller shall render all necessary assistance to aid the department and the board in securing the rights granted in this section. No action or claim initiated by a depositor or seller and pending at the time of payment from the fund shall be compromised or settled without the consent of the ~~department~~ board.

Sec. 20. This Act shall not affect a claim for indemnification by any person from the depositors and sellers indemnity fund, if the claim arose from a purchase of grain by a credit sale contract, and the contract was executed before the effective date of this Act.

Approved May 26, 1987

CHAPTER 148

LICENSE REVOCATIONS FOR OWI

H.F. 488

AN ACT relating to the time period for a hearing on the revocation of a person's license for operating a motor vehicle while under the influence of alcohol or a drug.

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

Section 1. Section 321J.13, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The department shall grant the person an opportunity to be heard within ~~thirty~~ forty-five days of receipt of a request for a hearing if the request is made not later than ~~twenty~~ thirty days after receipt of notice of revocation served pursuant to section 321J.9 or 321J.12. The hearing shall be before the department in the county where the alleged events occurred, unless the director and the person agree that the hearing may be held in some other county, or the hearing may be held by telephone conference at the discretion of the agency conducting the hearing. The hearing may be recorded and its scope shall be limited to the issues of whether a peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of section 321J.2 and either of the following:

Sec. 2. Section 321J.13, subsection 4, shall apply to persons whose motor vehicle license or nonresident operating privilege has been revoked prior to July 1, 1986 under section 321B.7, 321B.13, or 321B.16 as they existed prior to July 1, 1986 to the extent that a person may reopen a hearing on the revocation if the person submits a petition stating that a criminal action on a charge of a violation of section 321.281 as it existed prior to July 1, 1986 filed as a result of the same circumstances which resulted in the revocation has resulted in a decision in which the court has held that the peace officer did not have reasonable grounds to believe that a violation of section 321.281 had occurred to support a request for or to administer a chemical test or which has held the chemical test to be otherwise inadmissible or invalid. Such a decision by the court is binding on the department and shall require the department to rescind the revocation and destroy any record of the revocation.

Approved May 27, 1987

CHAPTER 149

JUVENILE LAWS

S.F. 522

AN ACT relating to juveniles, regarding children in need of services, the detention of juveniles in adult detention facilities, and penalties for violations of certain misdemeanors and ordinances.

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

Section 1. Section 232.8, subsection 1, unnumbered paragraph 3, Code 1987, is amended to read as follows:

Violations by a child of provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and violations of county or municipal curfew or traffic ordinances, and violations by a child of the provisions of section 123.47, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of section 123.47 to the juvenile court when there is reason to believe ~~that~~ the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child ~~that~~ who appears before it for a violation of section 123.47. A child convicted of a violation under this paragraph shall be sentenced pursuant to section 903.1, subsection 3.

Sec. 2. Section 232.22, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A child may be placed in detention as provided in this section ~~only~~ in one of the following facilities only:

Sec. 3. Section 232.22, subsection 2, paragraphs a, b, and c, Code 1987, are amended to read as follows:

a. A juvenile detention home.

b. Any other suitable place designated by the court other than a facility under paragraph "c".

c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act which if committed by an adult would be a felony, and if all of the following apply:

(1) The child is at least ~~fourteen~~ sixteen years of age; ~~and~~.

(2) The child has shown by the child's conduct, habits, or condition that the child constitutes an immediate and serious danger ~~to the child's self or~~ to another, or to the property of another, and a facility or place enumerated in paragraph "a" or "b" ~~of this subsection~~ is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility; ~~and~~.

(3) The facility has an adequate staff to supervise and monitor the child's activities at all times; ~~and~~.

(4) The child is confined in a room entirely separated from detained adults, is confined in a manner which prohibits communication with detained adults, and is permitted to use common areas of the facility only when no contact with detained adults is possible.

Sec. 4. Section 232.22, subsection 4, Code 1987, is amended to read as follows:

4. A child shall not be detained in a facility under subsection 2, paragraph "c" for a period of time in excess of ~~twelve~~ six hours without the oral or written order of a judge or a magistrate authorizing the detention. ~~When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and~~

~~indicating the reasons for the order.~~ A judge or magistrate may authorize detention in a facility under subsection 2, paragraph "c" for a period of time in excess of six hours but less than twenty-four hours, excluding weekends and legal holidays, but only if all of the following occur or exist:

a. The facility serves a geographic area outside a standard metropolitan statistical area as determined by the United States census bureau.

b. The court determines that an acceptable alternative placement does not exist pursuant to criteria developed by the department of human services.

c. The facility has been certified by the department of corrections as being capable of sight and sound separation pursuant to sections 232.22 and 356.3.

d. The child is awaiting an initial hearing before the court pursuant to section 232.44.

Sec. 5. Section 232.44, subsections 1 and 3, Code 1987, are amended to read as follows:

1. A hearing shall be held within forty-eight hours, excluding Saturdays, Sundays, and legal holidays, of the time of the child's admission to a ~~detention or~~ shelter care facility, and within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, of the time of a child's admission to a detention facility. If the hearing is not held within the time specified, the child shall be released from shelter care or detention. Prior to the hearing a petition shall be filed, except where the child is already under the supervision of a juvenile court under a prior judgment.

3. A notice shall be served upon the child, the child's attorney, the child's guardian ad litem if any, and the child's known parent, guardian, or custodian not less than ~~twenty-four~~ twelve hours before the time the hearing is scheduled to begin and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian, or custodian and that the effort has been unavailing, the hearing may proceed without the notice having been served.

Sec. 6. Section 805.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A peace officer shall issue a citation in lieu of arrest to a person under eighteen years of age accused of violating a simple misdemeanor under the provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

Sec. 7. Section 903.1, Code 1987, is amended to read as follows:

903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.

1. When a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

a. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

b. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, or a violation of a county or municipal curfew or traffic ordinance, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

The criminal penalty surcharge required by section 911.2 shall be added to a fine imposed on a misdemeanant, and is not a part of or subject to the maximums set in this section.

Sec. 8. The legislative council shall create an interim study committee to review the problem of runaways. The interim study committee shall be composed of legislative members and shall make its report to the legislative council and general assembly meeting in January, 1988.

Approved May 27, 1987

CHAPTER 150

FORGERY AND SIMILAR FRAUDS

H.F. 574

AN ACT relating to the crime of forgery and related fradulent* criminal acts, and providing penalties.

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

Section 1. NEW SECTION. 715A.1 DEFINITIONS.

1. As used in this chapter the term "writing" includes printing or any other method of recording information, and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

2. As used in this chapter the term "credit card" means a writing purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer and includes a debit card or access device used to engage in an electronic transfer of funds through a satellite terminal as defined in section 527.2, subsection 1.

Sec. 2. NEW SECTION. 715A.2 FORGERY.

1. A person is guilty of forgery if, with intent to defraud or injure anyone, or with knowledge that the person is facilitating a fraud or injury to be perpetrated by anyone, the person does any of the following:

a. Alters a writing of another without the other's permission.

b. Makes, completes, executes, authenticates, issues, or transfers a writing so that it purports to be the act of another who did not authorize that act, or so that it purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or so that it purports to be a copy of an original when no such original existed.

c. Utters a writing which the person knows to be forged in a manner specified in paragraph "a" or "b".

2. a. Forgery is a class "D" felony if the writing is or purports to be part of an issue of money, securities, postage or revenue stamps, or other instruments issued by the government, or part of an issue of stock, bonds, or other instruments representing interests in or claims against any property or enterprise, or a check, draft, or other writing which ostensibly evidences an obligation of the person who has purportedly executed it or authorized its execution.

b. Forgery is an aggravated misdemeanor if the writing is or purports to be a will, deed, contract, release, commercial instrument, or any other writing or other document evidencing, creating, transferring, altering, terminating, or otherwise affecting legal relations.

Sec. 3. NEW SECTION. 715A.3 SIMULATING OBJECTS OF ANTIQUITY OR RARITY.

A person commits a serious misdemeanor if, with intent to defraud anyone or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, the person makes, alters, or utters any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess.

*According to enrolled Act

Sec. 4. NEW SECTION. 715A.4 FRAUDULENT DESTRUCTION, REMOVAL, OR CONCEALMENT OF RECORDABLE INSTRUMENTS.

A person commits an aggravated misdemeanor if, with the intent to deceive or injure anyone, the person destroys, removes, or conceals a will, deed, mortgage, security instrument, or other writing for which the law provides public recording.

Sec. 5. NEW SECTION. 715A.5 TAMPERING WITH RECORDS.

A person commits an aggravated misdemeanor if, knowing that the person has no privilege to do so, the person falsifies, destroys, removes, or conceals a writing or record, with the intent to deceive or injure anyone or to conceal any wrongdoing.

Sec. 6. NEW SECTION. 715A.6 CREDIT CARDS.

1. A person commits a public offense by using a credit card for the purpose of obtaining property or services with knowledge of any of the following:

a. The credit card is stolen or forged.

b. The credit card has been revoked or canceled.

c. For any other reason the use of the credit card is unauthorized.

It is an affirmative defense to prosecution under paragraph "c" if the person proves by a preponderance of the evidence that the person had the intent and ability to meet all obligations to the issuer arising out of the use of the credit card.

2. An offense under this section is a class "D" felony if the value of the property or services secured or sought to be secured by means of the credit card is greater than five hundred dollars, otherwise the offense is an aggravated misdemeanor.

Sec. 7. NEW SECTION. 715A.7 FILING MULTIPLE COUNTS IN ONE INFORMATION, INDICTMENT, OR COMPLAINT.

A single information, indictment, or complaint charging false use of a financial instrument may allege more than one such violation against a person. The multiple charges shall be set out in separate counts, and the accused person shall be acquitted or convicted upon each count by a separate verdict. A convicted person shall be sentenced upon each verdict of guilty. The court may consider separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing.

Sec. 8. Chapter 715, Code 1987, is repealed.

Approved May 27, 1987

CHAPTER 151

CHILD IN NEED OF ASSISTANCE PROCEEDINGS

H.F. 588

AN ACT relating to child in need of assistance proceedings.

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

Section 1. Section 232.90, Code 1987, is amended to read as follows:

232.90 DUTIES OF COUNTY ATTORNEY.

The county attorney shall represent the state in ~~all~~ proceedings arising from a petition filed under this division and shall present evidence in support of the petition. The county attorney shall be present at proceedings initiated by petition under this division filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian or if there are contested issues before the court.

Approved May 27, 1987

CHAPTER 152

COUNTY CHARGES UNDER JUVENILE LAWS

H.F. 684

AN ACT relating to the county juvenile justice base costs.

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

Section 1. Section 232.141, Code 1987, is amended to read as follows:

232.141 EXPENSES CHARGED TO COUNTY.

1. The following expenses upon certification of the judge to the board of supervisors or upon such other authorization as provided by law are a charge upon the county in which the proceedings are held to the extent provided in subsection 4 8.

a. The fees and mileage of witnesses and the expenses and mileage of officers serving notices and subpoenas.

~~b. The expenses of transporting a child to a place designated by a child placing agency for the care of a child if the court transfers legal custody to a child placing agency.~~

~~c. The expense of transporting a child to or from a place designated by the court.~~

~~d~~ b. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

~~e. The expense of treatment or care ordered by the court under an authority of subsection 2.~~

2. The following expenses upon certification of the judge to the board of supervisors or upon such other authorization as provided by law are a charge upon the county identified pursuant to subsection 4 to the extent provided in subsection 8:

a. The expenses of transporting a child to a place designated by a child placing agency for the care of a child if the court transfers legal custody to a child placing agency.

b. The expense of transporting a child to or from a place designated by the court.

c. The expense of treatment or care ordered by the court under an authority of subsection 3.

2 3. If legal custody of a minor is transferred by the court, if the minor is placed by the court with someone other than the parents, ~~or~~ if a minor is given physical or mental examinations or treatment under order of the court, or if a minor is given physical or mental examination or treatment with the consent of the parent, guardian, or legal custodian relating to a child abuse investigation, 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~~ identified pursuant to subsection 4.

4. ~~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.~~ The expenses certified under subsection 2 that are the result of a court proceeding shall be a charge upon the county in which the proceedings are held. The expenses certified under subsection 2 that are the result of a child abuse investigation and not a court proceeding shall be a charge upon the county in which the child resides.

5. ~~Except~~ For court-ordered care, examination, and treatment authorized by this section, 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 the county's payments.

6. Upon the issuance of a court order for the care, examination, or treatment of a minor, the court shall furnish a copy of the court order to all providers of the care, examination, or treatment.

~~3~~ 7. The county charged with the cost and expenses under subsection 1 or 2 pursuant to subsection 4 may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under authority of this section shall be settled in accordance with sections 252.22 and 252.23.

~~4~~ 8. Costs incurred under this section shall be paid as follows:

a. The costs incurred under the provisions of section 232.52 of prior Codes by each county for the fiscal years beginning July 1, 1975, 1976 and 1977 shall be averaged. The average cost for each county shall be that county's base cost for the first fiscal year after July 1, 1979.

b. Each county shall be required to pay for the first fiscal year after July 1, 1979 an amount equal to its base cost plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the bureau of labor statistics for the current fiscal year times the base cost.

c. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph "b" ~~of this subsection~~ shall become that county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph "b".

d. The total amounts to be paid by a county shall be computed as provided in paragraphs "a", "b", and "c". For the fiscal year beginning July 1, 1987, and subsequent fiscal years, each county's base cost shall be divided into two separate base costs, representing the costs of witness and mileage fees and attorney fees paid pursuant to subsection 1, paragraphs "a" and "b", to be reimbursed by the judicial department, and representing the costs of transportation and treatment or care paid pursuant to subsection 2, paragraphs "a", "b", and "c", to be reimbursed by the department of human services. The ratio of the separate bases for each county shall equal the ratio of expenses identified in subsection 1 to the expenses identified in subsection 2 incurred during the fiscal year beginning July 1, 1986 and ending June 30, 1987, and paid by either the county or the state. Costs incurred under ~~provisions of~~ this section which are not paid by the county under ~~the provisions of~~ paragraphs "a," "b" and "c" shall be paid by the state. The counties shall apply for reimbursement to the judicial department, ~~which shall promulgate rules and forms to carry out the provisions of this paragraph~~ pursuant to rules adopted by the judicial department. The counties shall apply for reimbursement to the department of human services pursuant to rules adopted by the department.

Sec. 2. Section 602.1302, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall reimburse counties for the costs of witness and mileage fees and for attorney fees paid pursuant to section 232.141, subsection 1.

Approved May 27, 1987

CHAPTER 153

CHILD ABUSE

H.F.412

AN ACT relating to child abuse.

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

Section 1. Section 232.68, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

"Child abuse" or "abuse" means ~~harm or threatened harm occurring through~~:

Sec. 2. Section 232.68, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Mental health professional" means a person who meets the following requirements:

a. Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148, 150, or 150A.

b. Holds a license to practice in the appropriate profession.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals used in providing appropriate mental health services for those individuals.

Sec. 3. Section 232.69, subsection 1, paragraph b, Code 1987, 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, dental hygienist, counselor, paramedic, or mental health professional, 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.

Sec. 4. Section 232.70, subsection 4, Code 1987, is amended to read as follows:

4. The department of human services shall:

a. Immediately, upon receipt of an oral report, make ~~an oral report to the registry~~ a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68;

b. Make a report to the central registry if the oral report has been determined to constitute a child abuse allegation;

~~b~~ c. Forward a copy of the written report to the registry; and

~~c~~ d. Notify the appropriate county attorney of the receipt of any report.

Sec. 5. Section 232.71, subsection 1, Code 1987, is amended to read as follows:

1. Whenever a report is ~~received~~ determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report.

Sec. 6. Section 232.74, Code 1987, is amended to read as follows:

232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED.

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding,

civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

Sec. 7. Section 232.96, subsections 4 and 5, Code 1987, are amended to read as follows:

4. A report made to the department of human services pursuant to chapter 235A shall be admissible in evidence ~~if the person making the report does not appear as a witness at the hearing~~, but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a ~~physician~~ health practitioner or mental health professional and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

Sec. 8. Section 235A.1, subsection 3, Code 1987, is amended to read as follows:

3. The child abuse prevention program advisory council is created consisting of five members appointed by and serving at the pleasure of the governor. Two members shall be appointed on the basis of expertise in the area of child abuse and neglect, and three members shall be private citizens. The council shall select its own chairperson ~~and shall serve without compensation or reimbursement for expenses~~. Members of the council are entitled to receive actual expenses incurred in the discharge of their duties. A member of the council may also be eligible to receive an additional expense allowance as provided in section 7E.6.

Sec. 9. Section 235A.13, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

"Child abuse information" means any or all of the following data maintained by the ~~registry~~ department in a manual or automated data storage system and individually identified:

Sec. 10. Section 235A.15, subsection 2, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. Access to child abuse information other than unfounded child abuse information is authorized only to the following persons or entities:

a. Subjects of a report as follows:

(1) To a child named in a report as a victim of abuse or to the child's attorney or guardian ad litem.

(2) To a parent or the attorney for the parent of a child named in a report as a victim of abuse.

(3) To a guardian or legal custodian, or that person's attorney, of a child named in a report as a victim of abuse.

(4) To a person or the attorney for the person named in a report as having abused a child.

b. Persons involved in an investigation of child abuse as follows:

(1) To a health practitioner or mental health professional who is examining, attending, or treating a child whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to a child believed to have been the victim of abuse is requested by the department.

(2) To an employee or agent of the department of human services responsible for the investigation of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an investigation of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

(4) 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 investigation, diagnosis, assessment, and disposition of a child abuse case.

(5) In an individual case, to the mandatory reporter who reported the child abuse.

c. Individuals, agencies, or facilities providing care to a child as follows:

(1) To a licensing authority for a facility providing care to 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.

(2) To an authorized person or agency responsible 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 registry deems access to child abuse information by such person or agency to be necessary.

(3) To an employee or agent of the department of human services responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.

(4) To an employee of the department of human services responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.

d. Relating to a judicial and administrative proceedings as follows:

(1) To a juvenile court involved in an adjudication or disposition of a child named in a report.

(2) To a 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.

(3) To a court or administrative agency hearing an appeal for correction of child abuse information as provided in section 235A.19.

(4) To an expert witness at any stage of an appeal necessary for correction of child abuse information as provided in section 235A.19.

e. Others as follows:

(1) To a person conducting bona fide research on child abuse, but without information identifying individuals named in a child abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the child, the child's guardian or guardian ad litem and the person named in a report as having abused a child give permission to release the information.

(2) To registry or department personnel when necessary to the performance of their official duties or to a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5A and section 912.4, subsections 3 through 5.

(4) To a legally constituted child protection agency of another state which is investigating or treating a child named in a report as having been abused or to a public or licensed child placing agency of another state responsible for an adoptive placement.

(5) To the attorney for the department of human services who is responsible for representing the department.

(6) To the foster care review boards created pursuant to sections 237.16 and 237.19.

Sec. 11. Section 235A.15, subsection 3, Code 1987, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, ~~paragraphs "b", "g", "h", and "j"~~ paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "c", subparagraph (2).

Sec. 12. Section 235A.16, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Subsections 1 and 2 do not apply to child abuse information that is disseminated to an employee of the department of human services, to a juvenile court, or to the attorney representing the department as authorized by section 235A.15.

Sec. 13. Section 235A.17, Code 1987, is amended to read as follows:

235A.17 REDISSEMINATION OF CHILD ABUSE INFORMATION.

1. A person, agency or other recipient of child abuse information authorized to receive such information shall not redisseminate such information, except that redissemination shall be permitted when all of the following conditions apply:

~~1~~ a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.

~~2~~ b. The person to whom such information would be redisseminated would have independent access to the same information under section 235A.15.

~~3~~ c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.

~~4~~ d. The written record is forwarded to the registry within thirty days of the redissemination.

~~5~~ 2. The department of human services ~~shall~~ may notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation and of the confidentiality provisions of sections 235A.15 and 235A.21. The department ~~may~~ shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18.

Sec. 14. Section 235A.23, subsection 1, Code 1987, is amended to read as follows:

1. The registry may compile statistics, conduct research, and issue reports on child abuse, provided identifying details of the subject of child abuse reports are deleted from any report issued.

Sec. 15. Section 237.5, subsection 2, Code 1987, is amended to read as follows:

2. The director, after notice and opportunity for an evidentiary hearing, may deny an application for a license, and may suspend or revoke a license, if the applicant or licensee violates this chapter or the rules promulgated pursuant to this chapter, or knowingly makes a false statement concerning a material fact or conceals a material fact on the license application or in a report regarding operation of the facility submitted to the director.

Sec. 16. Section 237.8, subsection 2, Code 1987, is amended to read as follows:

2. A person who has been convicted of a violation under a law of any state of a crime ~~involving mistreatment or exploitation of a child~~ or a person with a record of founded child abuse shall not be licensed, ~~or~~ be employed by a licensee, or reside in a licensed home unless an evaluation of the crime or founded abuse has been made by the department of human services which concludes that the crime or founded abuse does not merit prohibition of employment or licensure. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Sec. 17. Section 237A.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

237A.5 PERSONNEL.

1. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a preemployment physical examination taken within six months prior to beginning employment. The examination shall include communicable disease tests by a licensed physician as defined in section 135C.1 and shall be repeated every three years after initial employment. Controlled medical conditions which would not affect the performance of the employee in the capacity employed shall not prohibit employment.

2. A person who has been convicted of a violation under a law of any state of a crime or a person with a record of founded child abuse shall not own or operate or be employed as a staff member, with direct responsibility for child care, of a child day care facility, as defined in section 237A.1, subsection 1, and shall not live in a child day care facility unless an evaluation of the crime or founded abuse has been made by the department of human services which

concludes that the crime or founded abuse does not merit prohibition of employment licensure, or registration. In its evaluation, the department shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Sec. 18. Section 600.8, subsection 1, paragraph a, Code 1987, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) Whether the prospective adoption petitioner has been convicted of a violation under a law of any state of a crime or has a record of founded child abuse.

Sec. 19. Section 600.8, subsection 2, Code 1987, is amended by adding the following new lettered paragraph as paragraph b and relettering the remaining paragraph:

b. The person making the investigation shall not approve a prospective adoption petitioner pursuant to subsection 1, paragraph "a", subparagraph (3) unless an evaluation has been made which considers the nature and seriousness of the crime or founded abuse in relation to the adoption, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuse committed by the person involved.

Approved May 27, 1987

CHAPTER 154

DOMESTIC ABUSE AND OTHER ASSAULTS

H.F. 591

AN ACT relating to domestic abuse, assaults involving an act of domestic abuse, and court orders issued or enforced pursuant to the domestic abuse law, and providing penalties.

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

Section 1. Section 236.2, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.

Sec. 2. Section 236.5, subsection 2, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

Sec. 3. Section 236.5, subsection 4, Code 1987, is amended to read as follows:

4. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and law enforcement agencies having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the law enforcement agencies. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and agencies previously notified.

Sec. 4. Section 236.8, Code 1987, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order ~~issued pursuant to this chapter~~ or ~~for violation of a~~ court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a

protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If held in contempt, the defendant shall serve a jail sentence which may be on weekends.

Sec. 5. Section 236.11, Code 1987, is amended to read as follows:

236.11 DUTY OF PEACE OFFICER.

A peace officer shall use every reasonable means to enforce ~~any civil or criminal~~ an order or ~~approved~~ court-approved consent agreement ~~issued pursuant to~~ entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If a peace officer has probable cause to believe that a person has violated ~~any civil or criminal~~ an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, or any order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

If the magistrate finds probable cause, the magistrate shall order the person to appear before the court which issued the original order or approved the consent agreement, whichever was allegedly violated, at ~~which~~ a specified time ~~the court shall determine whether the person has committed contempt pursuant to section~~ 236.8 not less than three days nor more than ten days after the initial appearance under this section. The magistrate shall cause the original court to be notified of the contents of the magistrate's order.

PARAGRAPH DIVIDED. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided that the peace officer acts in good faith, on probable cause, and ~~such~~ the officer's acts do not constitute a willful and wanton disregard for the rights or safety of another.

Sec. 6. Section 236.12, subsection 2, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. A peace officer may, with or without a warrant, arrest a person under section 708.2, subsection 3, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which did not result in any injury to the alleged victim.

b. A peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 2, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which resulted in the alleged victim's suffering a bodily injury.

c. A peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 1, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed with the intent to inflict a serious injury.

d. A peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 3, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

Sec. 7. NEW SECTION. 236.14 INITIAL APPEARANCE REQUIRED – CONTACT TO BE PROHIBITED.

1. Notwithstanding chapters 804 and 805, a person taken into custody pursuant to section 236.11 or arrested pursuant to section 236.12 may be released on bail or otherwise only after an initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure or section 236.11, whichever is applicable.

2. When a person arrested for a domestic abuse assault, or taken into custody for contempt proceedings pursuant to section 236.11, is brought before a magistrate and the magistrate finds probable cause to believe that domestic abuse or a violation of an order or consent agreement has occurred and that the presence of the alleged abuser in the victim's residence poses a threat to the victim's safety, the magistrate shall enter an order which shall require the alleged abuser to have no contact with the alleged victim and to refrain from harassing the alleged victim or the victim's relatives in addition to any other conditions of release determined and imposed by the magistrate under section 811.2.

The court order shall contain the court's directives restricting the defendant from having contact with the victim or the victim's relatives.

The clerk of the court or other person designated by the court shall provide a copy of this order to the victim pursuant to chapter 910A. The order has force and effect until it is modified or terminated by subsequent court action in the contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2.

Violation of this no-contact order is punishable by summary contempt proceedings.

Sec. 8. Section 708.2, Code 1987, is amended by adding the following new subsection 3:

NEW SUBSECTION. 3. A person who commits an assault, as defined in section 708.1, and uses or displays a dangerous weapon in connection with the assault, is guilty of an aggravated misdemeanor. This subsection does not apply if section 708.6 or 708.8 applies.

Sec. 9. NEW SECTION. 708.2A DOMESTIC ABUSE ASSAULT – PENALTY ENHANCED.

An assault, as defined in section 708.1 which is domestic abuse as defined in section 236.2 and which would otherwise be punishable as a simple misdemeanor under section 708.2, is a serious misdemeanor if the person who commits the assault was previously convicted of a prior domestic abuse assault within the two years prior to the date of the instant offense.

Approved May 28, 1987

CHAPTER 155

PAYMENTS TO SUBCONTRACTORS UNDER PUBLIC IMPROVEMENT CONTRACTS

H.F. 244

AN ACT relating to progress payments, final payments, and retention from payments made to subcontractors on public improvement construction projects.

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

Section 1. Section 573.12, Code 1987, is amended to read as follows:

573.12 PAYMENTS AND RETENTION FROM PAYMENTS ON CONTRACTS.

1. RETENTION. Payments made under contracts for the construction of public improvements, unless provided otherwise by law, shall be made on the basis of monthly estimates of labor performed and material delivered, as determined by the project architect or engineer. The public corporation shall retain from each monthly payment five percent of that amount which is determined to be due according to the estimate of the architect or engineer.

The contractor may retain from each payment to a subcontractor not more than the lesser of five percent or the amount specified in the contract between the contractor and the subcontractor.

2. PROMPT PAYMENT. A progress payment or final payment to a subcontractor for satisfactory performance of the subcontractor's work shall be made no later than:

a. Seven days after the contractor receives payment for that subcontractor's work.

b. A reasonable time after the contractor could have received payment for the subcontractor's work, if the reason for nonpayment is not the subcontractor's fault.

A contractor's acceptance of payment for one subcontractor's work is not a waiver of claims, and does not prejudice the rights of the contractor, as to any other claim related to the contract or project.

3. INTEREST PAYMENTS. If the contractor receives an interest payment under section 573.14, the contractor shall pay the subcontractor a share of the interest payment proportional to the payment for that subcontractor's work.

Approved May 28, 1987

CHAPTER 156

URBAN REVITALIZATION TAX EXEMPTIONS

S.F. 519

AN ACT relating to the time for claiming urban revitalization tax exemptions.

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

Section 1. Section 404.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

An application shall be filed for each new exemption claimed. The first application for an exemption shall be filed by the owner of the property with the governing body of the city in which the property is located by February 1 of the assessment year for which the exemption is first claimed, but not later than the year in which all improvements included in the project are first assessed for taxation, unless, upon the request of the owner at any time, the governing body of the city provides by resolution that the owner may file an application by February 1 of any other assessment year selected by the governing body. The application shall contain, but not be limited to, the following information: The nature of the improvement, its cost, the estimated or actual date of completion, the tenants that occupied the owner's building on the date the city adopted the resolution referred to in section 404.2, subsection 1, and which exemption in section 404.3 or in the different schedule, if one has been adopted, will be elected.

Approved May 28, 1987

CHAPTER 157

CIVIL JUDGMENTS AND DECREES

S.F. 482

AN ACT relating to the civil process and procedure for awarding interest on civil judgments and decrees, determining whether a sufficient burden of proof has been met for the awarding of punitive damages, and for allowing the consideration for previous payments for medical damages, and providing an effective date.

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

Section 1. Section 535.3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not apply to the award of interest for judgments and decrees subject to section 668.13.

Sec. 2. Section 602.1209, Code 1987, is amended by adding the following new subsection 15 and renumbering the following existing subsection 15:

NEW SUBSECTION. 15. Distribute notices of interest rates and changes to interest rates as required by section 668.13, subsection 3.

Sec. 3. Section 602.8102, subsection 100, Code 1987, is amended to read as follows:

100. ~~When~~ Except for an action brought pursuant to chapter 668, when the judgment is for recovery of money, compute the interest from the date of verdict to the date of payment of the judgment as provided in section 625.21.

Sec. 4. Section 625.21, Code 1987, is amended to read as follows:

625.21 INTEREST.

~~When~~ Except for an action brought pursuant to chapter 668, when the judgment is for the recovery of money, interest from the time of the verdict or report until judgment is finally entered shall be computed by the clerk and added to the costs of the party entitled thereto.

Sec. 5. Section 668.3, subsection 7, Code 1987, is amended to read as follows:

7. When a final judgment or award is entered, any party may petition the court for a determination of the appropriate payment method of such judgment or award. If so petitioned the court may order that the payment method for all or part of the judgment or award be by structured, periodic, or other nonlump-sum payments. ~~Structured, periodic, or other nonlump-sum payments may include appropriate interest if such interest was not included in the determination of the initial judgment or award.~~ However, the court shall not order a structured, periodic, or other nonlump-sum payment method if it finds that any of the following are true:

a. The payment method would be inequitable.

b. The payment method provides insufficient guarantees of future collectibility of the judgment or award.

c. Payments made under the payment method could be subject to other claims, past or future, against the defendant or the defendant's insurer.

Sec. 6. Section 668.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. In an action brought pursuant to this chapter the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings on each specific item of requested or awarded damages indicating that portion of the judgment or decree awarded for past damages and that portion of the judgment or decree awarded for future damages.

Sec. 7. Section 668.5, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Contractual or statutory rights of persons not enumerated in section 668.2 for subrogation for losses recovered in proceedings pursuant to this chapter shall

not exceed that portion of the judgment or verdict specifically related to such losses, as shown by the itemization of the judgment or verdict returned under section 668.3, subsection 8, and according to the findings made pursuant to section 668.14, subsection 3, and such contractual or statutory subrogated persons shall be responsible for a pro rata share of the legal and administrative expenses incurred in obtaining the judgment or verdict.

NEW SUBSECTION. 4. Subrogation payment restrictions imposed pursuant to subsection 3 apply to settlement recoveries, but only to the extent that the settlement was reasonable.

Sec. 8. NEW SECTION. 668.13 INTEREST ON JUDGMENTS.

Interest shall be allowed on all money due on judgments and decrees on actions brought pursuant to this chapter, subject to the following:

1. Interest, except interest awarded for future damages, shall accrue from the date of the commencement of the action.

2. If the interest rate is fixed by a contract on which the judgment or decree is rendered, the interest allowed shall be at the rate expressed in the contract, not exceeding the maximum rate permitted under section 535.2.

3. Interest shall be calculated as of the date of judgment at a rate equal to the coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of fifty-two week United States treasury bills settled immediately prior to the date of the judgment. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

4. Interest awarded for future damages shall not begin to accrue until the date of the entry of the judgment.

5. Interest shall be computed daily to the date of the payment, except as may otherwise be ordered by the court pursuant to a structured judgment under section 668.3, subsection 7.

6. Structured, periodic, or other nonlump-sum payments ordered pursuant to section 668.3, subsection 7, shall reflect interest in accordance with annuity principles.

Sec. 9. NEW SECTION. 668.14 EVIDENCE OF PREVIOUS PAYMENT OR FUTURE RIGHT OF PAYMENT.

1. In an action brought pursuant to this chapter seeking damages for personal injury, the court shall permit evidence and argument as to the previous payment or future right of payment of actual economic losses incurred or to be incurred as a result of the personal injury for necessary medical care, rehabilitation services, and custodial care except to the extent that the previous payment or future right of payment is pursuant to a state or federal program or from assets of the claimant or the members of the claimant's immediate family.

2. If evidence and argument regarding previous payments or future rights of payment is permitted pursuant to subsection 1, the court shall also permit evidence and argument as to the costs to the claimant of procuring the previous payments or future rights of payment and as to any existing rights of in-demnification or subrogation relating to the previous payments or future rights of payment.

3. If evidence or argument is permitted pursuant to subsection 1 or 2, the court shall, unless otherwise agreed to by all parties, instruct the jury to answer special interrogatories or, if there is no jury, shall make findings indicating the effect of such evidence or argument on the verdict.

4. This section does not apply to actions governed by section 147.136.

Sec. 10. Section 668A.1, subsection 1, paragraph a, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Whether, by a preponderance of clear, convincing, and satisfactory evidence, the conduct of the defendant from which the claim arose constituted willful and wanton disregard for the rights or safety of another.

Sec. 11. This Act takes effect July 1, 1987 and applies to:
1. All causes of action accruing on or after July 1, 1987.
2. All causes of action accruing before July 1, 1987 and filed on or after September 15, 1987.

Approved May 28, 1987

CHAPTER 158

ELECTRONIC FUNDS TRANSFERS

S.F. 461

AN ACT relating to electronic funds transfers by providing for limiting liability of financial institutions for unauthorized electronic funds transfers involving the customer's account, altering restrictions on the establishment, location, and use of satellite terminals, adding definitions, and requiring that all satellite terminals in this state or their data processing centers be directly connected to a central routing unit.

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

Section 1. Section 527.2, subsection 2, Code 1987, is amended to read as follows:

2. "Data processing center" means a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at a satellite terminal are received and are processed in order to enable the satellite terminal to perform any function for which it is designed. However, "data processing center" does not include a facility which is directly connected to a satellite terminal and which performs only the functions of direct transmission of all requested transactions from that terminal to a data processing facility without performing any review of the requested transactions for the purpose of categorizing, separating, or routing. "Categorizing" means the process of reviewing and grouping of requested electronic funds transfer transactions according to the source or nature of the requested transaction. "Separating" means the process of interpreting and segregating requested electronic funds transfer transactions, or portions of such transactions, to provide for processing of information relating to such requested transactions or portions of such transactions. "Routing" means the process of interpreting and transmitting requested electronic funds transfer transactions to a destination selected at the time of interpretation and transmission from two or more alternative destinations.

Sec. 2. Section 527.2, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 8. "Municipal corporation" means an incorporated city.

NEW SUBSECTION. 9. "Unincorporated area" means a location within this state not within the boundaries of a municipal corporation.

NEW SUBSECTION. 10. "On-line real time basis" means the immediate and instantaneous delivery or return of an individual message through transmission of electronic impulses.

NEW SUBSECTION. 11. "Batch basis" means the periodic delivery of an accumulation of messages representing electronic funds transfer transactions authorized or rejected by the customer's financial institution at a prior time.

Sec. 3. Section 527.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An administrator may conduct hearings and exercise any other appropriate authority conferred by this chapter regarding the operation or control of a satellite terminal upon the written request of a person, including but not limited to, a retailer, financial institution, or consumer.

Sec. 4. Section 527.4, subsection 3, paragraph a, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

3. a. A financial institution may establish any number of satellite terminals in any of the following locations:

(1) Within the boundaries of a municipal corporation if the principal place of business or an office of the financial institution is also located within the boundaries of the municipal corporation.

(2) Within an urban complex composed of two or more Iowa municipal corporations each of which is contiguous to or corners upon at least one of the other municipal corporations within the complex if the principal place of business or an office of the financial institution is also located in the urban complex.

(3) Within the unincorporated area of a county in which the financial institution has its principal place of business or an office.

(4) Within a municipal corporation located in the same county as the principal place of business or an office of the financial institution if another financial institution has not located its principal place of business or an office within the municipal corporation.

(5) At any retail sales location in this state if any of the following apply:

(a) The satellite terminal is not designed, configured, or operated to accept deposits or to dispense script or other negotiable instruments.

(b) The satellite terminal is not designed, configured, or operated to dispense cash except when operated by the retailer as part of a retail sales transaction.

(c) The satellite terminal is utilized for the purpose of making payment to the retailer for goods or services purchased at the location of the satellite terminal.

(d) The financial institution controls a satellite terminal described under subparagraph part (c) at a location of the retailer established pursuant to subparagraph (1), (2), (3), or (4).

A financial institution shall not establish a satellite terminal at any other location except pursuant to an agreement with a financial institution which is authorized by this paragraph "a" to establish a satellite terminal at that location and which will utilize the satellite terminal at that location. This paragraph "a" does not amend, modify, or supersede any provision of chapter 524 regulating the number or locations of bank offices of a state or national bank, or authorize the establishment by a financial institution of any offices or other facilities except satellite terminals at locations permitted by this paragraph "a".

Sec. 5. Section 527.5, subsection 1, Code 1987, is amended to read as follows:

1. ~~Each~~ A satellite terminal ~~shall~~ in this state may be established ~~and controlled~~ by ~~a single~~ one or more financial ~~institution~~ institutions. The establishing financial institutions shall designate a single controlling financial institution which shall ~~have the duty of maintaining~~ maintain the location, use, and operation of the satellite terminal, wherever located, in compliance with this chapter. The use and operation of ~~each~~ a satellite terminal shall be governed by a written agreement between the controlling financial institution and the person controlling the physical location at which the satellite terminal is placed. The written agreement shall specify all of the terms and conditions, including any fees and charges, under which ~~a~~ the satellite terminal is placed at that location. ~~In the event a~~ If the satellite terminal is a multiple use terminal, the written agreement shall specify, and may limit, the specific types of transactions incidental to the conduct of the business of a financial institution which may be engaged in through that terminal.

Sec. 6. Section 527.5, subsection 2, Code 1987, is amended to read as follows:

2. The satellite terminal shall be available for use on a nondiscriminatory basis by any other financial institution which has its principal place of business within this state, and by all customers who have been designated by a financial institution using the satellite terminal and who have been provided with a physical object or other method, approved by the administrator, by which to engage in electronic transactions by means of the satellite terminal. No financial institution shall be required to join, be a member or shareholder of, or otherwise participate in any corporation, association, partnership, co-operative or other enterprise as a condition

of its utilizing any satellite terminal located within this state. ~~However, for purposes of complying with this subsection, a satellite terminal which is established and controlled by a bank is not required to be available for use by any savings and loan association or credit union or industrial loan company; and one established and controlled by a savings and loan association is not required to be available for use by a bank or credit union or industrial loan company; and one established and controlled by a credit union, is not required to be available for use by a bank or savings and loan association or industrial loan company; and one established by an industrial loan company is not required to be available for use by a bank or savings and loan association or credit union.~~

Sec. 7. Section 527.5, subsection 3, Code 1987, is amended to read as follows:

3. An informational statement shall be filed and shall be maintained on a current basis with the administrator by the financial institution controlling ~~the~~ a satellite terminal in this state, which sets forth all of the following:

a. The name and business address of the controlling financial institution;.

b. The location of the satellite terminal;.

c. A schedule of the charges which will be required to be paid by ~~any~~ a financial institution utilizing the satellite terminal; ~~and~~.

d. An agreement with the administrator that the financial institution controlling the satellite terminal will maintain that satellite terminal in compliance with ~~the provisions of~~ this chapter.

The informational statement shall be accompanied by a copy of the written agreement required by subsection 1. The informational statement also shall be accompanied by a statement or copy of any agreement, whether oral or in writing, between the controlling financial institution and ~~any~~ a data processing center or ~~any~~ a central routing unit, unless operated by or solely on behalf of the controlling financial institution, by which transactions originating at that terminal will be received.

Sec. 8. Section 527.5, subsection 4, Code 1987, is amended to read as follows:

4. ~~The~~ A satellite terminal in this state shall not be attended or operated at any time by an employee of ~~any~~ a financial institution or an affiliate of a financial institution, except for the purpose of instructing customers, on a temporary basis, in the use of the satellite terminal, for the purpose of testing the terminal, or for the purpose of transacting business on the employee's own behalf.

Sec. 9. Section 527.5, subsection 5, Code 1987, is amended to read as follows:

5. ~~The~~ A satellite terminal in this state shall bear a sign or label identifying each type of financial institution utilizing the terminal. A satellite terminal location in this state shall not be used to advertise individual financial institutions or ~~any~~ a group of financial institutions. However, a satellite terminal shall bear a sign or label no larger than three inches by two inches identifying the name, address, and telephone number of the owner of the satellite terminal. The administrator ~~is empowered to~~ may authorize ~~such~~ methods of identification ~~as~~ the administrator deems necessary to enable the general public to determine the accessibility of ~~the~~ a satellite terminal.

Sec. 10. Section 527.5, subsection 8, paragraph a, Code 1987, is amended to read as follows:

8. a. A satellite terminal in this state shall not be operated in ~~any~~ a manner to permit a person to credit ~~any~~ a demand deposit account, savings account, share account, or any other account representing a liability of a financial institution, if that financial institution is located outside of this state.

Sec. 11. Section 527.5, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. a. Satellite terminals located in this state shall be directly connected to either of the following:

(1) A central routing unit approved pursuant to this chapter.

(2) A data processing center which is directly connected to a central routing unit approved pursuant to this chapter.

b. If a data processing center which is directly connected to a satellite terminal located in this state does not authorize or reject a transaction originated at that terminal, the transaction shall be immediately transmitted by the data processing center to a central routing unit approved pursuant to this chapter, unless one of the following applies:

(1) The transaction is not authorized because of a mechanical failure of the data processing center or satellite terminal.

(2) The transaction does not affect a deposit account held by a financial institution with its principal office in this state.

c. This subsection does not limit the authority of a data processing center to authorize or reject transactions requested by customers of a financial institution pursuant to an agreement whereby the data processing center authorizes or rejects requested transactions on behalf of the financial institution and provides to the financial institution, on a batch basis and not on an on-line real time basis, information concerning authorized or rejected transactions of customers of the financial institution.

Sec. 12. Section 527.8, subsection 1, Code 1987, is amended to read as follows:

1. As a condition of exercising the privilege of utilizing a satellite terminal, a financial institution ~~shall be~~ is liable to each of its customers for all losses incurred by ~~such~~ the customer as a result of the transmission or recording of electronic impulses as a part of a transaction not authorized by ~~such~~ the customer or to which the customer was not a party. However, ~~in the event~~ if the financial institution has provided the customer with a physical object or other method of engaging in a transaction at a satellite terminal which is unique to the customer, and losses are incurred by the customer as a result of the theft, loss or other compromise of that physical object or other method of engagement, the liability of the financial institution pursuant to this section shall not include the first fifty dollars of any losses incurred prior to the time the customer notifies the financial institution of ~~such~~ the theft, loss or compromise except that the financial institution shall have no liability if the losses are a result of the customer's fraudulent acts or omissions.

Sec. 13. Section 527.9, subsection 2, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. A representation and undertaking that the proposed central routing unit is directly connected to every data processing center that is directly connected to a satellite terminal located in this state, and that the proposed central routing unit will provide for direct connection in the future with any data processing center that becomes directly connected to a satellite terminal located in this state.

Sec. 14. Section 527.9, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. a. Effective July 1, 1987, a person owning or operating a central routing unit authorized under this section shall include public representation on any board setting policy for the central routing unit. Four or five public members shall be appointed to the board in the following manner:

(1) Two members shall be appointed by the superintendent of banking.

(2) One member shall be appointed by the administrator of the credit union department.

(3) One member shall be appointed by the supervisor of savings and loan associations.

(4) If an industrial loan company is connected to the central routing unit, one member shall be appointed by the superintendent of banking.

b. The superintendent of banking, administrator of the credit union department, and the supervisor of savings and loan associations shall form a committee to set, in conjunction with

the entity owning or operating the central routing unit, the term of office, the rate of compensation, and the rate of reimbursement for each public member. However, the public members shall be entitled to reasonable compensation and reimbursement from the board.

c. Each public member is entitled to all the rights of participation and voting as any other member of the board. The public members are to represent the interest of consumers and the business and agricultural communities in establishing policies for the central routing unit.

d. It is the intention of the general assembly that the ratio of public members to the overall membership of the board shall not be less than one public member for each seven members of the board. If the number of members on the board is increased, then the number of members appointed pursuant to paragraph "a" shall be increased to maintain the minimum ratio. In this event, a committee composed of the superintendent of banking, the administrator of the credit union department, and the supervisor of savings and loan associations shall appoint additional public members in order to maintain the minimum ratio.

e. An individual shall not be appointed as a public member pursuant to this subsection if the individual is a director of a financial institution or is directly employed by a financial institution doing business in this state.

Sec. 15. Section 527.10, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A financial institution, data processing center, central routing unit, or other person shall not disseminate any information relating to the use of a multiple use terminal without the written authorization of the retailer on whose premises the terminal is located, or of the owner or operator of the terminal or the financial institution controlling the terminal. This section shall not, however, prohibit or restrict the use of information received in the processing, authorization, or rejection of a requested electronic funds transfer transaction, where such use is necessary or incidental to the processing, authorization, or rejection, or to reconciling disputes or resolving questions raised by a retailer, financial institution, consumer, or any other person regarding the transaction.

Approved May 28, 1987

CHAPTER 159

PERMANENCY PLANNING FOR CHILDREN

H.F. 567

AN ACT relating to permanency planning for children by providing for dispositional and placement review hearings for certain children subject to the jurisdiction of the juvenile court, by authorizing permanency placement orders for certain children in need of assistance, by modifying certain grounds and procedures for the termination of parental rights and for the granting of grandparent visitation rights, and by establishing an adoption exchange.

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

Section 1. Section 232.50, Code 1987, is amended to read as follows:

232.50 DISPOSITIONAL HEARING.

1. As soon as practicable following the entry of an order of adjudication pursuant to section 232.47, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

2. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to section 232.52, subsection 2, paragraph "d" or "e", to determine the future disposition status of the child. The hearings shall not be waived or continued beyond eighteen months after the last dispositional hearing or dispositional review hearing.

~~2~~ 3. At ~~that hearing~~ dispositional hearings under this section all relevant and material evidence shall be admitted.

~~3~~ 4. When ~~the~~ a dispositional hearing under this section is concluded the court shall enter an order to make any one or more of the dispositions authorized under section 232.52.

Sec. 2. Section 232.95, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If the court orders the child removed from the home pursuant to subsection 2, paragraph "a", the court shall hold a hearing to review the removal order within six months unless a dispositional hearing pursuant to section 232.99 has been held.

Sec. 3. Section 232.102, subsection 7, Code 1987, is amended to read as follows:

7. ~~The duration of any placement made after an order pursuant to this section shall be for an initial period of six months. At the expiration of that period and every six months thereafter, the court shall hold a hearing and review the placement~~ An agency, facility, institution, or person to whom custody of the child has been transferred pursuant to this section shall file a written report with the court at least every six months concerning the status and progress of the child. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to this section in order to determine whether the child should be returned home, an extension of the placement should be made, a permanency hearing should be held, or a termination of the parent-child relationship proceeding should be instituted. The placement shall be terminated and the child returned to the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section 232.2, subsection 6. If the placement is extended, the court shall determine whether additional services are necessary to facilitate the return of the child to the child's home, and if the court determines such services are needed, the court shall order the provision of such services. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency responsible for the placement of the child shall consider placing the child in the same licensed foster care facility.

a. The initial dispositional review hearing shall not be waived or continued beyond six months after the date of the dispositional hearing.

b. Subsequent dispositional review hearings shall not be waived or continued beyond twelve months after the date of the most recent dispositional review hearing.

c. For purposes of this subsection, a hearing held pursuant to section 232.103 or 232.104 satisfies the requirements for initial or subsequent dispositional review.

Sec. 4. NEW SECTION. 232.104 PERMANENCY HEARING.

1. If custody of a child has been transferred for placement pursuant to section 232.102 for a period of twelve months, or if the prior legal custodian of a child has abandoned efforts to regain custody of the child, the court shall, on its own motion, or upon application by any interested party, hold a hearing to consider the issue of the establishment of permanency for the child.

Such a permanency hearing may be held concurrently with a hearing to review, modify, substitute, vacate, or terminate a dispositional order. Reasonable notice of a permanency hearing in a case of juvenile delinquency shall be provided pursuant to section 232.37. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the hearing the court shall enter written findings and make a determination based upon the permanency plan which will best serve the child's individual interests at that time.

2. After a permanency hearing the court shall do one of the following:

a. Enter an order pursuant to section 232.102 to return the child to the child's home.

b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings required by subsection 3, to do one of the following:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) Order long-term foster care placement for the child in a licensed foster care home or facility.

3. Prior to entering a permanency order pursuant to subsection 2, paragraph "d", convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

4. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

5. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence, that returning the child to such custody would be in the best interest of the child.

6. Following the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When such order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the permanency hearing or the last review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

Sec. 5. Section 232.117, subsection 5, Code 1987, is amended to read as follows:

5. If the court orders the termination of parental rights and transfers guardianship and custody under subsection 3, the department of human services or the agency responsible for the placement shall submit a case permanency plan to the court and shall make every effort to establish a stable placement for the child by adoption or other permanent placement. ~~The child's placement shall be reviewed by the court every six months until the child is adopted.~~

Sec. 6. Section 232.116, Code 1987, is amended to read as follows:

232.116 GROUNDS FOR TERMINATION.

1. Except as provided in subsection ~~6~~ 3, the court may order the termination of both the parental rights with respect to a child and the relationship between the ~~parents~~ parent and the child on any of the following grounds:

~~1~~ a. The parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination.

~~2~~ b. The court finds that there is clear and convincing evidence that the child has been abandoned.

~~3~~ c. The court finds that all of the following have occurred:

~~a.~~ (1) One or both parents ~~has~~ have physically or sexually abused the child; ~~and.~~

~~b.~~ (2) The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused as the result of the acts or omissions of ~~the parent~~ one or both parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding; ~~and.~~

~~c.~~ (3) There is clear and convincing evidence that the parents were offered but refused services or failed to cooperate to correct the situation which led to the abuse or that the parents had received services to correct the situation which led to the abuse but the services did not correct the abusive situation.

~~4~~ d. The court finds that all of the following have occurred:

~~a.~~ (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96; ~~and~~.

~~b.~~ (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 and the placement has lasted for a period of at least six consecutive months~~, but less than twelve consecutive months; and~~.

~~c.~~ (3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102; ~~and~~.

~~d.~~ (4) There is clear and convincing evidence that the parents have not maintained contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

~~5~~ e. The court finds that all of the following have occurred:

~~a.~~ (1) The child has been adjudicated a child in need of assistance pursuant to section 232.96; ~~and~~.

~~b.~~ (2) The custody of the child has been transferred from the child's parents for placement pursuant to section 232.102 for at least twelve of the last eighteen months; ~~and~~

~~c.~~ (3) There is clear and convincing evidence that the child cannot be returned to the custody of the child's parents as provided in section 232.102.

f. The court finds that all of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96.

(2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family.

(3) There is clear and convincing evidence that the child cannot be returned to or placed in the custody of the child's parents.

(4) There is clear and convincing evidence that the parent continues to lack the ability or willingness to respond to services which would correct the situation.

(5) There is clear and convincing evidence that an additional period of rehabilitation would not correct the situation.

2. In considering whether to terminate the rights of a parent under this section, the court shall give primary consideration to the physical, mental, and emotional condition and needs of the child. Such consideration may include any of the following:

a. Whether the parent's ability to provide the needs of the child is affected by the parent's mental capacity or mental condition or the parent's imprisonment for a felony.

b. For a child who has been placed in foster family care by a court or has been voluntarily placed in foster family care by a parent or by another person, whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family, and whether the foster family is able and willing to permanently integrate the child into the foster family. In considering integration into a foster family, the court shall review the following:

(1) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining that environment and continuity for the child.

(2) The reasonable preference of the child, if the court determines that the child has sufficient capacity to express a reasonable preference.

~~6~~ 3. ~~Notwithstanding the provisions of subsections 2 to 5 the~~ The court need not terminate the relationship between ~~parents~~ the parent and child if the court finds any of the following:

a. A relative has legal custody of the child; ~~or~~.

b. The child is over ten years of age and objects to ~~such~~ the termination; ~~or~~.

c. There is clear and convincing evidence that ~~such~~ the termination would be detrimental to the child at the time due to the closeness of the parent-child relationship; ~~or~~.

d. It is necessary to place the child in a hospital, facility, or institution for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.

e. ~~That the~~ The absence of a parent is due to the parent's admission or commitment to any institution, hospital, or health facility or due to active service in the state or federal armed forces.

Sec. 7. Section 232.117, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has not been placed for adoption shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed six months after the date of the termination of parental rights or the last placement review hearing.

NEW SUBSECTION. 7. The guardian of each child whose guardianship and custody has been transferred under subsection 3 and who has been placed for adoption and whose adoption has not been finalized shall file a written report with the court every six months concerning the child's placement. The court shall hold a hearing to review the placement at intervals not to exceed twelve months after the date of the adoptive placement or the last placement review hearing.

Sec. 8. NEW SECTION. 232.119 ADOPTION EXCHANGE ESTABLISHED.

1. The purpose of this section is to facilitate the placement of all children in Iowa who are legally available for adoption through the establishment of an adoption exchange to help find adoptive homes for these children.

2. An adoption information exchange is established within the department to be operated by the department or by an individual or agency under contract with the department.

a. All special needs children under state guardianship shall be registered on the adoption exchange within sixty days of the termination of parental rights pursuant to section 232.117 or 600A.9 and assignment of guardianship to the commissioner.

b. Prospective adoptive families requesting a special needs child shall be registered on the adoption exchange upon receipt of an approved home study.

3. To register a child on the exchange, the adoption worker or agency shall submit all pertinent information concerning the child, a brief description and photo of the child, and other information needed to be compatible with the national adoption exchange. The exchange shall include a photo-listing book which shall be updated regularly. The adoption worker or agency which places a child on the exchange shall provide updated registration information within ten working days after a change in the information previously submitted occurs.

4. The exchange shall include a matching service for children registered or listed in the adoption photo-listing book and prospective adoptive families listed on the exchange. A child shall be registered with the national exchange if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

5. A request to defer registering the child on the exchange shall be granted if any of the following conditions exist:

a. The child is in an adoptive placement.

b. The child's foster parents or another person with a significant relationship is being considered as the adoptive family.

c. The child needs diagnostic study or testing to clarify the child's problem and provide an adequate description of the problem.

d. The child is currently hospitalized and receiving medical care that does not permit adoptive placement.

e. The child is fourteen years of age or older and will not consent to an adoption plan and the consequences of not being adopted have been explained to the child.

Upon receipt of a valid written request for deferral pursuant to paragraphs "a" through "e", the exchange shall grant the deferral, except that a deferral based on paragraph "b" or "c" shall be granted for no more than a one-time ninety-day period.

Sec. 9. Section 598.35, Code 1987, is amended to read as follows:

598.35 GRANDPARENTS VISITATION RIGHTS.

The ~~grandparents~~ grandparent of a child may petition the district court for grandchild visitation rights when any of the following circumstances occur:

1. The parents of the child are divorced, ~~or~~.
2. A petition for dissolution of marriage has been filed by one of the parents of the child, ~~or~~.
3. The parent of the child, who is the child of the ~~grandparents~~ grandparent, has died, ~~or~~.
4. The child has been placed in a foster home.
5. The parents of the child are divorced, and the parent who is not the child of the grandparent has legal custody of the child, and the spouse of the child's custodial parent has been issued a final adoption decree pursuant to section 600.13.
6. The paternity of a child born out of wedlock is judicially established and the grandparent of the child is the parent of the father of the child and the mother of the child has custody of the child, or the grandparent of a child born out of wedlock is the parent of the mother of the child and custody has been awarded to the father of the child.

A petition for grandchild visitation rights shall be granted only upon a finding that the visitation is in the best interests of the child and that the grandparent had established a substantial relationship with the child prior to the filing of the petition.

Sec. 10. Section 600A.10, Code 1987, is repealed.

Approved May 28, 1987

CHAPTER 160

SECONDARY ROAD FUND ALLOCATIONS

H.F. 634

AN ACT relating to county moneys which may be allocated to the secondary road fund.

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

Section 1. Section 331.429, subsection 1, paragraphs a and b, Code 1987, are amended to read as follows:

a. Transfers from the general fund not to exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county multiplied by the ratio of current taxes actually collected and apportioned for the general basic levy to the total general basic levy for the current year, and an amount equivalent to the moneys derived by the general fund from livestock tax credits under section 427.17, military service tax credits under chapter 426A, ~~and~~ mobile home taxes under section 135D.22, the personal property tax replacement fund under section 427A.12, subsection 6, and delinquent taxes for prior years collected and apportioned to the general basic fund in the current year, multiplied by the ratio of sixteen and seven-eighths cents to ~~the general fund tax rate~~ three dollars and fifty cents.

b. Transfers from the rural services fund not to exceed in any year the dollar equivalent of a tax of three dollars and three-eighths cents per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county multiplied by the ratio of current taxes actually collected and apportioned for the rural services basic levy to the total rural services basic levy for the current year and an amount equivalent to the moneys derived by the rural services fund from the livestock tax credits under section 427.17,

military service tax credits under chapter 426A, ~~and~~ mobile home taxes under section 135D.22, the personal property tax replacement fund under section 427A.12, subsection 6, and delinquent taxes for prior years collected and apportioned to the rural services basic fund in the current year, multiplied by the ratio of three dollars and three-eighths cents to ~~the rural service fund tax rate~~ three dollars and ninety-five cents.

Approved May 29, 1987

CHAPTER 161

COUNTY CONSERVATION INDEBTEDNESS

H.F. 380

AN ACT relating to the contracting of indebtedness for county conservation purposes.

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

Section 1. Section 331.478, subsection 2, paragraph h, Code 1987, is amended to read as follows:

h. Expenditures for land acquisition and capital improvements for county conservation purposes not to exceed in any year the monetary equivalent of a tax of six and three-fourths cents per thousand dollars of assessed value on all the taxable property in the county.

Approved May 29, 1987

CHAPTER 162

VEHICLE WEIGHT RESTRICTIONS

H.F. 533

AN ACT relating to weight restrictions for vehicles on bridges and culverts and including a penalty.

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

Section 1. Section 321.471, Code 1987, is amended to read as follows:

321.471 LOCAL AUTHORITIES MAY RESTRICT.

1. Local authorities with respect to ~~highways~~ a highway under their jurisdiction may by ordinance or resolution prohibit the operation of vehicles upon ~~any such~~ the highway or impose restrictions as to the weight of vehicles to be operated upon ~~any such~~ the highway, except ~~farm tractors~~ implements of husbandry as defined in section 321.1, subsection ~~7~~ 16 and implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair, for a total period of not to exceed ninety days in any one calendar year, whenever ~~any said~~ the highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles ~~thereon~~ on the highway is prohibited or the permissible weights ~~thereof~~ reduced.

~~Any~~ A person who violates the provisions of ~~such~~ the ordinance or resolution shall, upon conviction or a plea of guilty, be subject to a fine determined by dividing the difference between the actual weight and the maximum weight established by the ordinance or resolution by one hundred, and multiplying the quotient by two dollars. Local authorities may issue special permits, during periods ~~such~~ the restrictions are in effect, to permit limited operation of vehicles upon specified routes with loads in excess of any restrictions imposed under this ~~section~~ subsection, but not in excess of load restrictions imposed by any other provision of this chapter,

and ~~such~~ the authorities shall issue ~~such~~ the permits upon a showing that there is a need to move to market farm produce of the type subject to rapid spoilage or loss of value or to move to any farm feeds or fuel for home heating purposes.

2. Upon a finding that a bridge or culvert does not meet established standards set forth by state and federal authorities, local authorities may by ordinance or resolution impose limitations for an indefinite period of time on the weight of vehicles upon bridges or culverts located on highways under their sole jurisdiction. The ordinance or resolution shall not apply to implements of husbandry as defined in section 321.1, subsection 16 or to implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair. A person who violates the ordinance or resolution shall, upon conviction or a guilty plea, be subject to a fine determined by dividing the difference between the actual weight of the vehicle and the maximum weight allowed by the ordinance or resolution by one hundred and multiplying the quotient by two dollars. Local authorities may issue or approve special permits allowing the operation over a bridge or culvert of vehicles with weights in excess of restrictions imposed under the ordinance or resolution, but not in excess of load restrictions imposed by any other provision of this chapter.

Sec. 2. Section 321.472, Code 1987, is amended to read as follows:

321.472 SIGNS POSTED.

The local authority enacting any ~~such~~ ordinance or resolution authorized under section 321.471 shall erect ~~or cause to be erected~~ and ~~maintained~~ maintain signs designating ~~the provisions of~~ the ordinance or resolution at each end of that portion of any highway or at the location of any bridge or culvert affected thereby, and the ordinance or resolution shall not be effective unless and until ~~such~~ the signs are erected and maintained.

Approved May 29, 1987

CHAPTER 163

DEBT DOCUMENT COPIES

H.F. 426

AN ACT requiring lenders or other secured parties to provide to debtors copies of documents signed by the debtors.

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

Section 1. Section 535.16, Code 1987, is amended to read as follows:

535.16 DELIVERY OF COPIES OF DEBT ~~INSTRUMENTS~~ DOCUMENTS.

A lender or other secured party shall provide to a debtor ~~copies~~, at the time a document relating to a debt is signed, a copy of ~~all documents~~ the document signed by the debtor ~~relating to the debt at the time a debt instrument is executed~~. Receipt of ~~the copies~~ a copy required by this section may be acknowledged on the ~~instrument itself~~ face of the document or on a separate acknowledgement of receipt.

A lender or other secured party shall provide to a debtor copies of all documents signed by the debtor relating to the debt at ~~times other than at execution~~ any other time, upon request, ~~at a price no more than the actual cost of reproduction~~ for a charge that shall not exceed the reasonable cost of copying the document.

Approved May 29, 1987

CHAPTER 164

CONSUMER FRAUDS

H.F. 416

AN ACT relating to consumer frauds and providing penalties.

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

Section 1. Section 714.16, subsection 1, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. f. "Unfair practice" means an act or practice which causes substantial, unavoidable injury to consumers that is not outweighed by any consumer or competitive benefits which the practice produces.

NEW LETTERED PARAGRAPH. g. "Deception" means an act or practice which has the tendency or capacity to mislead a substantial number of consumers as to a material fact or facts.

Sec. 2. Section 714.16, subsection 2, paragraph a, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The act, use or employment by ~~any~~ a person of ~~any~~ an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of ~~any~~ a material fact with intent that others rely upon ~~such~~ the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise, whether or not ~~any~~ a person has in fact been misled, deceived, or damaged ~~thereby~~, is ~~declared to be~~ an unlawful practice.

It is deceptive advertising within the meaning of this section for a person to represent in connection with the lease, sale, or advertisement of any merchandise that the advertised merchandise has certain performance characteristics, accessories, uses, or benefits or that certain services are performed on behalf of clients or customers of that person if, at the time of the representation, no reasonable basis for the claim existed. The burden is on the person making the representation to demonstrate that a reasonable basis for the claim existed.

A retailer who uses advertising for a product, other than a drug or other product claiming to have a health related benefit or use, prepared by a supplier shall not be liable under this section unless the retailer participated in the preparation of the advertisement; knew or should have known that the advertisement was deceptive, false, or misleading; refused to withdraw the product from sales upon the request of the attorney general pending a determination of whether the advertisement was deceptive, false, or misleading; refused upon the request of the attorney general to provide the name and address of the supplier; or refused to cooperate with the attorney general in an action brought against the supplier under this section.

Sec. 3. Section 714.16, subsection 7, Code 1987, is amended to read as follows:

7. ~~Whenever~~ A civil action pursuant to this section shall be by equitable proceedings. If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in ~~any~~ a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court ~~an~~ a temporary restraining order, preliminary injunction, or permanent injunction prohibiting ~~such~~ the person from continuing ~~such practices~~ the practice or engaging ~~therein~~ in the practice or doing ~~any acts~~ an act in furtherance ~~thereof~~ of the practice. The court may make ~~such~~ orders or judgments as ~~may be~~ necessary to prevent the use or employment by a person of any prohibited practices, or which ~~may be~~ are necessary to restore to any person in interest any moneys or property, real or personal, which ~~may~~ have been acquired by means of ~~any~~ a practice ~~in this section~~ declared to be unlawful by this section, including the appointment of a receiver in cases of substantial and willful violation of ~~the provisions of~~ this section. Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for restitution or an injunction, to allege or to prove reliance, damages, intent to

deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth. A claim for restitution may be proved by any competent evidence, including evidence that would be appropriate in a class action.

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section. A penalty imposed pursuant to this subsection is in addition to any penalty imposed pursuant to section 537.6113. Civil penalties ordered pursuant to this subsection shall be paid to the treasurer of state to be deposited in the general fund of the state.

Sec. 4. Section 714.16, Code 1987, is amended by adding the following new subsection 10 and renumbering the subsequent subsections:

NEW SUBSECTION. 10. A civil action pursuant to this section may be commenced in the county in which the person against whom it is brought resides, has a principal place of business, or is doing business, or in the county where the transaction or any substantial portion of the transaction occurred, or where one or more of the victims reside.

Sec. 5. Section 714.16, subsection 10, Code 1987, is amended to read as follows:

~~10~~ 11. In ~~any~~ an action brought under ~~the provisions of~~ this section, the attorney general is entitled to recover costs of the court action and any investigation which may have been conducted, including reasonable attorneys' fees, for the use of this state.

Sec. 6. Section 714.16, Code 1987, is amended by adding the following new subsection 13 and renumbering the subsequent subsections:

NEW SUBSECTION. 13. The attorney general or the designee of the attorney general is deemed to be a regulatory agency under chapter 692 for the purpose of receiving criminal intelligence data relating to violations of this section.

Sec. 7. Section 714.16, subsection 12, Code 1987, is amended to read as follows:

~~12~~ 14. ~~Nothing contained in this~~ This section ~~shall~~ does not apply to the ~~owner or publisher of newspapers, magazines, publications~~ newspaper, magazine, publication, or ~~printed matter wherein such~~ other print media in which the advertisement appears, or to the ~~owner or operator of a~~ radio ~~or~~ station, television station, or other electronic media which disseminates ~~such~~ the advertisement ~~when~~ if the ~~owner, publisher or operator~~ newspaper, magazine, publication, radio station, television station, or other print or electronic media has no knowledge of the fraudulent intent, design, or purpose of the advertiser at the time the advertisement is accepted; and provided, further, that nothing herein contained shall apply to any advertisement which complies with the rules and regulations of, and the statutes administered by the federal trade commission.

Approved May 29, 1987

CHAPTER 165

ENGINEERING AND LAND SURVEYING

S.F. 509

AN ACT revising certain statutory provisions relating to engineering and land surveying services.

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

Section 1. Section 114.14, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. (1) Graduation from a course in engineering of four years or more in a school or college which, in the opinion of the board, will properly prepare the applicant for the examination in fundamental engineering subjects. ~~In lieu of graduation from a school or college,~~

(2) However, prior to July 1, 1988, in lieu of compliance with subparagraph (1), the board may accept eight years' practical experience which, in the opinion of the board, is of satisfactory character to properly prepare the applicant for the examination in fundamental engineering subjects.

(3) Between July 1, 1988 and June 30, 1991, in lieu of compliance with subparagraph (1), the board shall require satisfactory completion of a minimum of two years of postsecondary study in mathematics, physical sciences, engineering technology, or engineering at an institution approved by the board, and may accept six years' practical experience which, in the opinion of the board, is of satisfactory character to properly prepare the applicant for the examination in fundamental engineering subjects.

Sec. 2. Section 114.14, subsection 2, paragraph a, Code 1987, is amended to read as follows:

a. (1) Graduation from a course ~~in engineering~~ of ~~four~~ two years or more in mathematics, physical sciences, mapping and surveying, or engineering in a school or college and six years of practical experience, all of which, in the opinion of the board, will properly prepare the applicant for the examination in fundamental land surveying subjects. ~~In lieu of graduation from a school or college,~~

(2) However, prior to July 1, 1988, in lieu of compliance with subparagraph (1), the board may accept eight years' practical experience which, in the opinion of the board, is of satisfactory character to properly prepare the applicant for the examination in fundamental land surveying subjects.

Sec. 3. Section 258A.1, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. The state board of engineering and land surveying examiners, created pursuant to chapter 114.

Approved May 29, 1987

CHAPTER 166

REAL ESTATE CONTRACT FORFEITURE

H.F. 130

AN ACT relating to the notice required for forfeiture of real estate contracts.

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

Section 1. Section 656.2, subsections 2 and 3, Code 1987, are amended to read as follows:

2. The vendor shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the vendee, and on all the vendee's mortgagees of record. The vendee's mortgagees of record shall include all assignees of record for collateral purposes.

3. As used in this section, the terms "vendor" and "vendee" include a successor in interest but the term "vendee" excludes a vendee who assigned or conveyed of record all of the vendee's interest in the real estate.

Approved May 29, 1987

CHAPTER 167

MOTOR VEHICLE LICENSES AND NONOPERATORS' IDENTIFICATION CARDS

H.F. 167

AN ACT relating to fees for, issuance of and duration of motor vehicle licenses and requiring motor vehicle licenses and nonoperator's identification cards issued to persons under twenty-one years of age to contain a profile photograph and providing an effective date and conditional repeal and reenactment.

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

Section 1. Section 321.189, subsection 1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A motor vehicle license or a nonoperator's identification card issued to a person under ~~nineteen~~ twenty-one years of age shall be identical in form to any other motor vehicle license or nonoperator's identification card issued to any other person, except that the photograph appearing on the face of the license or card shall be a side profile of the applicant. Upon attaining the age of ~~nineteen~~ twenty-one, and upon the payment of a one dollar fee, the person shall be entitled to a new motor vehicle license or nonoperator's identification card for the unexpired months of the motor vehicle license or the nonoperator's identification card. This paragraph is effective for licenses or cards issued after July 1, ~~1984~~ 1987, to persons born after September 1, 1967.

Sec. 2. Section 321.191, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The fee for an operator's license shall be ~~seven~~ eight dollars if issued for a period of two years, and ~~twenty~~ sixteen dollars if issued for a period of ~~six~~ four years. The fee for a chauffeur's license shall be ~~fourteen~~ fifteen dollars if issued for a period of two years, and ~~forty~~ thirty dollars if issued for a period of ~~six~~ four years. The fee for ~~an~~ a temporary instruction permit shall be six dollars, for a chauffeur's instruction permit, twelve dollars, ~~for a temporary driver's permit, ten dollars~~ for a school license, ten dollars, for a restricted license issued under section 321.178, subsection 2, ten dollars and for a motorized bicycle license, ten dollars.

Sec. 3. Section 321.196, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~An~~ Except as otherwise provided, an operator's license expires ~~six~~, at the option of the applicant, two or four 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 is effective for a period of two years. The license 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 a license renewed within 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. 4. Section 321.197, Code 1987, is amended to read as follows:

321.197 EXPIRATION OF CHAUFFEUR'S LICENSE.

~~Every~~ Except as otherwise provided, every chauffeur's license shall expire ~~every six~~, at the option of the applicant, two or four years ~~on~~ from the licensee's birthday anniversary occurring in the year of issuance. A chauffeur's license may be renewed within thirty days after the applicant's license expiration date without written examination or penalty. A person shall not be considered to be driving with an invalid license during a period of thirty days following the license expiration date. For any license renewed within the thirty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. However, if the licensee is seventy years of age or older on the date of issuance of the license, the license shall be issued to be valid for 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. The department in its discretion may waive the examination of any applicant previously licensed as a chauffeur under this chapter, provided that the person satisfactorily passes a vision test as prescribed by the department. An application for the renewal of a chauffeur's license shall be made under the direct supervision of a uniformed member of the department and shall be approved by the uniformed member.

Sec. 5. Section 321.198, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The department is ~~hereby~~ authorized to renew any ~~operator's~~ motor vehicle license falling within the provisions and limitations of the preceding paragraph, without examination, upon application and payment of fee made within six months following separation from the military service.

Sec. 6. Section 321.210, unnumbered paragraph 11, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

The department may, on application, issue a temporary restricted license to a person, whose motor vehicle license is suspended, canceled, or revoked under this chapter, allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment; continuing health care or the continuing health care of another who is dependent upon the person; continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion; substance abuse treatment; or court-ordered community service responsibilities. However, a temporary restricted license shall not be issued to a person whose license is revoked under section 321.209, subsections 1 through 5. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

Sec. 7. CONDITIONAL REPEAL AND REENACTMENT.

If 23 U.S.C.§ 158 is declared unconstitutional by the appellate court of the eighth circuit or by the supreme court of the United States, or if 23 U.S.C.§ 158 is repealed by the United States congress or otherwise invalidated, section 1 of this Act is repealed and section 321.189, subsection 1, unnumbered paragraph 2, Code 1987, is reenacted to read as it did prior to the effective date of this Act.

Approved May 29, 1987

CHAPTER 168

INSURANCE COMPANY SALE FOLLOWING DISSOLUTION

H.F. 170

AN ACT to authorize the sale of the corporate shell of an insolvent insurance company and providing an effective date.

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

Section 1. Section 507C.20, Code 1987, is amended to read as follows:

507C.20 DISSOLUTION OF INSURER.

The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this state at the time the commissioner applies for a liquidation order. The court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent. However, dissolution may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason. Notwithstanding the above, upon application by the commissioner and following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses to do business, despite the entry of an order of liquidation. The sale may be made on terms and conditions the court deems appropriate including, but not limited to, the placing of the proceeds of the sale of the corporate entity and licenses into a trust for the benefit of policyholders and creditors with proceeds to be distributed in the manner set forth in section 507C.42.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1987

CHAPTER 169

AGRICULTURAL ASSISTANCE

H.F. 626

AN ACT relating to agriculture, by expanding certain definitions, providing requirements for certain farmers to participate in certain programs, providing programs to assist eligible beef cattle producers, maintaining certain tax credits to school districts, providing for certain tax exemptions, providing refunds for claims related to dairy or livestock implements, equipment or machinery, providing for a property tax exemption for certain cattle facilities, and providing an effective date.

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

DIVISION I

Section 1. Section 175.2, subsection 3, Code 1987, is amended to read as follows:

3. "Agricultural producer" means a person engaged or intending to engage in the business of producing and marketing agricultural produce in this state.

Sec. 2. Section 175.4, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 19. The decline in the number of beef cattle production operations is a serious problem within the state, resulting in the conversion of land used for pasture to row crop production, which threatens to destroy a significant part of Iowa's agricultural base and damage the economic viability of the state.

NEW SUBSECTION. 20. It is necessary to create a program in this state to assist agricultural producers who have established or intend to establish beef cattle production operations, to obtain adequate financing, and management assistance and training, and to convert land used for row crop production to pasture.

Sec. 3. Section 175.35, subsection 3, Code 1987, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. The farmer has a net worth of not more than two hundred thousand dollars.

NEW PARAGRAPH. h. The farmer develops a farm unit conservation plan, as defined in section 467A.42, with the commissioners of the soil conservation district where the land is located within one year from the date of entering into the program, unless the authority prescribes a shorter period by rule.

Sec. 4. NEW SECTION. 175.36 ASSISTANCE AND MANAGEMENT PROGRAMS FOR BEEF CATTLE PRODUCERS.

1. The authority shall create and develop programs to assist agricultural producers who have established or intend to establish in this state, beef cattle production operations, including but not limited to the following assistance:

a. INSURANCE OR LOAN GUARANTEE PROGRAM. An insurance or loan guarantee program to provide for the insuring or guaranteeing of all or part of a loan made to an agricultural producer for the acquisition of beef cattle to establish or expand a feeder cattle operation.

b. AN INTEREST BUY-DOWN PROGRAM. The authority may contract with a participating lending institution and a qualified agricultural producer to reduce the interest rate charged on a loan for the acquisition of beef cattle breeding stock. The authority shall determine the amount that the rate is reduced, by considering the lending institution's customary loan rate for the acquisition of beef cattle breeding stock as certified to the authority by the lending institution.

As part of the contract, in order to partially reimburse the lending institution for the reduction of the interest rate on the loan, the authority may agree to grant the lending institution any amount foregone by reducing the interest rate on that portion of the loan which is one hundred thousand dollars or less. However, the amount reimbursed shall not be more than the lesser of the following:

(1) Three percent per annum of the principal balance of the loan outstanding at any time for the term of the loan or within one year from the loan initiation date as defined by rules adopted by the authority, whichever is less.

(2) Fifty percent of the amount of interest foregone by the lending institution on the loan.

c. A COST-SHARING PROGRAM. The authority may contract with an agricultural producer to reimburse the producer for the cost of converting land planted to row crops to pasture suitable for beef cattle production. However, the amount reimbursed shall not be more than twenty-five dollars per acre converted, or fifty percent of the conversion costs, whichever is less. The contract shall apply to not more than one hundred fifty acres of row crop land converted to pasture. The converted land shall be utilized in beef cattle production for a minimum of five years. The amount to be reimbursed shall be reduced by the amount that the agricultural producer receives under any other state or federal program that contributes toward the cost of converting the same land from row crops to pasture.

d. A MANAGEMENT ASSISTANCE AND TRAINING PROGRAM. The authority in cooperation with any agency or instrumentality of the federal government or with any state agency, including any state university or those associations organized for the purpose of assisting agricultural producers involved in beef cattle production, or with any farm management company if such company specializes in beef cattle production or in assisting beef cattle producers, as prescribed by rules adopted by the authority, shall establish programs to train and assist agricultural producers to effectively manage beef cattle production operations.

2. An agricultural producer shall be eligible to participate in a program established under this section only if all the following criteria are satisfied:

a. The agricultural producer is a resident of the state.

b. The agricultural producer has land or other facilities available to establish a beef cattle production operation as prescribed by rules of the authority.

c. The agricultural producer is an individual, partnership, or a family farm corporation, as defined in section 172C.1, subsection 8.

d. The land or other facilities available to establish a beef cattle production operation are located within the state.

e. The agricultural producer has a net worth of four hundred thousand dollars or less.

f. The agricultural producer develops a farm unit conservation plan, as defined in section 467A.42, with the commissioners of the soil conservation district where the land is located within one year from the date of entering into the program, unless the authority prescribes a shorter period of time by rule.

3. The authority shall adopt rules to enforce the provisions of this section or the terms of a contract to which the authority is a party. The authority may also enforce the provisions of this section or terms of the contract by bringing an action in any court of competent jurisdiction to recover damages. As a condition of entering into the program, the authority may require that the agricultural producer consent to the jurisdiction of the courts of this state to hear any matter arising from the provisions of this section.

DIVISION II

Sec. 5. Section 331.429, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. Transfers from the general fund not to exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and an amount equivalent to the moneys derived by the general fund from ~~livestock tax credits under section 427.17,~~ military service tax credits under chapter 426A, and mobile home taxes under section 135D.22 multiplied by the ratio of sixteen and seven-eighths cents to the general fund tax rate.

Sec. 6. Section 427.17, subsections 2 through 5, Code 1987, are amended to read as follows:

2. A tax credit shall be allowed each ~~taxing~~ school district in the state for each head of livestock that was assessed as of January 1, 1973. The tax credit shall ~~commence and be effective for the tax year 1974 and each year thereafter~~ be based upon the livestock assessed as of January 1, 1973.

3. On or before January 15, 1974, the county auditor of each county shall prepare a statement listing for each taxing district in the county the assessed or taxable values of all livestock assessed for taxation as of January 1, 1973. The statement shall also show the tax rates of the various taxing districts and the total amount of taxes which in the absence of this section would have been levied upon livestock assessed as of January 1, 1973. The county auditor shall certify and forward copies of the statement to the director of revenue and finance not later than January 15, 1974. ~~The~~ For the taxes payable for fiscal year 1987 and for subsequent fiscal years, the director of revenue and finance shall compute the applicable tax credit and the amount due to each ~~taxing~~ school district, which amount shall be the dollar amount which would be payable if all livestock so assessed were taxed, based upon those assessed as of January 1, 1973.

4. The amounts due each ~~taxing~~ school district shall be paid on warrants payable to the respective county treasurers by the director of revenue and finance on July 15 of each year. The county treasurer shall apportion the proceeds to the various ~~taxing~~ school districts in the county.

5. In the event that the amount appropriated for reimbursement of the ~~taxing~~ school districts is insufficient to pay in full the amounts due to each of the ~~taxing~~ school districts, then the amount of each payment shall be reduced by the director of revenue and finance according

to the ratio that the total amount of funds to be paid to each ~~taxing~~ school district bears to the total amount to be paid to all ~~taxing~~ school districts in the state.

DIVISION III

Sec. 7. Section 422.42, subsection 3, Code 1987, is 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, 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~~; and does not include commercial fertilizer, agricultural limestone, ~~or~~ herbicide, pesticide, insecticide, food, ~~and~~ medication, ~~and~~ or agricultural drain tile ~~and~~, including installation ~~thereof~~ of agricultural drain tile, any of 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~~,~~; and does not include electricity, 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 the property 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 will be consumed as fuel in creating heat, power, or steam for processing including grain drying, or for providing heat or cooling for livestock buildings, or for generating electric current, or ~~be consumed~~ in ~~self-propelled~~ implements of husbandry engaged in agricultural production~~,~~; or 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 is a retail sale for purposes of the processing exemption.

Sec. 8. Section 422.45, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. The gross receipts from the sale, furnishing, or service of gas, electricity, water, or heat to be used in implements of husbandry engaged in agricultural production.

DIVISION IV

Sec. 9. NEW SECTION. 422.47C REFUNDS — AGRICULTURAL IMPLEMENTS, MACHINERY OR EQUIPMENT.

1. Sales, services, and use taxes paid on repairs to implements or on the purchase or rental of farm machinery or equipment, including replacement parts which are depreciable for state and federal income tax purposes, shall be refunded to the owner, purchaser, or renter provided all of the following conditions are met:

a. The repairs, purchase, or rental was made on or after July 1, 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 between July 1 and September 1 for the previous calendar year.

d. The implements, machinery or equipment is directly and primarily used in livestock or dairy production.

e. The implement is not a self-propelled implement or an implement customarily drawn or attached to a self-propelled implement, and the machinery or equipment is not a grain dryer, subject to an exemption under section 422.45.

2. A claim for refund timely filed under subsection 1 shall be paid by the department within ninety days after the last date a claim may be filed under this section. The department of revenue and finance shall not in any calendar year pay more than three million eight hundred thousand dollars in claims for refunds filed pursuant to this section. If the department determines that the amount of claims is greater than the amount of moneys available to fully satisfy all claims, the refunds shall be paid on a prorated basis. 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.

DIVISION V

Sec. 10. NEW SECTION. 427B.7 ACTUAL VALUE ADDED EXEMPTION FROM TAX — CATTLE FACILITIES.

A city council, or a county board of supervisors as authorized by section 427B.2, may, by ordinance as provided in section 427B.1, establish a partial exemption from property taxation of the actual value added to owner-operated cattle facilities, including small or medium sized feedlots but not including slaughter facilities, either by new construction or by the retrofitting of existing facilities. The application for the exemption shall be filed pursuant to section 427B.4. The actual value added to owner-operated cattle facilities, as specified in section 427B.1, is eligible to receive a partial exemption from taxation for a period of five years. The amount of actual value added which is eligible to be exempt from taxation is the same as provided in the exemption schedule in section 427B.3.

DIVISION VI

Sec. 11. ASSISTANCE PROGRAMS — FUNDING. The Iowa agricultural development authority shall develop and establish assistance programs for agricultural producers under this Act to be funded from moneys appropriated to the Iowa agricultural development authority for that purpose.

Sec. 12. EFFECTIVE DATE. Division I of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1987

CHAPTER 170

TRANSPORTATION REGULATION

H.F. 371

AN ACT authorizing the state department of transportation to adopt and administer federal motor carrier safety and hazardous materials transportation regulations, establishing reporting requirements, making technical corrections, providing penalties, and providing an effective date.

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

Section 1. Section 123.28, unnumbered paragraph 1, Code 1987, is amended to read as follows:

It is lawful to transport, carry, or convey alcoholic liquors from the place of purchase by the division to a state warehouse or depot established by the division or from one such place to another and, when so permitted by this chapter, it is lawful for the division, a common carrier, or other person to transport, carry, or convey alcoholic liquor sold from a state warehouse, depot, or point of purchase by the state to any place to which the liquor may be lawfully delivered under this chapter. The division shall deliver alcoholic liquor purchased by class "E" liquor control licensees. Class "E" liquor control licensees may deliver alcoholic liquor purchased by class "A", "B", or "C" liquor control licensees, and class "A", "B", or "C" liquor control licensees may transport alcoholic liquor purchased from class "E" liquor control licensees. ~~Notwithstanding section 321.230, sections 321.225 and 321.226 do not apply to division employees in the regular course of their employment.~~ A common carrier or other person shall not break or open or allow to be broken or opened a container or package containing alcoholic liquor or use or drink or allow to be used or drunk any alcoholic liquor while it is being transported or conveyed, but this section does not prohibit a private person from transporting individual bottles or containers of alcoholic liquor exempted pursuant to section 123.22 and individual bottles or containers bearing the identifying mark prescribed in section 123.26 which have been opened previous to the commencement of the transportation. This section does not affect the right of a special permit or liquor control license holder to purchase, possess, or transport alcoholic liquors subject to this chapter.

Sec. 2. Section 321.1, subsection 31, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

31. "Hazardous material" means a substance or material which has been determined by the United States secretary of transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

Sec. 3. Section 321.1, subsection 32, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

32. "Commercial vehicle" means a vehicle designed principally to transport passengers or property of any kind if any or all of the following apply:

a. The vehicle or any combination of vehicles has a gross weight of ten thousand one or more pounds.

b. The vehicle has a gross weight rating of ten thousand one or more pounds.

c. The vehicle is designed to transport more than fifteen passengers, including the driver.

d. The vehicle is used in the transportation of hazardous material in a quantity requiring placarding.

Sec. 4. Section 321.1, subsection 43, unnumbered paragraph 4, Code 1987, is amended to read as follows:

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

Sec. 5. Section 321.198, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The department is hereby authorized to renew any operator's license or chauffeur's license falling within the provisions and limitations of the preceding paragraph, without examination, upon application and payment of fee made within six months following separation from the military service.

Sec. 6. Section 321.266, subsection 4, Code 1987, is amended to read as follows:

4. ~~Any~~ Notwithstanding section 455B.386, a carrier transporting hazardous ~~materials by rail, air, water, or~~ material upon a public highway in this state, in the case of an accident involving the transportation of the hazardous ~~materials~~ material, shall immediately notify the police radio broadcasting system established ~~by the director of public safety~~ pursuant to section 693.1 or shall notify a peace officer of the county~~, township,~~ or ~~municipality~~ city in which the accident occurs. When a local law enforcement agency is informed of the accident, the agency shall notify the Iowa highway safety patrol. ~~For purposes of this section "hazardous substances" shall mean hazardous substances as defined in the federal Transportation Safety Act of 1974 [Public Law 93-633, section 103].~~ A person who violates ~~any~~ a provision of this subsection ~~shall, upon conviction, be~~ is guilty of a serious misdemeanor.

Sec. 7. Section 321.288, subsection 2, paragraph d, Code 1987, is amended to read as follows:

d. When approaching and passing ~~a fusee, flares, red reflector electric lanterns, red reflectors or red flags~~ an emergency warning device displayed in accordance with rules adopted under section ~~321.448~~ 321.449, or an emergency vehicle displaying a revolving or flashing light.

Sec. 8. Section 321.317, subsection 5, Code 1987, is amended to read as follows:

5. Whenever any vehicle or combination of vehicles is disabled or for other reason may present a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing, the operator then may display on the vehicle or combination of vehicles four directional signals of a type complying with the provisions of this section relating to directional signal devices in simultaneous operation. ~~This subsection does not exempt any vehicle or combination of vehicles from compliance with the provisions of sections 321.447 and 321.448.~~

Sec. 9. Section 321.341, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~Whenever any~~ When a person driving a vehicle approaches a railroad grade crossing and warning is given by automatic signal, ~~or~~ crossing gates, ~~or~~ a ~~flagman~~ flag person, or otherwise of the immediate approach of a train, the driver of ~~such~~ the vehicle shall stop within fifty feet but not less than ~~ten~~ fifteen feet from the nearest ~~track of such railroad~~ rail and shall not proceed until the driver can do so safely.

Sec. 10. Section 321.343, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The driver of ~~any~~ a motor vehicle carrying passengers for hire, ~~or of any~~ a school bus, or ~~of any~~ a vehicle carrying ~~explosive substances or flammable liquids or other~~ hazardous ~~materials as defined by the federal department of transportation, 49 Code of Federal Regulations sections 170 to section 189 of 1975, as a cargo or part of a cargo~~ material and required to stop before crossing a railroad track by motor carrier safety rules adopted under section 321.449, before crossing at grade any track of a railroad, shall stop ~~such~~ the vehicle within fifty feet but not less than ~~ten~~ fifteen feet from the nearest rail ~~of such railroad and while so~~. While stopped, the driver shall listen and look in both directions ~~along such track~~ for ~~any~~ an approaching train, and for signals indicating the approach of a train, ~~except as hereinafter provided,~~ and shall not proceed until the driver can do so safely.

Sec. 11. Section 321.364, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

321.364 PREVENTING CONTAMINATION OF FOOD BY HAZARDOUS MATERIAL.

Food intended for human consumption shall not be shipped in a vehicle or container which has been used to transport a hazardous material unless the vehicle or container has been purged

of any hazardous material or the transportation is made in a manner that prevents any contact between the food and the hazardous material.

Sec. 12. Section 321.365, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

321.365 COASTING PROHIBITED.

The driver of a motor vehicle shall not drive with the source of motive power disengaged from the driving wheels except when disengagement is necessary to stop or to shift gears.

Sec. 13. Section 321.449, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

321.449 MOTOR CARRIER SAFETY REGULATIONS.

A person shall not operate a commercial vehicle on the highways of this state except in compliance with rules adopted by the department under chapter 17A. The rules shall be consistent with the federal motor carrier safety regulations promulgated under United States Code, Title 49, and found in 49 C.F.R. §§ 390-399 and adopted under chapter 17A which rules shall be to a date certain.

Rules adopted under this section concerning driver qualifications, hours of service, and recordkeeping requirements do not apply to the operators of public utility trucks, construction trucks and equipment, trucks moving implements of husbandry, and special trucks, other than a truck tractor, operating intrastate. However, construction trucks shall not be construed to include gravel hauling trucks. Gravel hauling trucks and trucks for hire on construction projects are not exempt from this section.

Rules adopted under this section concerning driver age qualifications do not apply to drivers for private and for-hire motor carriers which operate solely intrastate except when the vehicle being driven is transporting a hazardous material in a quantity which requires placarding. The minimum age for the exempted intrastate operations is eighteen years of age.

Sec. 14. Section 321.450, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

321.450 HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS.

A person shall not transport or have transported or shipped within this state any hazardous material except in compliance with rules adopted by the department under chapter 17A. The rules shall be consistent with the federal hazardous materials regulations promulgated under United States Code, Title 49, and found in 49 C.F.R. §§ 107, 171 to 173, 177, and 178.

Sec. 15. Section 324.54, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Subject to compliance with rules adopted by the department, annual reporting may be permitted in lieu of quarterly reporting. A licensee permitted to report annually shall maintain records in compliance with this chapter.

Sec. 16. Section 325.1, subsection 6, Code 1987, is amended to read as follows:

6. The term "charter carrier" means a person who engages in the business of transporting the public by motorbuses under charter. The term "charter carrier" shall not be construed to include taxicabs or persons, firms or corporations having a license, contract or franchise with an Iowa municipality with a population of more than fifteen thousand people as shown by the last federal decennial census, to carry or transport passengers for hire, or a municipality with a population of more than fifteen thousand people as shown by the last federal decennial census, engaged in the business of carrying or transporting passengers for hire, provided however, that municipality or the person, firm or corporation having a license, contract or franchise with an Iowa municipality comply with sections 325.26, 325.28, ~~325.29,~~ 325.31 and 325.35, or school bus operators when engaged in transportation involving any school activity or regular route common carriers of passengers.

Sec. 17. Section 327A.8, unnumbered paragraphs 2 and 3, including subsections 1, 2, and 3, and unnumbered paragraph 4, Code 1987, are amended by striking the unnumbered paragraphs and subsections.

Sec. 18. Section 327A.13, Code 1987, is amended to read as follows:

327A.13 DISABLED VEHICLES.

All vehicles or combination of vehicles shall be equipped with direction signal devices of a type complying with the provisions of section 321.317 relating to such devices and whenever, during hours of darkness, any vehicle is disabled or for any other reason may present a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing the operator of such vehicle shall display such directional signals on such vehicle or combination of vehicles in simultaneous operation. ~~The provisions of this section shall not be construed to be in lieu of the provisions of sections 321.447 and 321.448 and the provisions of the said sections shall be fully applicable as provided therein.~~

Sec. 19. Section 805.8, subsection 2, paragraphs c, e, h, and o, Code 1987, are amended to read as follows:

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections 321.317, 321.387, 321.388, 321.389, 321.390, 321.391, 321.392, 321.393, 321.422, 321.432, 321.436, 321.437, 321.438, subsection 1 or 3, 321.439, 321.440, 321.441, 321.442, 321.444, and 321.445 ~~and 321.447~~, the scheduled fine is ten dollars.

e. For improperly used or nonused or defective or improper equipment under sections 321.383, 321.384, 321.385, 321.386, 321.398, 321.402, 321.403, 321.404, 321.409, 321.419, 321.420, 321.423, 321.430, and 321.433, ~~321.448, 321.449 and 321.450,~~ the scheduled fine is twenty dollars.

h. For operating, passing, turning and standing violations under sections ~~321.225,~~ 321.236, subsections 3, 4, 9 and 12, 321.275, 321.295, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, 321.305, 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318, 321.323, 321.340, 321.344, 321.353, 321.354, 321.363, ~~321.364,~~ 321.365, 321.366, 321.368, 321.382 and 321.395, the scheduled fine is fifteen dollars.

o. For violation of registration provisions under section 321.17; violation of intrastate hauling on foreign registration under section 321.54; improper operation or failure to register under section 321.55; and violation of requirement for display of registration or plates under section 321.98, the scheduled fine is twenty dollars.

For ~~no evidence or improper evidence of intrastate authority carried or displayed under section 325.34; operation of vehicle by an unqualified driver under sections 325.34 and 327.22; and operating a vehicle in violation of maximum hours of service or failure to maintain and display evidence of hours of service under sections 325.34 and 327.22~~ failure to comply with administrative rules adopted under section 325.3, 327.3 or 327A.17 which require that evidence of intrastate authority be carried and displayed upon request, that a valid lease be carried and displayed upon request, or that a valid fee receipt be carried and displayed upon request, the scheduled fine is twenty-five dollars.

For ~~no or improper~~ failure to have proper carrier identification markings under section 325.31, 327.19, 327A.8 or 327B.1, the scheduled fine is fifteen dollars.

For ~~no or improper~~ failure to have proper evidence of interstate authority carried or displayed under section 327B.1 and for failure to register, carry, or display evidence that interstate authority is not required under section 327B.1, the scheduled fine is one hundred dollars.

For violations of rules adopted by the department under section 321.449, the scheduled fine is twenty-five dollars.

For violation of section 321.364 or rules adopted under section 321.450, the scheduled fine is fifty dollars.

Sec. 20. Sections 321.179, 321.225, 321.226, 321.227, 321.447, 321.448, 325.29, 325.37, 325.38, 325.39, 327.18, 327A.7, 327A.10, 327A.11, and 327A.12, Code 1987, are repealed.

Sec. 21. This Act takes effect January 1 following enactment.

Approved May 29, 1987

CHAPTER 171

FINANCIAL POWERS OF PUBLIC AND PRIVATE ENTITIES

H.F. 658

AN ACT relating to the allocation of the state ceiling on private activity bonds for tax-exempt purposes, the powers of certain financial institutions, acts which constitute a fraudulent practice, imposing penalties, and providing an effective date.

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

Section 1. Section 7C.2, subsection 1, Code 1987, is amended to read as follows:

1. Implement ~~Act section 621 of the Deficit Reduction Act of 1984, Pub. L. No. 98-369,~~ section 146 of the Internal Revenue Code 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.

Sec. 2. Section 7C.3, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.3 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Internal Revenue Code" means the Internal Revenue Code as defined in section 422.3.
2. "State ceiling" means the same as defined in section 146(d) of the Internal Revenue Code.
3. "Bond" or "private activity bond" means a private activity bond as defined in section 141 of the Internal Revenue Code.
4. "Political subdivision" means a political subdivision, authority, or department of the state which is authorized under the laws of the state to issue private activity bonds.
5. "Carryforward project" means a carryforward project or carryforward purpose as defined in section 146(f) of the Internal Revenue Code.
6. "Allocation" means that portion of the state ceiling which is allocated and certified to a political subdivision hereby or by the governor's designee pursuant to section 7C.8 with respect to an issue of bonds for a specific project or purpose.
7. "Governor's designee" means the person, department, or authority designated by the governor to administer this chapter.
8. "Qualified mortgage bond" means a qualified mortgage bond as defined in section 143(a) of the Internal Revenue Code.
9. "Qualified small issue bond" means a qualified small issue bond as defined in section 144(a) of the Internal Revenue Code.
10. "Qualified student loan bond" means a qualified student loan bond as defined in section 144(b) of the Internal Revenue Code.
11. "First-time farmer" means a first-time farmer as defined in section 147(c) of the Internal Revenue Code.

Sec. 3. Section 7C.4, Code 1987, is amended to read as follows:

7C.4 MAXIMUM AMOUNT OF BONDS.

The aggregate principal amount of bonds which are subject to section 146 of the Internal Revenue Code which may be issued by all ~~issuers~~ political subdivisions during a calendar year shall not exceed the state ceiling for that calendar year, except as provided in section 7C.8.

Sec. 4. NEW SECTION. 7C.4A ALLOCATION OF STATE CEILING.

For each calendar year, the state ceiling shall be allocated among bonds issued for various purposes as follows:

1. Thirty percent of the state ceiling shall be allocated solely to the Iowa finance authority for the following purposes:

a. Issuing qualified mortgage bonds.

b. Reallocating the amount, or any portion thereof, to another qualified political subdivision for the purpose of issuing qualified mortgage bonds; or

c. Exchanging the allocation, or any portion thereof, for the authority to issue mortgage credit certificates by election under section 25(c) of the Internal Revenue Code.

However, at any time during the calendar year the executive director of the Iowa finance authority may determine that a lesser amount need be allocated to the Iowa finance authority and on that date this lesser amount shall be the amount allocated to the authority and the excess shall be allocated under subsection 6.

2. Twelve percent of the state ceiling shall be allocated to bonds issued to carry out programs established under chapters 280A, 280B, and 280C. However, at any time during the calendar year the director of the Iowa department of economic development may determine that a lesser amount need be allocated and on that date this lesser amount shall be the amount allocated for those programs and the excess shall be allocated under subsection 6.

3. Sixteen percent of the state ceiling shall be allocated to qualified student loan bonds. However, at any time during the calendar year the governor's designee, with the approval of the Iowa student loan liquidity corporation, may determine that a lesser amount need be allocated to qualified student loan bonds and on that date the lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 6.

4. Five percent of the state ceiling shall be allocated to qualified small issue bonds issued for first-time farmers. However, at any time during the calendar year the governor's designee, with the approval of the Iowa agricultural development authority may determine that a lesser amount need be allocated to qualified small issue bonds for first-time farmers and on that date this lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 6.

5. During the period of January 1 through October 25, five percent of the state ceiling shall be reserved for private activity bonds issued by political subdivisions, the proceeds of which are used by the issuing political subdivisions.

6. a. The amount of the state ceiling not allocated under subsections 1 through 4, and after October 25, the amount of the state ceiling reserved under subsection 5 and not allocated, shall be allocated to all bonds requiring an allocation under section 146 of the Internal Revenue Code without priority for any type of bond over another, except as otherwise provided in sections 7C.5 and 7C.11.

b. The population of the state shall be determined in accordance with the Internal Revenue Code.

Sec. 5. Section 7C.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.5 FORMULA FOR ALLOCATION.

Except as provided in section 7C.4A, subsections 1 through 4, the state ceiling shall be allocated among all political subdivisions on a statewide basis on the basis of the chronological orders of receipt by the governor's designee of the applications described in section 7C.6 with respect to a definitive issue of bonds, as determined by the day, hour, and minute time-stamped

on the application immediately upon receipt by the governor's designee. However, for the period January 1 through October 25 of each year, allocations to bonds for which an amount of the state ceiling has been reserved pursuant to section 7C.4A, subsection 5, shall be made to the political subdivisions submitting the applications first from the reserved amount until the reserved amount has been fully allocated and then from the amount specified in section 7C.4A, subsection 6.

Sec. 6. Section 7C.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.6 APPLICATION FOR ALLOCATION.

A political subdivision which proposes to issue bonds for a particular project or purpose for which an allocation of the state ceiling is required and has not already been made under section 7C.4A, subsections 1 through 4, must make an application for allocation before issuance of the bonds. The application may be made by the political subdivision or its representative, the beneficiary of the project or purpose, or by a person acting on behalf of the beneficiary. The application shall be submitted to the governor's designee, in the form prescribed by the governor's designee. The application shall contain, where appropriate, the following information:

1. Name and mailing address of the political subdivision.
2. Name of the chief elected or appointed executive officer of the political subdivision.
3. If the project to be financed by the bonds is not to be owned by the political subdivision, the 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 political subdivision of any initial governmental act with respect to the bonds.
6. Amount of the state ceiling which the political subdivision 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. 7. Section 7C.7, Code 1987, is amended to read as follows:

7C.7 CERTIFICATION OF ALLOCATION.

Upon the receipt of a completed application pursuant to section 7C.6, the governor's designee shall promptly certify to the ~~issuer~~ political subdivision 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~~ thirty days from the date the allocation ~~is~~ was certified, subject to the following conditions:

1. If the bonds are issued and delivered for the purpose or project within the ~~ninety-day~~ thirty-day period or the forty-day extension period provided in subsection 2, the ~~issuer~~ political subdivision or ~~the issuer's attorney~~ its representative shall within ten days following the issuance and delivery of the bonds ~~notify~~ or not later than October 25 of that year, if the bonds were issued and delivered on or before that date, file with the governor's designee, in ~~such~~ the form or manner ~~as~~ the governor's designee may prescribe, a notification of the date of issuance and the delivery of the bonds, and the actual principal amount of bonds issued and delivered. The filing of the notification shall be done by actual delivery or by posting in a United States post office depository with correct first class postage paid. 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~~ political subdivision does not reasonably expect to issue and deliver the bonds within the ~~ninety-day~~ thirty-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~~ thirty-day allocation period is automatically extended for an additional ~~thirty~~ forty-five days. The allocation period shall not be extended beyond that additional ~~thirty~~ forty-five days.

3. The allocation is no longer valid ~~after~~ unless the bonds are issued and delivered prior to December 24 or in the case of bonds described in section 7C.11 are issued and delivered prior to December 31 of the calendar year in which ~~it~~ the allocation is certified, except as provided in section 7C.8.

Sec. 8. Section 7C.8, Code 1987, is amended to read as follows:

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, subject to section 146 of the Internal Revenue Code, issued by all ~~issuers~~ political subdivisions in a calendar year is less than the state ceiling for that calendar year, ~~an issuer~~ a political subdivision 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 for this purpose and may, in the designee's discretion, refuse any requests. However, the procedures for applications, the method of identifying, and the types permitted of carryforward projects shall comply with the carryforward provisions ~~of section 103(n)~~ of the Internal Revenue Code ~~of 1954~~ and regulations promulgated under ~~that section~~ those provisions.

Sec. 9. Section 7C.9, Code 1987, is amended to read as follows:

7C.9 NONBUSINESS DAYS.

If the expiration date of either the ~~ninety-day~~ thirty-day period or the ~~thirty-day~~ forty-five 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. 10. Section 7C.10, Code 1987, is amended to read as follows:

7C.10 RESUBMISSION OF EXPIRED ALLOCATIONS.

If an allocation becomes no longer valid as provided in section 7C.7, the ~~issuer~~ political subdivision 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~~ political subdivision as a result of the prior application.

Sec. 11. Section 7C.11, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

7C.11 PRIORITY ALLOCATIONS.

Notwithstanding any other provision of this chapter, the governor's designee shall give priority in allocation of the state ceiling not yet allocated to bonds which must be issued and delivered on or prior to December 31 of the calendar year in order for the interest on the bonds to be exempt from federal income taxation. Applications for an allocation with respect to these bonds shall be accompanied by an opinion of a nationally recognized bond counsel to the effect that the bonds must be issued and delivered on or prior to December 31 in that calendar year in order for the interest on the bonds to be exempt from federal income taxation.

Sec. 12. Section 7C.12, Code 1987, is amended to read as follows:

7C.12 AUTHORITY AND DUTIES OF THE GOVERNOR AND GOVERNOR'S DESIGNEE.

1. The governor shall designate a person, ~~agency~~ department, or authority to administer this chapter. The person, ~~agency~~ department, 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.

2. In addition to the powers and duties specified in sections 7C.1 to 7C.11, the governor's designee:

~~1~~ a. Shall promulgate ~~reasonable~~ rules which are necessary or expedient to carry out the intent and purposes of the private activity bond allocation Act.

~~2~~ b. Shall maintain ~~appropriate~~ records of all applications filed by ~~issuers~~ political subdivisions 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, and the names, addresses, and telephone numbers of those political subdivisions for whom an allocation has been approved or disapproved and the amount of the allocation approved or disapproved for the political subdivisions.

Sec. 13. Section 524.803, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. Organize, acquire, or invest in a subsidiary for the purpose of engaging in any one or more of the following, subject to the prior approval of the superintendent:

(1) Nondepository activities that a state bank is authorized to engage in directly under this chapter.

(2) Any activity that a bank service corporation is authorized to engage in under state or federal law or regulation.

(3) Any activity authorized pursuant to section 524.825.

Sec. 14. NEW SECTION. 524.825 SECURITIES ACTIVITIES.

Subject to the prior approval of the superintendent, a state bank or a subsidiary of a state bank organized or acquired pursuant to section 524.803, subsection 1, paragraph "f" may engage in directly, or may organize, acquire, or invest in a subsidiary for the purpose of engaging in securities activities and any aspect of the securities industry, including, but not limited to, any of the following:

1. Issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes, interest in mutual funds or money-market-type mutual funds, or other securities.

2. Organizing, sponsoring, and operating one or more mutual funds.

3. Acting as a securities broker-dealer licensed under chapter 502. The business relating to securities shall be conducted through, and in the name of, the broker-dealer. The requirements of chapter 502 apply to any business of the broker-dealer transacted in this state.

A subsidiary engaging in activities authorized by this section may also engage in any other authorized activities under section 524.803, subsection 1, paragraph "f".

Sec. 15. Section 524.901, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. f. Futures, forward, and standby contracts to purchase and sell any of the instruments eligible for state banks' purchase and sale, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with levels of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

Sec. 16. Section 524.901, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. g. Bonds and securities which are authorized investments under paragraph "a", "b", "c", or "d" include investments in an investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in paragraph "a", "b", "c", or "d" and to repurchase agreements fully collateralized by the United States government obligations described in paragraph "a", "b", "c", or "d", if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Sec. 17. Section 524.901, subsection 3, paragraph d, Code 1987, is amended to read as follows:

d. Shares in a corporation which the state bank is authorized to acquire and hold pursuant to section 524.803, subsection 1, paragraphs "c", "d", ~~and~~ "e", and "f" and section 524.825.

Sec. 18. Section 524.901, subsection 3, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. i. Shares of investment companies, up to a maximum of twenty percent of capital and surplus of the state bank in any one company, if the portfolio of such an investment company consists wholly of investments in which the state bank could invest directly without limitation pursuant to this section.

NEW LETTERED PARAGRAPH. j. Shares of investment companies whose portfolios contain investments which are subject to limitations pursuant to this section, provided that a state bank's investment in such shares does not exceed the limitation set forth in this section for the underlying instrument.

Sec. 19. Section 524.901, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A state bank may, in the exercise of the powers granted in this chapter, purchase cash value life insurance contracts which may include provisions for the lump sum payment of premiums and which may include insurance against the loss of the lump sum payment. The cash value life insurance contracts purchased from any one company shall not exceed twenty percent of capital and surplus of the state bank.

Sec. 20. Section 533.4, subsection 5, Code 1987, is amended by adding the following new paragraph.

NEW PARAGRAPH. i. Commercial paper issued by United States corporations as defined by rule.

Sec. 21. Section 533.4, subsection 7, Code 1987, is amended to read as follows:

7. Assess fines as may be provided by the bylaws ~~for failure to make repayments on loans and payments on shares when due, provided no such fine shall exceed one percent per month on amounts in arrears or five cents, whichever is the larger~~.

Sec. 22. Section 533.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

533.5 MEMBERSHIP.

The membership of a credit union consists of those persons in the common bond, duly admitted, who have paid any required one-time or periodic membership fee, or both, have subscribed to one or more shares, and have complied with the other requirements specified by the articles of incorporation and bylaws. To continue membership, a member must comply with any changes in the par value of the share. Credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries. Changes in the common bond may be made by the board of directors. If adopted as a policy by the board of directors of a credit union, members who cease to meet qualifications of membership may retain their credit union membership and all membership privileges. Organizations, incorporated or otherwise, may be members.

Sec. 23. Section 533.9, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Within five days following the organization meeting and each annual meeting the directors shall elect from their own number a chairperson of the board, a vice chairperson, ~~president and~~ a secretary, ~~of whom the last two may be the same individual, and also~~ a chief financial officer whose title shall be designated by the board of directors, a credit committee of not less than three members, and an auditing committee of not less than three members, and may also elect alternate members of the credit committee. The board may appoint an executive committee to act on its behalf when designated for that purpose. ~~It shall be the duty of the~~ The directors ~~to~~ have general management of the affairs of the credit union~~, particularly to:~~.

Sec. 24. Section 533.9, subsections 1 through 7, and unnumbered paragraph 2, Code 1987, are amended by striking the subsections and unnumbered paragraph.

Sec. 25. Section 533.11, subsections 1 and 2, Code 1987, are amended to read as follows:

1. Make or cause to be made an examination of the affairs of the credit union at least ~~quarterly~~ semiannually, including an audit of its books and, ~~in the event said~~ if the committee feels such action to be necessary, it shall call the members together ~~thereafter~~ after the audit and submit to them its report.

2. Make or cause to be made an annual ~~audit and~~ report and submit ~~the same~~ it at the annual meeting of the members.

Sec. 26. Section 533.34, subsection 1, Code 1987, is amended to read as follows:

1. A state credit union may convert into a federal credit union with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of the credit union's members ~~eligible to~~ who vote on the proposal. This vote, if taken, shall be at a ~~special~~ meeting called for that purpose and shall be in the manner prescribed by the bylaws. ~~Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of conversion by signing a statement in a form satisfactory to the superintendent. This vote shall have the same force and effect as if cast at the meeting.~~

Sec. 27. Section 533.38, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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, nonprofit organizations, 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 to 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 superintendent pursuant to chapter 17A and with the prior written approval of the superintendent:

Sec. 28. NEW SECTION. 533.48 INVESTMENT IN BANKS OR SAVINGS AND LOAN ASSOCIATIONS.

1. INVESTMENTS IN BANKS. A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a bank.

2. INVESTMENT IN SAVINGS AND LOANS. A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a state savings and loan association.

3. FINDINGS REQUIRED. The superintendent shall not grant an approval under subsection 1 or 2, except after making one of the following findings:

a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.

b. Based upon a preponderance of the evidence presented, the proposed investment would have an anticompetitive effect as described in paragraph "a", but other factors, specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.

4. COMPETITION PRESERVED. The subsequent liquidation of a bank or state savings and loan association whose shares are acquired under this section shall not prevent the subsequent incorporation of another bank or savings and loan association in the same community, and the superintendent of banking shall not find the liquidation of such a bank to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, and the superintendent of savings and loan associations shall not find the liquidation of such a savings and loan association to be grounds for disapproving the incorporation of another savings and loan association in the same community under chapter 534.

Sec. 29. Section 534.103, subsection 6, Code 1987, is amended to read as follows:

6. LIMITED TRUST POWERS. ~~Associations~~ An association incorporated under this chapter may act as trustee for trusts which are created or organized in the United States, and which form part of a stock bonus, pension, or profit sharing plan which qualifies for special tax treatment under section 401(d) or subsection (a) of section 408 of the Internal Revenue Code of 1954, as amended, or as trustee with no active fiduciary duties, if the funds of ~~such~~ the trust are invested only in savings accounts or deposits in ~~such~~ the association or in obligations or securities issued by ~~such~~ the association. All funds held in such a fiduciary capacity by ~~any such~~ an association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subsection.

The ~~administrator~~ superintendent is authorized to grant by special permit to an association the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity. However, this authority is available only for periods of time when federally chartered savings and loan associations operating in this state are granted similar authority, and the state authorization is subject to the rights and limitations established in rules adopted by the superintendent, which shall be consistent with the rights and limitations for federally chartered associations engaged in this type of activity.

Sec. 30. Section 534.107, Code 1987, is amended to read as follows:

534.107 ~~EXPENDITURES AND~~ OPERATING EXPENSES.

~~All expenses for management in conducting the affairs of an association, excluding the cost of borrowed money, shall be paid from interest, service charges and other sources of profit.~~ The ~~said~~ operating expense ~~for~~ of an association in any one year shall not exceed three percent ~~for associations with assets not to exceed eight hundred thousand dollars and two percent for those over such amount as shown by the associations in their last annual report~~ of the association's average assets during that year without the written approval of the superintendent.

Sec. 31. Section 534.111, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Every association organized under ~~the provisions of~~ this chapter ~~shall have and exercise~~ has all the rights, powers, and privileges ~~pertaining to savings and to loans~~ not in conflict with the laws of this state, which are conferred upon federal savings and loan associations by the Home Owners' Loan Act of 1933, ~~title 12, section 1464, United States Code~~ 12 U.S.C. § 1464, and conferred by regulations adopted by the federal home loan bank board and the federal savings and loan insurance corporation.

Sec. 32. NEW SECTION. 534.112 REGULATORY CAPITAL.

An association shall maintain regulatory capital in the amount required by regulations of the federal savings and loan insurance corporation. For the purpose of this section, "regulatory capital" means the sum of all reserve accounts (except specific reserves established to

offset actual or anticipated losses), undivided profits, surplus, capital stock, and any other nonwithdrawable accounts.

Sec. 33. Section 534.207, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. Loans secured by ~~first~~ liens or ~~first~~ claims on residential real estate, participation interests in groups of loans secured by ~~first~~ liens or ~~first~~ claims on residential real estate, securities that are secured by groups of loans secured by ~~first~~ liens or ~~first~~ claims on residential real estate, or property improvement loans for the making of improvements upon residential real property, or a combination of these.

Sec. 34. Section 534.209, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

534.209 COMMERCIAL LENDING AND ACCOUNTS.

1. An association shall not hold more than forty percent of its assets in commercial loans and consumer loans as an annual average based on monthly computations.

2. An association may accept a commercial NOW account. For the purposes of this subsection, a "commercial NOW account" is a NOW account, as authorized by section 534.301, subsection 3, for a commercial, corporate, business, or agricultural entity.

3. For the purposes of this section, unless the context otherwise requires:

a. "Commercial loan" means a loan to a person borrowing money for a business or agricultural purpose.

b. "Business purpose" means a loan to a for-profit entity, or a for-profit activity, including but not limited to a commercial, service, or industrial enterprise carried on for profit, or an investment activity.

c. "Agricultural purpose" means as defined in section 535.13.

d. "Commercial loan" does not include a loan secured by an interest in real estate for the purpose of financing the acquisition of real estate or the construction of improvements on real estate. In determining which loans are "commercial loans" the rules of construction stated in section 535.2, subsection 2, paragraph "b", apply.

4. For the purposes of this section, a lease of personal property is treated as a commercial loan if a loan to the lessee to acquire the property would have been a commercial loan.

Sec. 35. NEW SECTION. 534.215 FALSE STATEMENT FOR CREDIT.

A person who knowingly does either of the following is guilty of a fraudulent practice:

1. Makes or causes to be made, directly or indirectly, a false statement in writing with the intent that the false statement shall be relied upon by an association for the purpose of procuring the delivery of property, the payment of cash, or the receipt of credit in any form, for the benefit of the person or of any other person in which the person is interested or for whom the person is acting.

2. Procures the delivery of property, the payment of cash, or the receipt of credit in any form, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of the person, or any other person in which the person is interested or for whom the person is acting, if the person knew that the association relied or would rely upon the false written statement.

Sec. 36. Section 534.307, subsection 2, Code 1987, is amended by striking the subsection.

Sec. 37. Section 534.505, subsection 4, Code 1987, is amended by striking the subsection.

Sec. 38. Section 534.702, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Subject to the laws and regulations of the United States, a foreign association transacting business within this state is subject to the provisions of this chapter and is subject to the supervision of the superintendent as to its operations in this state. Notwithstanding subsection 2 of section 534.102, the term "association" or "state association" in this chapter shall include a foreign association and any foreign association which is a party

to a plan of merger under section 534.511 as to its operations in this state.

Sec. 39. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1987

CHAPTER 172

STATE PARK ROAD AND CONSERVATION PARKWAY FUNDING

H.F. 472

AN ACT to authorize the funding of state park road projects and county conservation parkway projects from rise funds.

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

Section 1. Section 315.6, Code 1987, is amended to read as follows:

315.6 FUNDING OF PROJECTS.

Qualifying projects may be funded as follows:

1. Primary road and state park 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, state park road, and county conservation parkway 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 and state park road 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, state park road, and county conservation parkway projects.

Approved June 2, 1987

CHAPTER 173

RECREATION TRAILS

H.F. 575

AN ACT relating to the acquisition, development, promotion, and management of land for recreation trails.

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

Section 1. NEW SECTION. 111E.1 STATEMENT OF PURPOSE — INTENT.

The general assembly finds that recreation trails provide a significant benefit for the health and well-being of Iowans and state visitors. Iowa has a national reputation as a place for hiking, walking, and bicycling. The use of recreation trails has a significant influence on Iowa's

economy. Iowa's scenic landscapes, many small communities, and existing natural and transportation corridors are ideally suited for new recreation trails to support recreation and tourism activities such as walking, biking, driving for pleasure, horseback riding, boating and canoeing, skiing, snowmobiling, and others.

The general assembly finds that a program shall be established to acquire, develop, promote, and manage existing and new recreation trails. The objective of a statewide trails program shall be for the state to acquire and develop two thousand miles of new recreation trails and completion of existing trail projects before the year 2000.

Sec. 2. NEW SECTION. 111E.2 STATEWIDE TRAILS DEVELOPMENT PROGRAM.

The state department of transportation shall undertake the following programs to meet the objective stated in section 111E.1:

1. Prepare a long-range plan for the acquisition, development, promotion, and management of recreation trails throughout the state. The plan shall identify needs and opportunities for recreation trails of different kinds having national, statewide, regional, and multicounty importance. Recommendations in the plan shall include but not be limited to:

a. Specific acquisition needs and opportunities for different types of trails.

b. Development needs including trail surfacing, restrooms, shelters, parking, and other needed facilities.

c. Promotional programs which will encourage Iowans and state visitors to increase use of trails.

d. Management activities including maintenance, enforcement of rules, and replacement needs.

e. Funding levels needed to accomplish the statewide trails objectives.

f. Ways in which trails can be more fully incorporated with parks, cultural sites, and natural resource sites.

2. The plan shall recommend standards for establishing functional classifications for all types of recreation trails as well as a system for determining jurisdictional control over trails. Levels of jurisdiction may be vested in the state, counties, cities, and private organizations.

3. The state department of transportation may enter into contracts for the preparation of the trails plan. The department shall involve the department of natural resources, the Iowa department of economic development, and the department of cultural affairs in the preparation of the plan. The recommendations and comments of organizations representing different types of trail users and others with interests in this program shall also be incorporated in the preparation of the trails plan and shall be submitted with the plan to the general assembly. The plan shall be submitted to the general assembly no later than January 15, 1988. Existing trail projects involving acquisition or development may receive funding prior to the completion of the trails plan.

The department shall give priority to funding the acquisition and development of trail portions which will complete segments of existing trails. The department shall give preference to the acquisition of trail routes which use existing or abandoned railroad right-of-ways, river valleys, and natural greenbelts. Multiple recreational use of routes for trails, other forms of transportation, utilities, and other uses compatible with trails shall be given priority.

The department may acquire property by negotiated purchase and hold title to property for development of trails. The department may enter into agreements with other state agencies, political subdivisions of the state, and private organizations for the planning, acquisition, development, promotion, management, operations, and maintenance of recreation trails.

The department may adopt rules under chapter 17A to carry out a trails program.

Sec. 3. NEW SECTION. 111E.3 INVOLVEMENT OF OTHER AGENCIES.

The department of natural resources, the Iowa department of economic development, and the department of cultural affairs shall assist the state department of transportation in developing the statewide plan for recreation trails, in acquiring property, and in the development, promotion, and management of recreation trails.

Sec. 4. NEW SECTION. 111E.4 FUNDING.

To achieve the purposes of this chapter, the state department of transportation, other state agencies, political subdivisions of the state, and private organizations may use funds from the following sources:

1. Funds appropriated by the general assembly.
2. Private grants and gifts.
3. Federal grants and loans intended for these purposes.

Approved June 2, 1987

CHAPTER 174

OPEN SPACE LANDS

H.F. 620

AN ACT relating to the acquisition and protection of significant elements of the state's natural open space heritage.

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

Section 1. NEW SECTION. 111E.1 STATEMENT OF PURPOSE – INTENT.

The general assembly finds that:

1. Iowa's most significant open space lands are essential to the well-being and quality of life for Iowans and to the economic viability of the state's recreation and tourism industry.

2. Many areas of high national significance in the state have not received adequate public protection to keep them free of visual blight, resource degradation, and negative impacts from inappropriate land use and surrounding development. Some of these areas include national park service and United States fish and wildlife service properties, national landmarks and trails, the Des Moines river greenbelt, the great river road, areas where interstate highways enter the state, cross major rivers, and pass by other areas of national significance, major state park and recreation areas, unique and protected water areas, and significant natural, geological, scenic, historic, and cultural properties of the state.

3. While state and federal funds are generally available for the acquisition and protection of fish and wildlife areas and habitats as well as boating access to public waters, funding programs for public open space acquisition and protection have not been adequate to meet needs.

4. Relative to other midwestern states, Iowa ranks last in the proportion of land acquired and protected for public open space.

5. A program shall be established to:

a. Educate the citizens of the state about the needs and urgency of protecting the state's open spaces.

b. Plan for the protection of the state's significant open space areas.

c. Acquire and protect those properties on a priority basis through a variety of appropriate means.

In addition to other goals for the program, it is intended that a minimum of ten percent of the state's land area be included under some form of public open space protection by the year 2000.

Sec. 2. NEW SECTION. 111E.2 STATEWIDE OPEN SPACE ACQUISITION AND PROTECTION PROGRAM – OBJECTIVES AND AGENCY DUTIES.

1. The department of natural resources has the following duties in undertaking programs to meet the objectives stated in section 111E.1.

a. Prepare and conduct new education and awareness programs designed to create greater public understanding of the needs, issues, and opportunities for protecting the state's significant open spaces. The department shall incorporate the recommendations of other state agencies and private sector organizations which have interests in open space protection. The department may enter into contracts with other agencies and the private sector for preparing and conducting these programs.

b. Prepare a statewide, long-range plan for the acquisition and protection of significant open space lands throughout the state as identified in section 111E.1. The department of transportation, department of economic development, and department of cultural affairs, private organizations, county conservation boards, city park and recreation departments, and the federal agencies with lands in the state shall be directly involved in preparing the plan. The plan shall include, but is not limited to, the following elements:

(1) Specific acquisition and protection needs and priorities for open space areas based on the following sequence of priorities:

(a) National.

(b) Regional.

(c) Statewide.

(d) Local.

(2) Identification of open space acquisition and protection techniques available or needed to carry out the plan.

(3) Additional education and awareness programs which are needed to encourage the acquisition and protection of areas identified in the plan.

(4) Management needs including maintenance, rehabilitation, and improvements.

(5) Funding levels needed to accomplish the statewide open space programs.

(6) Recommendations as to how federal programs can be modified or developed to assist the state's open space programs.

c. Acquire and protect open space properties as identified by priority in the plan as funding is made available for this purpose. In acquiring and protecting open space, the department shall:

(1) Accept applications for funding assistance from federal agencies, other state agencies, regional organizations, county conservation boards, city park and recreation agencies, and private organizations with an interest in open spaces.

(2) Obtain the maximum efficiency of funds appropriated for this program through the use of acquisition and protection techniques that provide the degree of protection required at the lowest cost.

(3) Encourage the provision of supporting or matching funds; however, the absence of these funds shall not prevent the approval of those projects of clear national importance.

2. The department may enter into contracts with private consultants for preparing all or part of the plan required under subsection 1, paragraph "b". The plan shall be submitted to the general assembly by July 1, 1988. Prior to submission of the plan to the general assembly, the department shall request comments on the proposed plan from state and federal agencies and private organizations with interests in open space protection. The comments shall be submitted to the general assembly.

3. The department may initiate pilot acquisition and protection projects prior to completion of the open space plan if the pilot projects have high national significance as identified in section 1, subsection 2.

Sec. 3. NEW SECTION. 111E.3 FUNDING SOURCES.

1. To achieve the purposes of this chapter, the department, other state agencies, political subdivisions of the state, and private organizations may use funds from the following sources:

a. Appropriations by the general assembly.

b. Private grants and gifts.

c. Federal grants and loans intended for these purposes.

2. The department may enter into agreements with other state agencies, political subdivisions of the state, and private organizations for the purposes of carrying out this natural open space program or specific elements of the program.

Sec. 4. NEW SECTION. 111E.4 PAYMENT IN LIEU OF PROPERTY TAXES.

As a part of the budget proposal submitted to the general assembly under section 455A.4, subsection 1, paragraph "c", the director of the department of natural resources shall submit a budget request to pay the property taxes for the next fiscal year on open space property acquired by the department which would otherwise be subject to the levy of property taxes. The assessed value of open space property acquired by the department shall be that determined under section 427.1, subsection 31, and the director 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 space property acquired by the department 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 taxes due to the department. The taxes shall be paid annually from the departmental fund or account from which the open space property acquisition was funded. If the departmental fund or account has no moneys or no longer exists, the taxes shall be paid from funds as otherwise provided by the general assembly. If the total amount of taxes due certified to the department exceeds the amount appropriated, the taxes due shall be reduced proportionately so that the total amount equals the amount appropriated. This section applies to open space property acquired by the department on or after January 1, 1987.

Approved June 2, 1987

CHAPTER 175

SCENIC AREAS

H.F. 623

AN ACT relating to the identification, protection, planning, and promotion of public highways and roads along scenic regions of the state.

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

Section 1. NEW SECTION. 306D.1 STATEMENT OF PURPOSE — INTENT.

1. The general assembly finds that:

a. The state offers numerous regions through which people can drive for the pleasure of viewing unusually scenic and interesting landscapes; however, routes to and through these areas have not been adequately identified for Iowans and state visitors.

b. Among those things that attract motorists to the state's landscape are agricultural lands, forests, river basins, distinctive landforms, interesting architecture, metropolitan areas, small rural towns, and historic sites.

c. The landscape qualities of unusually scenic routes throughout the state have not been protected from visual and resource deterioration particularly along routes which pass near the state's nationally significant areas such as the bluffs of the Mississippi and Missouri rivers, the Amana colonies, the Herbert Hoover national historic site, federal reservoirs, communities surrounding the state's natural lakes, the Des Moines river greenbelt, the great river road, and many others.

d. A principal goal of economic development in this state is to increase the influence which travel and tourism have on the state's economic expansion.

e. Iowans and visitors should be encouraged to travel to and through unusually scenic areas of the state.

f. A program should be established, following a statewide plan, to identify and promote highways and secondary routes which pass through unusually scenic landscapes and to protect and enhance the scenic qualities of the landscape through which these routes pass.

2. In addition to other goals for the program, it is the intention of the general assembly that the scenic highways program be coordinated with the state's open space program.

Sec. 2. NEW SECTION. 306D.2 STATEWIDE SCENIC HIGHWAYS PROGRAM – OBJECTIVES AND AGENCY DUTIES.

1. The department of transportation shall prepare a statewide, long-range plan for the protection, enhancement, and identification of highways and secondary roads which pass through unusually scenic areas of the state as identified in section 306D.1. The department of natural resources, department of economic development, and department of cultural affairs, private organizations, county conservation boards, city park and recreation departments, and the federal agencies having jurisdiction over land in the state shall be encouraged to assist in preparing the plan. The plan shall be coordinated with the state's open space plan if a state open space plan has been approved by the general assembly. The plan shall include, but is not limited to, the following elements:

a. Preparation of a statewide inventory of scenic routes and ranking of relative uniqueness for each route. The degree to which these routes suffer from negative visual intrusions shall be documented.

b. Recommended techniques for preserving and enhancing the scenic qualities associated with each route.

c. Forecasts of significant changes in traffic volumes and environmental, social, and economic impacts if scenic routes are publicly identified and promoted as tourism attractions.

d. Recommended techniques for incorporating scenic highway routes in state and local tourism development and marketing programs.

e. Landscape management needs including maintenance, rehabilitation, and improvements to scenic areas.

f. Funding levels needed to accomplish the statewide scenic highway program.

g. Recommendations of how federal and state transportation programs can be modified or developed to assist the state's scenic highway program.

2. The preparation of the plan is subject to an appropriation by the general assembly for that purpose. The plan shall be submitted to the general assembly by January 15, 1988. Prior to submission of the plan to the general assembly, the department shall request comments on the proposed plan from state agencies, federal agencies, and private organizations with interests in scenic highways. The comments shall be submitted to the general assembly.

Sec. 3. NEW SECTION. 306D.3 PLAN RECOMMENDATIONS AND PILOT PROJECTS.

1. The department's recommendations to the general assembly shall include proposed legislation for the state to acquire and protect scenic landscapes along public roads and highways.

2. Before January 1, 1989, the department shall identify four pilot scenic highway routes across two or more counties each for trial promotion in the state's tourism marketing program.

Approved June 2, 1987

CHAPTER 176

PROTECTED GAME, FUR-BEARING ANIMALS, AND FISH

H.F. 464

AN ACT relating to the receipt and sale of protected game, fur-bearing animal, or fish by a nonprofit corporation.

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

Section 1. Section 109.55, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Section 109.50 and this section do not apply to a game species, fur-bearing animal species, or variety of fish protected under this chapter which is sold by a nonprofit corporation as a part of a meal. The number of game of a game species or fur-bearing animal species, or a variety of fish protected by this chapter which are donated by a person to a nonprofit corporation plus any additional game of the same species or same variety of fish in the person's possession must not exceed the person's legal possession limit.

Approved June 2, 1987

CHAPTER 177

PESTICIDES

S.F. 479

AN ACT relating to the use and application of pesticides and making penalties applicable.

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

Section 1. Section 206.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 29. "Chlordane" means 1,2,4,5,6,7,8,8-octachloro-4,7-methano-3a,4,7,7a-tetrahydroindane; Octa klor: 1068; Velsicol 1068; Dowklor.

Sec. 2. Section 206.19, subsection 2, Code 1987, is amended to read as follows:

2. a. Determine the proper use of pesticides including but not limited to their formulations, times and methods of application, and other conditions of use.

b. With regard to the use of chlordane, the rules shall prohibit the use of chlordane injected into the ground around a home for any of the following:

(1) Homes built on concrete slabs with ventilation ducts in or below the slabs.

(2) Homes that have a gap between the bottom of the house and the ground.

(3) Homes with unfinished half-basements and crawl spaces.

(4) Homes which provide foundation drainage directly into sanitary sewers.

However, the rules may allow the use of chlordane in homes included in subparagraphs (1) through (3) if the homes have a termite infestation and the applicator informs the home's residents of the potential hazards of the chlordane's use and explains methods of abating chlordane contamination.

Sec. 3. Section 206.20, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Chlordane is classified as a restricted use pesticide.

Sec. 4. NEW SECTION. 206.24 APPLICATION OF PESTICIDES IN AND ABOUT THE HOME.

1. DEFINITIONS. Notwithstanding section 206.2, as used in this chapter with regard to the application of pesticides used inside the home or injected into the ground around the home:

a. "Commercial applicator" means a person, or employee of a person, who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying a pesticide or servicing a device but shall not include a farmer trading work with another.

b. "Public applicator" means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency.

2. ADDITIONAL CERTIFICATION REQUIREMENTS. A person shall not apply a restricted use pesticide inside a home or injected into the ground around a home without first complying with the certification requirements of this chapter and other restrictions as determined by the secretary.

The secretary shall require applicants for certification as commercial or public applicators of pesticides applied inside a home or injected into the ground around a home to take and pass a written test.

3. EXAMINATION FOR COMMERCIAL APPLICATOR LICENSE. The secretary of agriculture shall not issue a commercial applicator license for applying pesticides inside homes or injecting pesticides into ground surrounding homes until the individual engaged in or managing the pesticide application business or employed by the business is certified by passing an examination to demonstrate to the secretary the individual's knowledge of how to apply pesticides under the classifications the individual has applied for, and the individual's knowledge of the nature and effect of pesticides the individual may apply under such classifications.

4. RENEWAL OF APPLICANT'S LICENSE. The secretary of agriculture shall renew an applicant's license for applying pesticides inside homes or injecting pesticides into ground surrounding homes under the classifications for which the applicant is licensed, provided that all of the applicant's personnel who apply pesticides inside homes or inject pesticides into ground surrounding homes have also been certified.

5. CERTIFICATION OF HOME CHLORDANE APPLICATOR. An individual may be certified by the secretary as a home chlordane applicator for authorization to use chlordane inside the individual's home or injected into the ground around the individual's home pursuant to the requirements of this chapter. The applicant for such certification shall be required to attend an approved informational course providing instruction on the correct use of chlordane and its hazards. The course shall be approved by the secretary and shall be at least three hours in length. In addition, the applicant shall be required to take and pass a written test on the uses and hazards of chlordane and pay a fee for the certification.

The secretary shall adopt by rule, pursuant to chapter 17A, requirements for the examination and certification of the applicants and set a fee of not more than five dollars for certification.

The secretary may adopt rules for the training of home chlordane applicators in cooperation with the cooperative extension service at Iowa State University of science and technology.

Sec. 5. CHLORDANE ADVISORY COMMITTEE CREATED.

1. A chlordane advisory committee is created. The advisory committee shall consist of the chief administrator of each of the following organizations or the administrator's designee:

a. The department of agriculture and land stewardship.

b. The environmental protection division of the department of natural resources.

c. The State University of Iowa department of preventative medicine and environmental health.

d. The Iowa department of public health.

e. The state hygienic laboratory.

2. The advisory committee shall study the effects of chlordane application and shall, by January 1, 1988, report to the environmental protection and energy committees of the general assembly its recommendations for the safe use and regulation of chlordane.

3. This section is repealed January 1, 1988.

Approved June 2, 1987

CHAPTER 178

WELCOME CENTERS

H.F. 540

AN ACT relating to the planning, acquisition, development, and operation of welcome centers in proximity to highways and at other locations throughout the state.

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

Section 1. NEW SECTION. 15.261 STATEMENT OF PURPOSE – INTENT.

1. The general assembly finds that:

a. Highway travelers have special needs for information and travel services.

b. Highway travelers have a significant positive influence on the state's economy.

c. A principal goal of economic development in this state is to increase the influence which travel and hospitality services, tourism, and recreation opportunities have on the state's economic expansion.

d. Facilities and programs are needed where travelers can obtain information about travel and hospitality services, tourism attractions, parks and recreation opportunities, cultural and natural resources, and the state in general.

e. A program shall be established to plan, acquire, develop, promote, operate, and maintain a variety of welcome centers at strategic locations to meet the needs of travelers in the state. The program is intended to be accomplished by 1992.

2. The primary goals of a statewide program for welcome centers is to provide to travelers the following:

a. High quality, accurate, and interesting information about travel in the state; national, statewide, and local attractions of all types; lodging, medical service, food service, vehicle service, and other kinds of necessities; and general information about the state.

b. Needed and convenient services, including but not limited to, restrooms; lodging information and event reservation services; vehicle services; and others. Services shall also include the distribution and sale of souvenirs, crafts, arts, and food products originating in the state; food and beverages; fishing, hunting, and other permits and licenses needed for recreation activities; and other products normally desired by travelers.

c. Settings that will convey a sense of being welcomed to the state through hospitable attitudes of personnel; high quality of site landscape architecture, architectural theme, and interior design of the buildings; special events that occur at the centers; and high levels of maintenance.

Sec. 2. NEW SECTION. 15.262 STATEWIDE WELCOME CENTER PROGRAM – OBJECTIVES AND AGENCY RESPONSIBILITIES – PILOT PROJECTS.

The state agencies, as indicated in this section, shall undertake certain specific functions to implement the goals of a statewide program, including the pilot projects, for welcome centers.

1. The department and the state department of transportation shall jointly establish a statewide long-range plan for developing and operating welcome centers throughout the state. The plan shall be submitted to the general assembly by January 15, 1988. The plan shall address, but not be limited to, the following:

a. Integrating state, regional, and local tourism and recreation marketing and promotion plans.

b. Recommending a wide range of centers, including state-developed and state-operated to privately managed facilities.

c. Establishing design, service, and maintenance quality standards which all welcome centers will maintain. Included in the standards shall be a provision requiring that space or facilities be available for purposes of displaying and offering for sale Iowa-made products, crafts, and arts. The space or facilities may be operated by the department or leased to and operated by other persons.

d. Making projections of increased tourist spending, indirect economic benefits, and direct revenue production which are estimated to occur as a result of implementing a statewide welcome center program.

e. Projecting estimated acquisition, construction, exhibit, staffing, and maintenance costs.

f. Integrating electronic data telecommunications systems.

g. Identifying sites for maintaining existing centers as well as locations for new centers.

The departments may enter into contracts for the preparation of the long-range plan. The departments shall involve the department of natural resources and the department of cultural affairs in the preparation of the plan. The recommendations and comments of organizations representing hospitality and tourism services, including but not limited to, the regional tourism councils, convention and visitors bureaus, and the Iowa travel council, and others with interests in this program will be considered for incorporation in the plan. Prior to submission of the plan to the general assembly, the plan shall be submitted to the regional tourism councils, the convention and visitors bureaus, and the Iowa travel council for their comments and criticisms which shall be submitted by the department along with the plan to the general assembly.

2. The responsibilities of the department include the following:

a. Seeing to the acquisition of property and the construction of all new welcome centers including the pilot projects selected by the department pursuant to paragraph "e". In carrying out this responsibility the department may, but is not limited to, the following:

(1) Arrange for the state department of transportation to acquire title to land and buildings for use as and undertake construction of state-owned welcome centers. In acquiring property and constructing the welcome centers, including any pilot projects, the state department of transportation may use any funds available to it, including but not limited to, the RISE fund, matching funds from local units of government or organizations, the primary road fund, federal grants, and moneys specifically appropriated for these purposes.

(2) Contract with other state agencies, local units of government, or private groups, organizations, or entities for the use of land, buildings, or facilities as state welcome centers or in connection with state welcome centers, whether or not the property is actually owned by the state. If the local match required for pilot projects or which may be required for other welcome centers is met by providing land, buildings, or facilities, the entity providing the local match shall enter into an agreement with the department to either transfer title of the property to the state or to dedicate the use of the property under the conditions and period of time set by the department.

b. Providing for the operations, management, and maintenance of the state-owned and state-operated welcome centers, including the collection and distribution of tourism literature, telecommunication services, and other travel-related services, and the display and offering for sale of Iowa-made products, crafts, and arts.

c. Providing, at the discretion of the department, financial assistance in the form of loans and grants to privately operated information centers to the extent the centers are consistent with the long-range plan.

d. Developing a common theme or graphic logo which will be identified with all welcome centers which meet the standards of operations established for those centers.

e. Selecting the sites for the pilot projects. In selecting the pilot project sites, the following apply:

(1) Up to three sites may be located in proximity to the interstates and up to three sites may be located in proximity to the other primary roads. The department shall select at least one site which is in proximity to a primary road which is not an interstate.

(2) Proposals for the sites must be submitted prior to September 1, 1987 and shall contain a commitment of at least a one-dollar-per-dollar match of state financial assistance. The local match may be in terms of land, buildings, or other noncash items which are acceptable by the department.

(3) Priority shall be given to proposals that have the best local match, that are to be located where there is a very high number of travelers passing, and for which the department, after consultation with the departments of transportation, natural resources, and cultural affairs, considers the chances of success to be nearly perfect.

(4) The department shall select the sites by September 15, 1987.

Approved June 2, 1987

CHAPTER 179

CRUELTY TO ANIMALS

S.F. 17

AN ACT relating to the penalty for cruelty to animals.

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

Section 1. Section 717.2, Code 1987, is amended to read as follows:

717.2 CRUELTY TO ANIMALS.

A person who impounds or confines, in any place, a domestic animal or fowl, or an animal or fowl subject to section 109.60, or dog or cat, and fails to supply the animal during confinement with a sufficient quantity of food, and water, or who fails to provide a dog or cat with adequate shelter, or who tortures, torments, deprives of necessary sustenance, mutilates, overdrives, overloads, drives when overloaded, beats, or kills an animal by any means which cause unjustified pain, distress, or suffering, whether intentionally or negligently, ~~is guilty of a simple misdemeanor~~ commits the offense of cruelty to animals.

A person who commits the offense of cruelty to animals is guilty of a simple misdemeanor. A person who intentionally commits the offense of cruelty to animals which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Approved June 2, 1987

CHAPTER 180

WASTE MANAGEMENT AUTHORITY

S.F. 396

AN ACT relating to the creation of a waste management authority within the department of natural resources, and providing for the management of solid, hazardous, and low-level radioactive wastes.

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

PART 9

WASTE MANAGEMENT AUTHORITY

Section 1. NEW SECTION. 455B.479 SHORT TITLE.

This part may be cited as the "Waste Management Authority Act".

Sec. 2. LEGISLATIVE FINDINGS AND PURPOSE.

The general assembly finds as follows:

1. A considerable volume of solid wastes, hazardous wastes, and low-level radioactive wastes are generated from modern agricultural, industrial, medical, educational, and research activities within the state.

2. The protection of the health, safety, and welfare of Iowans and the protection of the environment require the proper and safe management of these wastes.

3. Ensuring the proper and safe management of solid wastes, low-level radioactive wastes, and hazardous wastes is a fundamental duty of the state.

4. It is the obligation of the state government pursuant to the federal Low-Level Waste Management Policy Act of 1980 to provide for the proper and safe management of low-level radioactive wastes produced within its borders.

5. A proper and safe solid waste, low-level radioactive waste, and hazardous waste management program encourages public participation in all phases of the development of the waste management program, and encourages, to the greatest extent possible, the use of environmentally sound waste management practices which are alternatives to land disposal including waste recycling, compaction, incineration, and other methods which reduce the amount of wastes produced.

6. It is the purpose of this Act to establish a state planning and management authority as a division of the department of natural resources to provide for the proper and safe management of low-level radioactive wastes and hazardous wastes produced in the state, to encourage and facilitate new solid waste management concepts and alternative disposal methods, and to meet the state's obligations pursuant to the federal Low-Level Waste Management Policy Act of 1980 by:

a. Authorizing the state to encourage, promote, sponsor, and support the proper and safe management and disposition of solid, toxic, hazardous and low-level radioactive wastes generated within this state.

b. Authorizing the state to cooperate with local units of government, governments of other states, the government of the United States, and other persons to make provisions for the proper and safe management and disposition of solid, toxic, hazardous and low-level radioactive wastes generated in this state. Cooperative efforts may include provisions for regional and multistate management of wastes generated in this state or in other states.

c. Authorizing the state to acquire property, construct, own, and operate facilities within the state to be used for the proper and safe management and disposition of solid, toxic, hazardous, and low-level radioactive wastes generated within this state. These activities may be conducted in joint cooperation with local units of government, the governments of other states, the government of the United States, or other persons. Any facilities acquired, owned or operated by the state of Iowa under this part may be used for regional or multistate management and disposition of these wastes.

Sec. 3. NEW SECTION. 455B.480 WASTE MANAGEMENT POLICY.

The purpose of this part is to promote the proper and safe storage, treatment, and disposal of solid, hazardous, and low-level radioactive wastes in Iowa. The management of these wastes generated within Iowa is the responsibility of Iowans. It is the intent of the general assembly that Iowans assume this responsibility to the extent consistent with the protection of public health, safety, and the environment, and that Iowans insure that waste management practices, as alternatives to land disposal, including source reduction, recycling, compaction, incineration, and other forms of waste reduction, are employed.

It is also the intent of the general assembly that a comprehensive waste management plan be established by the waste management authority which includes: the determination of need and adequate regulatory controls prior to the initiation of site selection; the process for selecting a superior site determined to be necessary; the establishment of a process for a site community to submit or present data, views, or arguments regarding the selection of the operator and the technology that best ensures proper facility operation; the prohibition of shallow land burial of hazardous and low-level radioactive wastes; the establishment of a regulatory framework for a facility; and the establishment of provisions for the safe and orderly development, operation, closure, postclosure, and long-term monitoring and maintenance of the facility.

Sec. 4. NEW SECTION. 455B.481 DEFINITIONS.

As used in this part unless the context otherwise requires:

1. "Facilities" means land and improvements on land, buildings and other structures, and other appurtenances used for the management of solid, toxic, hazardous, or low-level radioactive wastes, including but not limited to waste collection sites, waste transfer stations, waste reclamation and recycling centers, waste processing centers, waste treatment centers, waste storage sites, waste reduction and compaction centers, waste incineration centers, waste detoxification centers, and waste disposal sites.

2. "Hazardous waste" means hazardous waste as defined in section 455B.411, subsection 4, and under section 455B.464.

3. "Low-level radioactive waste" means low-level radioactive waste as defined in section 8C.1, article II, paragraph "i", and as defined in the federal Low-Level Radioactive Waste Policy Amendments Act, 42 U.S.C. § 2021.

4. "Management of waste" means the storage, transportation, treatment, or disposal of waste.

5. "Person" means person as defined in section 4.1.

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

7. "Solid waste" means solid waste as defined in section 455B.301, subsection 5.

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

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

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

11. "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

12. "Regulatory agency" means a federal, state, or local agency that issues a license or permit required for the siting, construction, operation, or maintenance of a facility pursuant to federal or state statute or rule, or local ordinance or resolution.

13. "Waste management authority" means the waste management authority established within the department of natural resources.

14. "Waste" means solid waste, hazardous waste, and low-level radioactive waste as defined in this section.

15. "Long-term monitoring and maintenance" means the continued observation and care of a facility after closure in order to ensure that the site poses no threat to the public health, the groundwater, and the environment. In the case of a low-level radioactive waste facility, the time period constituting "long-term" is the number of years of monitoring and maintenance based upon the half-life properties of the wastes, and in the case of a hazardous waste facility is the number of years based upon the projected active toxicity of the waste.

Sec. 5. NEW SECTION. 455B.482 WASTE MANAGEMENT AUTHORITY CREATED.

A waste management authority is created within the department of natural resources for the purpose of carrying out the provisions of this part. The waste management authority is under the immediate direction and supervision of the director of the department of natural resources.

Sec. 6. NEW SECTION. 455B.483 DUTIES OF THE AUTHORITY.

The authority shall:

1. Recommend to the commission the adoption of rules necessary to implement this part.

2. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for deposit into the waste management authority trust fund to be used for programs relating to the duties of the division under this part.

3. Administer and coordinate the waste management trust fund created under this part.

4. Enter into contracts and agreements, with the approval of the commission for contracts in excess of twenty-five thousand dollars, with local units of government, other state agencies, governments of other states, governmental agencies of the United States, other public and private contractors, and other persons as may be necessary or beneficial in carrying out its duties under this part.

5. Represent the state in all matters pertaining to plans, procedures, negotiations, and agreements for interstate compacts or public/private compacts relating to the ownership, operation, management, or funding of a facility. Any agreement is subject to the approval of the commission.

6. Review, propose, and recommend legislation relating to the proper and safe management of waste.

7. Establish a central repository and information clearinghouse within the state for the collection and dissemination of data and information pertaining to the proper and safe management of waste.

8. Develop, sponsor, and assist in the implementation of public education and information programs on proper and safe management of waste in cooperation with other public and private agencies as deemed appropriate.

9. Include in the annual report to the governor and the general assembly required by section 455A.4, subsection 1, paragraph "d", information outlining the activities of the authority in carrying out programs and responsibilities under this part, and identifying trends and developments in the management of waste.

10. Submit a report to the general assembly by January 1, 1988, regarding the feasibility and financial ramifications of limiting the type of waste accepted by a hazardous waste facility acquired or operated pursuant to this chapter.

11. Solicit proposals from public and private agencies to conduct hazardous waste research, and to develop and implement storage, treatment, and other hazardous waste management practices including but not limited to source reduction, recycling, compaction, incineration, fuel recovery, and other alternatives to land disposal of hazardous waste. In the acceptance of a proposal, preference shall be given to Iowa agencies pursuant to chapter 73.

12. Conduct a comprehensive study of the current availability of hazardous waste disposal methods and sites, the current and projected generation of hazardous waste including but not limited to the types of hazardous waste generated and the sources of hazardous waste generation; alternatives to land disposal of hazardous waste including but not limited to source reduction, recycling, compaction, incineration, and fuel recovery; and integrated approaches to pollution management to ensure that the problems associated with hazardous waste do not become air or water problems; and alternative management and financing approaches for a state hazardous waste site.

13. a. Develop a comprehensive plan for the establishment of a small business assistance center for the safe and economic management of solid and hazardous substances. The plan for establishing the center shall be presented to the general assembly on or before January 15, 1988. The plan shall provide that the center's program include:

(1) The provision of information regarding the safe use and economic management of solid and hazardous substances to small businesses which generate the substances.

(2) The dissemination of information to public and private agencies regarding state and federal solid and hazardous substances regulations, and assistance in achieving compliance with these regulations.

(3) Advisement and consultation regarding the proper storage, handling, treatment, reuse, recycling, and disposal methods of solid and hazardous substances. The center shall promote alternatives to land disposal of solid and hazardous substances including but not limited to source reduction, recycling, compaction, incineration, and fuel recovery.

(4) The identification of the advantages of proper substance management relative to liability and operational costs of a particular small business.

(5) Assistance in the providing of capital formation in order to comply with state and federal regulations.

b. Moneys appropriated from the oil overcharge account of the groundwater protection fund shall be used to develop the comprehensive plan for the small business assistance center for the safe and economic management of solid and hazardous substances.

c. In solicitation of proposals for the implementation of the comprehensive plan, the waste management authority shall give preference to cooperative proposals which incorporate and utilize the participation of the universities under the control of the state board of regents.

Sec. 7. NEW SECTION. 455B.484 POWERS AND DUTIES OF THE COMMISSION.

The commission shall:

1. Establish policy for the implementation of this part.

2. Adopt, modify, or repeal rules necessary to implement this part pursuant to chapter 17A.

3. Approve the budget request for the waste management authority prior to submission to the department of management. The commission may increase, decrease, or strike any proposed expenditure within the waste management authority budget request before granting approval.

4. Recommend legislative action which may be required for the safe and proper management of waste, for the acquisition or operation of a facility, for the funding of a facility, to enter into interstate agreements for the management of a facility, and to improve the operation of the waste management authority.

5. Approve all contracts and agreements, in excess of twenty-five thousand dollars, under this part between the waste management authority and other public or private persons or agencies.

Sec. 8. NEW SECTION. 455B.485 FACILITY SITING.

1. The authority shall identify and recommend to the commission suitable sites for locating facilities for the treatment, storage, or disposal of hazardous waste within this state. The authority shall use site selection criteria adopted by the environmental protection commission pursuant to section 455B.486 in identifying these sites. The commission shall accept or reject the recommendation of the authority. If the commission rejects the recommendation of the authority, the commission shall state its reasons for rejecting the recommendation.

2. The commission shall adopt rules establishing criteria for the identification of sites which are suitable for the operation of low-level radioactive waste disposal facilities. The authority shall apply these criteria, once adopted, to identify and recommend to the commission sites suitable for locating facilities for the disposal of low-level radioactive waste. The commission shall accept or reject the recommendation of the authority. If the commission rejects the recommendation of the authority, the commission shall state its reasons for rejecting the recommendation.

Sec. 9. NEW SECTION. 455B.486 FACILITY ACQUISITION AND OPERATION.

The commission shall adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation of facilities for the management of hazardous and low-level radioactive wastes. Upon request, the department shall assist in locating suitable sites for the location of a facility. The commission may purchase or condemn land to be leased or used for the operation of a facility 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 commission may lease land purchased under this section to any person including the state or a state agency. This section authorizes the state to own or operate hazardous waste facilities and low-level radioactive waste facilities, subject to the approval of the general assembly.

The terms of the lease or contract shall establish responsibility for long-term monitoring and maintenance of the site. The commission shall require that the lessee or operator post bond or provide proof of sufficient insurance coverage, as determined by the commission to be reasonably necessary to protect the state against liabilities arising from the storage of wastes, abandonment of the facility, facility accidents, failure of the facility, or other liabilities which may arise.

The terms of the lease or contract shall also require that the lessee or operator of the facility pay an annual fee to the state, as established by the commission, to cover facility monitoring costs, and shall require that the lessee or operator establish a long-term monitoring and maintenance fund in which the lessee or operator shall deposit annually an amount specified by the commission. The fund shall be used to pay closure, long-term monitoring and maintenance, and contingency costs.

The lease agreement or contract shall provide for a local review and monitoring committee established by the county or municipal entity governing the jurisdiction in which the facility is located. Prior to the approval of a lease agreement or contract the local committee shall review the application of the prospective lessee or operator and shall determine the suitability of the proposed site for the facility. The local committee may inspect the facility during operation and may make recommendations regarding the operation and closure of the facility. The commission shall establish a surtax paid by the lessee or operator of a facility to the local governmental entity, and retained by the local governmental entity in which the facility is located. The lessee or operator of the facility shall provide funding for the implementation of the duties of the local committee.

The lessee or operator is subject to all applicable permit and licensing requirements. The leasehold interest, including improvements made to the property, shall be listed, assessed, and valued as any other real property as provided by law.

Facilities acquired or operated pursuant to this section shall comply with applicable federal and state statutes, local ordinances, and regulations adopted by regulatory agencies to the extent required by law.

The purchase, condemnation, use, or lease of land for the management of wastes, shall be approved by the general assembly prior to the purchase, condemnation, use, or lease of the land.

Facilities acquired or operated pursuant to this section may be used for regional, statewide or multistate management of wastes.

Facilities acquired or operated pursuant to this section shall not be used for the purpose of shallow land burial of wastes as a means of disposal.

An operator of a facility acquired or operated pursuant to this section shall require that a person, prior to the use of the facility, submit proof that reasonable and good faith measures have been taken to reduce the generation of waste.

A hazardous waste facility acquired or operated pursuant to this section shall be operated in accordance with the following schedule:

a. The initial fee paid by a person depositing hazardous waste at the facility shall be increased by ten percent per ton upon receipt of twenty-five percent of the waste capacity of the facility.

b. The initial fee paid by a person depositing hazardous waste at the facility shall be increased by twenty-five percent per ton upon receipt of fifty percent of the waste capacity of the facility.

c. Upon receipt of fifty percent of the waste capacity of the facility, the receipt of waste shall be limited to hazardous waste generated within the state of Iowa. If an agreement has been established between the owner or operator of the hazardous waste facility and an out-of-state generator of hazardous waste, this limitation is null and void.

Sec. 10. NEW SECTION. 455B.487 HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSITION.

The authority shall develop, sponsor, and assist in conducting local, regional, or statewide programs for the receipt or collection and proper management of hazardous wastes from households and farms. In conducting such events the authority may establish limits on the types

and amounts of wastes that will be collected, and may establish a fee system for acceptance of wastes in quantities exceeding the limits established pursuant to this section.

Sec. 11. NEW SECTION. 455B.488 WASTE MANAGEMENT AUTHORITY FUND.

A waste management authority fund is created within the state treasury. Moneys received by the authority from fees, general revenue, federal funds, awards, wills, bequests, gifts, or other moneys designated shall be deposited in the state treasury to the credit of the fund. Any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Any interest and earnings on investments from money in the fund shall be credited to the fund, section 453.7 notwithstanding.

Sec. 12. Section 455B.422, Code 1987, is repealed.

Approved June 2, 1987

CHAPTER 181

MEMBERSHIP CAMPGROUNDS

H.F. 520

AN ACT relating to the regulation of membership campgrounds, membership camping operators, and membership camping contracts, requiring registration and disclosures, providing for cancellation of membership camping contracts, providing remedies, providing penalties, and providing properly related matters.

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

Section 1. Section 502.102, subsection 2, paragraph a, Code 1987, is amended to read as follows:

a. Effecting transactions in a security exempted by section 502.202, subsection 1, 2, 3, 4, 6, 10, 11, ~~or~~ 12, or 17, or a security issued by an industrial loan company licensed under chapter 536A;

Sec. 2. Section 502.202, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Any security representing a membership camping contract which is registered pursuant to section 557B.2 or exempt under section 557B.4.

Sec. 3. Section 503.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An association which sells membership camping contracts which are registered or exempt under chapter 557B.

Sec. 4. Section 537.3310, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Subsections 1 through 4 do not apply to a membership camping contract which is subject to the requirements of chapter 557B.

Sec. 5. NEW SECTION. 557B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Advertisement" means an attempt by publication, dissemination, solicitation, or circulation to induce directly or indirectly any person to enter into an obligation or acquire a title or interest in a membership camping contract.

2. "Affiliate" means any person who, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the person specified.

3. "Blanket encumbrance" means any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale, judgment lien, federal or state tax lien, or any other material lien or encumbrance which secures or evidences the obligation to pay

money or to sell or convey all or part of a campground located in this state, made available to purchasers by the membership camping operator, and which authorizes, permits, or requires the foreclosure or other disposition of the campground. "Blanket encumbrance" also includes the lessor's interest in a lease of all or part of a campground which is located in this state and which is made available to purchasers by a membership camping operator. "Blanket encumbrance" does not include a lien for taxes or assessments levied by a public body which are not yet due and payable.

4. "Business day" means any day except Saturday, Sunday, or a legal holiday.

5. "Campground" means real property made available to persons for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device and includes the outdoor recreational facilities located on the real property. "Campground" does not include a mobile home park as defined in section 135D.1.

6. "Controlling persons of a membership camping operator" means each director and officer and each owner of twenty-five percent or more of the stock of the operator, if the operator is a corporation; and each general partner and each owner of twenty-five percent or more of the partnership or other interests, if the operator is a general or limited partnership; or other person doing business as a membership camping operator.

7. "Membership camping contract" means an agreement offered or sold within this state evidencing a purchaser's right to use a campground of a membership camping operator for more than thirty days during the term of the agreement.

8. "Membership camping operator" or "operator" means any person other than one who is tax exempt under section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3, who owns or operates a campground and offers or sells membership camping contracts paid for by a fee or periodic payments. "Membership camping operator" does not include the operator of a mobile home park as defined in chapter 135D.

9. "Offer" means an inducement, solicitation, or attempt to encourage a person to acquire a membership camping contract.

10. "Purchaser" means a person who enters into a membership camping contract with a membership camping operator and obtains the right to use the campground owned or operated by the membership camping operator.

Sec. 6. NEW SECTION. 557B.2 REGISTRATION REQUIREMENT.

A person shall not offer or sell a membership camping contract in this state unless one of the following is applicable:

1. The membership camping contract is covered by a membership camping registration as provided in this chapter.

2. The membership camping contract or the transaction is exempted under section 557B.4.

Sec. 7. NEW SECTION. 557B.3 APPLICATION FOR REGISTRATION.

1. Filing fees, as prescribed in section 557B.7, shall accompany the application for registration, renewal of a registration, or any amendment of a registration of membership camping contracts.

2. The application for registration shall be filed with the attorney general and shall include all of the following:

a. The membership camping operator's name and the address of its principal place of business, the form, date of organization, jurisdiction of its organization, and the name and address of each of its offices in this state.

b. A copy of the membership camping operator's articles of incorporation, partnership agreement, or joint venture agreement as contemplated or currently in effect.

c. The name, address, and principal occupation for the past five years of the membership camping operator and of each controlling person of the membership camping operator and the extent of each such person's interest in the membership camping operator as of a specified date within thirty days prior to the filing of the application.

d. A list of affiliates of the membership camping operator, including the names and addresses of officers and directors.

e. A legal description of each campground owned or operated by the membership camping operator which is represented to be available for use by purchasers and a statement identifying the existing amenities at each campground and the planned amenities represented as to be available for use by purchasers in the future at each campground. If future amenities are represented, the statement must include the estimated cost and schedule for completion of those amenities.

f. A brief description of the membership camping operator's ownership of or other right to use the campground properties or facilities represented to be available for use by purchasers, together with a brief description of any material encumbrance, the duration of any lease, real estate contract, license, franchise, reciprocal agreement, or other agreement entitling the membership camping operator to use the property and any material provisions of the agreements which restrict a purchaser's use of the property.

g. If a blanket encumbrance materially adversely affects a campground, a legal description of the encumbrance and a description of the steps taken to protect purchasers in accordance with section 557B.12 in case of failure to discharge the encumbrance.

h. A brief description of all payments of a purchaser under a membership camping contract, including initial fees and any further fees, charges, or assessments, together with any provision for changing the payments.

i. A description of any restraints on the transfer of membership camping contracts, including a complete description of any resale agreement or policy.

j. A brief description of the policies relating to the availability of camping sites and whether reservations are required.

k. A brief description of any grounds for forfeiture of a purchaser's membership camping contract.

l. A sample copy of each membership camping contract to be offered or sold in this state and the purchase price of each type, and if the price varies, the reason for the variance.

m. A sample copy of each instrument which a purchaser will be required to execute, and a copy of the disclosure statement required by section 557B.8.

n. A statement of the total number of membership camping contracts for each campground intended to be sold in this state and the method used to determine this number, including a statement of commitment that this number will not be exceeded unless it is disclosed by an amendment to the registration.

o. A summary or copy of the articles, bylaws, rules, restrictions, or covenants regulating the purchaser's use of each campground and the facilities located on each property, including a statement of whether and how the articles, bylaws, rules, restrictions, or covenants may be changed.

p. A brief description of any reciprocal agreement allowing purchasers to use camping sites, facilities, or other properties owned or operated by any person other than the membership camping operator with whom the purchaser has entered into a membership camping contract.

q. Financial statements of the membership camping operator prepared in accordance with generally accepted accounting principles which shall include a financial statement for the most recent fiscal year audited by an independent certified public accountant, and an unaudited financial statement for the most recent fiscal quarter. The attorney general may waive the requirement for an audited statement if the statement has been prepared by an independent certified public accountant and the attorney general is satisfied with the reliability of the statement and with the ability of the membership camping operator to meet future commitments.

The application shall be signed by the membership camping operator or an officer or a general partner of the membership camping operator, or by another person holding a power of attorney for this purpose from the membership camping operator. If the application is signed

pursuant to a power of attorney, a copy of the power of attorney must be included with the application.

An application for registration shall be amended within twenty-five days of any material change in the information included in the application. A material change includes any change which significantly reduces or terminates either the applicant's or the purchaser's right to use the campground or any of the facilities described in the membership camping contract, but does not include minor changes covering the use of the campground, its facilities, or the reciprocal program.

The registration of the membership camping operator must be renewed annually by filing an application for renewal with the required fee not later than thirty days prior to the anniversary of the current registration. The application shall include all changes which have occurred in the information included in the application previously filed.

Registration with the attorney general does not constitute approval or endorsement by the attorney general of the membership camping operator, the membership camping contract, or the campground, and any attempt by the membership camping operator to indicate that registration constitutes such approval or endorsement is unlawful.

Sec. 8. NEW SECTION. 557B.4 EXEMPTIONS.

The following transactions are exempt from registration:

1. An offer, sale, or transfer by any one person of not more than one membership camping contract in any twelve-month period.
2. An offer or sale by a government, government agency, or other subdivision of government.
3. A bona fide pledge of a membership camping contract.
4. Transactions subject to regulation pursuant to chapter 557A.

Sec. 9. NEW SECTION. 557B.5 EFFECTIVE DATE OF REGISTRATION.

The application for registration automatically becomes effective upon the expiration of forty-five calendar days following filing of a completed application with the attorney general unless one of the following occurs:

1. The application is denied under section 557B.6.
2. The attorney general grants the registration effective as of an earlier date.
3. The applicant consents to a delay of the effective date.

If the attorney general requests additional information with respect to the application, the application becomes effective upon the expiration of fifteen business days following the filing with the attorney general of the additional information unless an order pursuant to section 557B.6 is issued or unless declared effective on an earlier date by order of the attorney general.

Sec. 10. NEW SECTION. 557B.6 REGISTRATION OR APPLICATION — DENIAL, SUSPENSION, OR REVOCATION.

The attorney general may by order deny, suspend, or revoke a membership camping operator's application or registration or impose a fine of not more than five thousand dollars or a combination of suspension or revocation and fine, if the attorney general finds that the order is for the protection of prospective purchasers or purchasers of membership camping contracts and that one of the following applies:

1. The membership camping operator's advertising or sales techniques or trade practices have been or are deceptive, false, or misleading.
2. The membership camping operator is not financially responsible or has insufficient capital to warrant its offering or selling membership camping contracts in this state. The attorney general may require a surety bond or, if one is unobtainable, other evidence of financial assurances satisfactory to the attorney general.
3. The membership camping operator's application for registration or an amendment to the registration is incomplete in a material respect.
4. The membership camping operator has failed to file timely amendments to the application for registration as required by section 557B.3.

5. The membership camping operator has failed to comply with any provision of this chapter that materially affects the rights of purchasers, prospective purchasers, or owners of membership camping contracts.

6. The membership camping operator has made a false or misleading representation or concealed material facts in any document or information filed with the attorney general.

7. The membership camping operator has represented or is representing to purchasers in connection with the offer to sell membership camping contracts that a particular facility is planned, without reasonable expectation that the facility will be completed within a reasonable time or without the apparent means to ensure its completion.

An order denying, suspending, or revoking a registration or imposing a fine shall be sent by certified mail, return receipt requested, to the applicant or registrant. The applicant or registrant has thirty calendar days from the date of mailing the order to request a hearing pursuant to chapter 17A. If a hearing is not requested within thirty days and is not ordered by the attorney general, the order shall remain in effect until modified or vacated by the attorney general. However, if the attorney general finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the order, summary suspension of a membership camping operator's registration may be ordered. If the membership camping operator desires to contest the summary order, the membership camping operator must request a hearing within fifteen calendar days of service of the summary order. If so requested, the hearing must be instituted within twenty calendar days of the request and the contest of the summary order must be promptly determined.

Sec. 11. NEW SECTION. 557B.7 FEES.

Each application for registration of an offer or sale of membership camping contracts and each application for amendment or renewal of a registration shall be accompanied by a fee determined by the attorney general which shall be sufficient to defray the costs of administering this chapter.

Sec. 12. NEW SECTION. 557B.8 DISCLOSURES TO PURCHASERS.

A membership camping operator who is subject to the registration requirements of section 557B.3 shall provide a disclosure statement to a purchaser or prospective purchaser before the person signs a membership camping contract or gives any money or thing of value for the purchase of a membership camping contract.

1. The front cover or first page of the disclosure statement shall contain only the following, in the order stated:

a. "MEMBERSHIP CAMPING OPERATOR'S DISCLOSURE STATEMENT" printed at the top in boldfaced type of a minimum size of ten points.

b. The name and principal business address of the membership camping operator and any material affiliate of the membership camping operator.

c. A statement that the membership camping operator is in the business of offering for sale membership camping contracts.

d. A statement, printed in boldfaced type of a minimum size of ten points, which reads as follows:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A MEMBERSHIP CAMPING CONTRACT. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT. THE STATEMENTS CONTAINED IN THIS DOCUMENT ARE ONLY SUMMARY IN NATURE. YOU AS A PROSPECTIVE PURCHASER SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING

EXHIBITS FOR CORRECT REPRESENTATIONS. THE MEMBERSHIP CAMPING OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT.

e. A statement, printed in boldfaced type of a minimum size of ten points, which reads as follows:

IF YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL THE CONTRACT. THIS RIGHT OF CANCELLATION CANNOT BE WAIVED. THE RIGHT TO CANCEL EXPIRES AT MIDNIGHT ON THE THIRD BUSINESS DAY FOLLOWING THE DATE ON WHICH THE CONTRACT WAS EXECUTED OR THE DATE OF RECEIPT OF THIS DISCLOSURE STATEMENT, WHICHEVER EVENT OCCURS LATER. TO CANCEL THE MEMBERSHIP CAMPING CONTRACT, YOU AS THE PURCHASER MUST HAND DELIVER OR MAIL NOTICE OF YOUR INTENT TO CANCEL TO THE MEMBERSHIP CAMPING OPERATOR AT THE ADDRESS SHOWN IN THE MEMBERSHIP CAMPING CONTRACT, POSTAGE PREPAID. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO RETURN ALL MONEYS PAID BY YOU IN CONNECTION WITH THE EXECUTION OF THE MEMBERSHIP CAMPING CONTRACT, UPON YOUR PROPER AND TIMELY CANCELLATION OF THE CONTRACT AND RETURN OF ALL MEMBERSHIP AND RECIPROCAL USE PROGRAM MATERIALS FURNISHED AT THE TIME OF PURCHASE.

2. The following pages of the disclosure statement shall contain all of the following in the order stated:

a. The name, principal occupation, and address of every director, partner, or controlling person of the membership camping operator.

b. A brief description of the nature of the purchaser's right or license to use the campground and the facilities which are to be available for use by purchasers.

c. A brief description of the membership camping operator's experience in the membership camping business, including the length of time the operator has been in the membership camping business.

d. The location of each of the campgrounds which is to be available for use by purchasers and a brief description of the facilities at each campground which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A brief description of any facilities that are or will be available to nonpurchasers shall also be provided. The description shall include, but need not be limited to, the number of campsites in each park, the number of campsites in each park with full or partial hookups, swimming pools, tennis courts, recreation buildings, restrooms and showers, laundry rooms, trading posts, and grocery stores.

e. The fees and charges that purchasers are or may be required to pay for the use of the campground or any facilities.

f. Any initial or special fee due from the purchaser, together with a description of the purpose and method of calculating the fee.

g. The extent to which financial arrangements, if any, have been provided for the completion of facilities, together with a statement of the membership camping operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the membership camping operator's obligation to begin or to complete the facilities.

h. The names of the managing entity, if any, and the significant terms of any management contract, including but not limited to, the circumstances under which the membership camping operator may terminate the management contract.

i. A summary or copy, whether by way of supplement or otherwise, of the rules, restrictions, or covenants regulating the purchaser's use of the campground and the facilities which are to be available for use by the purchaser, including a statement of whether and how the rules, restrictions, or covenants may be changed.

j. A brief description of the policies covering the availability of camping sites, the availability of reservations and the conditions under which they are made.

k. A brief description of any grounds for forfeiture of a purchaser's membership camping contract.

l. A statement of whether the membership camping operator has the right to withdraw permanently from use, all or any portion of any campground devoted to membership camping and, if so, the conditions under which the withdrawal is to be permitted.

m. A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser, including a statement concerning whether the purchaser's participation in any reciprocal program is dependent on the continued affiliation of the membership camping operator with that reciprocal program and whether the membership camping operator reserves the right to terminate such affiliation.

n. As to all memberships offered by the membership camping operator at each campground, all of the following:

(1) The form of membership offered.

(2) The types of duration of membership along with a summary of the major privileges, restrictions, and limitations applicable to each type.

(3) Provisions that have been made for public utilities at each campsite including water, electricity, telephone, and sewage facilities.

o. A statement of the assistance, if any, that the membership camping operator will provide to the purchaser in the resale of membership camping contracts and a detailed description of how any such resale program is operated.

p. The following statement, printed in boldfaced type of a minimum size of ten points:

REGISTRATION OF THE MEMBERSHIP CAMPING OPERATOR WITH THE IOWA ATTORNEY GENERAL DOES NOT CONSTITUTE AN APPROVAL OR ENDORSEMENT BY THE ATTORNEY GENERAL OF THE MEMBERSHIP CAMPING OPERATOR, THE MEMBERSHIP CAMPING CONTRACT, OR THE CAMPGROUND.

The membership camping operator shall promptly amend the disclosure statement to reflect any material change and shall promptly file any such amendments with the attorney general.

Sec. 13. NEW SECTION. 557B.9 MEMBERSHIP CAMPING CONTRACTS.

The membership camping operator shall deliver to the purchaser a fully executed copy of a membership camping contract, in writing, which contract shall include at least the following information:

1. The name of the membership camping operator and the address of its principal place of business.

2. The actual date the membership camping contract is executed by the purchaser.

3. The total financial obligation imposed on the purchaser by the contract, including the initial purchase price and any additional charge the purchaser may be required to pay.

4. A statement that the membership camping operator is required by law to provide each purchaser with a copy of the membership camping operator's disclosure statement prior to execution of the contract and that failure to do so is a violation of the law.

5. The full name of each salesperson involved in the execution of the membership camping contract.

6. In immediate proximity to the space reserved for the purchaser's signature, a conspicuous statement printed in boldfaced type of a minimum size of ten points:

YOU THE PURCHASER MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION AT ANY TIME WITHIN THREE BUSINESS DAYS FOLLOWING THE DATE OF EXECUTION OF THE CONTRACT OR THE RECEIPT OF THE DISCLOSURE STATEMENT FROM THE MEMBERSHIP CAMPING OPERATOR, WHICHEVER EVENT OCCURS LATER. TO CANCEL THE CONTRACT, HAND DELIVER OR MAIL A POSTAGE PREPAID WRITTEN CANCELLATION TO THE MEMBERSHIP CAMPING OPERATOR AT THE ADDRESS LISTED ON THIS CONTRACT. UPON CANCELLATION AND

RETURN OF ALL MEMBERSHIP AND RECIPROCAL USE PROGRAM MATERIALS FURNISHED AT THE TIME OF PURCHASE, YOU WILL RECEIVE A REFUND OF ALL MONEY PAID WITHIN THIRTY CALENDAR DAYS AFTER THE MEMBERSHIP CAMPING OPERATOR RECEIVES NOTICE OF YOUR CANCELLATION.

Sec. 14. NEW SECTION. 557B.10 PURCHASER'S RIGHT OF CANCELLATION.

A purchaser has the right to cancel a membership camping contract within three business days following the date the contract is executed or within three business days following the date of delivery of the written disclosure statement required by section 557B.8, whichever event is later.

1. The right to cancel may not be waived and any attempt to obtain such a waiver is unlawful.

2. A purchaser may cancel the contract by hand delivering a written statement of cancellation or by mailing such a statement to the membership camping operator. The cancellation is deemed effective upon mailing.

3. Upon cancellation and return of all membership and reciprocal use materials furnished at the time of purchase, the membership camping operator shall refund to the purchaser all payment and other consideration given by the purchaser. The refund shall be made within thirty calendar days after the membership camping operator receives notice of the cancellation and may, where payment has been made by credit card, be made by an appropriate credit to the purchaser's account. If the membership camping operator fails to refund the payment or other consideration given within the thirty-day period, it is presumed that the membership camping operator is willfully and wrongfully retaining the payment or other consideration. The willful retention of a payment or other consideration in violation of this section renders the membership camping operator liable for double the amount of that portion of the payment or other consideration wrongfully withheld from the purchaser together with reasonable attorney fees and court costs.

4. The membership camping operator or salesperson shall orally inform the purchaser at the time the contract is executed of the right to cancel the contract as provided in this section.

Sec. 15. NEW SECTION. 557B.11 PURCHASER'S REMEDIES.

A purchaser's remedy for errors in or omissions from the membership camping contract, the materials delivered to the purchaser at the time of sale, or any of the disclosures required in section 557B.13 is limited to a right of cancellation and refund of the payment made or consideration given by the purchaser. However, this limitation does not apply to errors or omissions from the contract or disclosures or other requirements of this chapter which are part of a scheme to willfully misstate or omit the information required. Reasonable attorney fees shall be awarded to the prevailing party in any action under this section.

Sec. 16. NEW SECTION. 557B.12 NONDISTURBANCE PROVISIONS.

1. With respect to any property in this state acquired and put into operation by a membership camping operator after the effective date of this Act, the membership camping operator shall not offer or execute a membership camping contract in this state granting the right to use the property until the following requirements are met:

a. Each person holding an interest in a voluntary blanket encumbrance has executed and delivered a nondisturbance agreement which includes all of the following provisions:

(1) That the rights of the holder or holders of the blanket encumbrance in the affected campground are subordinate to the rights of purchasers.

(2) That any person who acquires the affected campground or any portion of the campground by the exercise of any right of sale or foreclosure contained in the blanket encumbrance takes the campground subject to the rights of purchasers.

(3) That the holder or holders of the blanket encumbrance shall not use or cause the campground to be used in a manner which interferes with the right of purchasers to use the campground and its facilities in accordance with the terms and conditions of the membership camping contract.

b. Each hypothecation lender which has a lien on, or security interest in, the membership camping operator's ownership interest in the campground has executed and delivered a nondisturbance agreement and recorded the agreement in the office of the clerk of the district court of the county in which the campground is located. In addition, each person holding an interest in a blanket encumbrance superior to the interest held by the hypothecation lender has executed, delivered, and recorded an instrument stating that such person will give the hypothecation lender notice of, and at least thirty days to cure, any default under the blanket encumbrance before the person commences any foreclosure action affecting the campground. For the purposes of this section:

(1) "Hypothecation lender" means a financial institution which provides a major hypothecation loan to a membership camping operator.

(2) "Major hypothecation loan" is a loan or line of credit secured by substantially all of the contracts receivable arising from the membership camping operator's sale of membership camping contracts.

(3) "Nondisturbance agreement" means an instrument by which a hypothecation lender agrees to conditions substantially the same as those set forth in paragraph "a".

2. In lieu of compliance with subsection 1, a surety bond or letter of credit satisfying the requirements of this subsection may be delivered to and accepted by the attorney general. The surety bond or letter of credit shall be issued to the attorney general for the benefit of purchasers and shall be in an amount which is not less than one hundred five percent of the remaining principal balance of every indebtedness secured by a blanket encumbrance affecting the campground. The bond shall be issued by a surety which is authorized to do business in this state and which has sufficient net worth to satisfy the indebtedness. The aggregate liability of the surety for all damages shall not exceed the amount of the bond. The letter of credit shall be irrevocable, shall be drawn upon a bank, savings and loan, or financial institution, and shall be in form and content acceptable to the attorney general. The bond or letter of credit shall provide for payment of all amounts secured by the blanket encumbrance including costs, expenses, and legal fees of the lienholder, if for any reason the blanket encumbrance is enforced. The bond or letter of credit may be reduced at the option of the membership camping operator periodically in proportion to the reductions of the amounts secured by the blanket encumbrance.

3. The nondisturbance agreement shall be recorded in the real estate records of the county in which the campground is located.

Sec. 17. NEW SECTION. 557B.13 ADVERTISING PLANS — DISCLOSURES — UNLAWFUL ACTS.

1. Any advertisement, communication, or sales literature relating to membership camping contracts, including oral statements by a salesperson or any other person, shall not contain:

a. Any untrue statement of material fact or any omission of material fact which would make the statements misleading in light of the circumstances under which the statements were made.

b. Any statement or representation that the membership camping contracts are offered without risk or that loss is impossible.

c. Any statement or representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

2. A person shall not by any means, as part of an advertising program, offer any item of value as an inducement to the recipient to visit a location, attend a sales presentation, or contact a sales agent, unless the person clearly and conspicuously discloses in writing in the offer in readily understandable language each of the following:

a. The name and street address of the owner of the real or personal property or the provider of the services which are the subject of such visit, sales presentation, or contact with a sales agent.

b. A general description of the business of the owner or provider identified and the purpose of any requested visit, sales presentation, or contact with a sales agent, including a general description of the facilities or proposed facilities or services which are the subject of the sales presentation.

c. A statement of the odds, in arabic numerals, of receiving each item offered.

d. All restrictions, qualifications, and other conditions that must be satisfied before the recipient is entitled to receive the item, including all of the following:

(1) Any deadline by which the recipient must visit the location, attend the sales presentation, or contact the sales agent in order to receive the item.

(2) The approximate duration of any visit and sales presentation.

(3) Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the recipient is married both husband and wife must be present in order to receive the item.

e. A statement that the owner or provider reserves the right to provide a rain check or a substitute or like item, if these rights are reserved.

f. A statement that a recipient who receives an offered item may request and will receive evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

g. All other rules, terms, and conditions of the offer, plan, or program.

3. A person making an offer subject to registration under sections 557B.2 and 557B.3, or the person's employee or agent, shall not offer any item if the person knows or has reason to know that the offered item will not be available in a sufficient quantity based on the reasonably anticipated response to the offer.

4. A person making an offer subject to registration under sections 557B.2 and 557B.3, or the person's employee or agent, shall not fail to provide any offered item which a recipient is entitled to receive, unless the failure to provide the item is due to a higher than reasonably anticipated response to the offer which caused the item to be unavailable and the offer discloses the reservation of a right to provide a rain check or a like or substitute item if the offered item is unavailable.

5. If the person making an offer subject to registration under sections 557B.2 and 557B.3 is unable to provide an offered item because of limitations of supply not reasonably foreseeable or controllable by the person making the offer, the person making the offer shall inform the recipient of the recipient's right to receive a rain check for the item offered or receive a like or substitute item of equal or greater value at no additional cost or obligation to the recipient.

6. If a rain check is provided, the person making an offer subject to registration under sections 557B.2 and 557B.3, within a reasonable time, and in any event not later than ninety calendar days after the rain check is issued, shall deliver the agreed item to the recipient's address without additional cost or obligation to the recipient, unless the item for which the rain check is provided remains unavailable because of limitations of supply not reasonably foreseeable or controllable by the person making the offer. If the item is unavailable for these reasons, the person, not later than thirty days after the expiration of the ninety-day period, shall deliver a like or substitute item of equal or greater retail value to the recipient.

7. On the request of a recipient who has received or claims a right to receive any offered item, the person making an offer subject to registration under sections 557B.2 and 557B.3 shall furnish to the recipient sufficient evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

8. A person making an offer subject to registration under sections 557B.2 and 557B.3, or the person's employee or agent, shall not do any of the following:

a. Misrepresent the size, quantity, identity, or quality of any prize, gift, money, or other item of value offered.

b. Misrepresent in any manner the odds of receiving a particular gift, prize, amount of money, or other item of value.

c. Represent directly or by implication that the number of participants has been significantly limited or that any person has been selected to receive a particular prize, gift, money, or other item of value, unless this fact is true.

d. Label any offer a notice of termination or notice of cancellation.

e. Misrepresent, in any manner, the offer, plan, or program.

Sec. 18. NEW SECTION. 557B.14 REMEDIES.

1. A violation of this chapter or the commission of any act declared to be unlawful under this chapter constitutes a violation of section 714.16, subsection 2, paragraph "a", and the attorney general has all the powers enumerated in that section to enforce the provisions of this chapter.

2. In addition, the attorney general may seek civil penalties of not more than ten thousand dollars for each violation of or the commission of any act declared to be unlawful under this chapter. Each day of continued violation constitutes a separate offense.

3. Any person who fails to pay the filing fees required by this chapter and continues to sell membership camping contracts is liable civilly in an action brought by the attorney general for a penalty in an amount equal to treble the unpaid fees.

4. The provisions of this chapter are cumulative and nonexclusive and do not affect any other available remedy at law or equity, except as otherwise provided in sections 502.202, 503.3, and 537.3310.

Sec. 19. NEW SECTION. 557B.15 EXEMPTIONS BY ATTORNEY GENERAL.

The attorney general may, by rule or order, exempt any person from all or part of the requirements of this chapter if the attorney general finds the requirements unnecessary for the protection of purchasers. In determining exemptions from this chapter, the attorney general shall consider all of the following:

1. The duration of the membership camping contracts involved.

2. The number of membership camping contracts being offered by the operator.

3. The amount of the purchase price of the membership camping contracts.

Sec. 20. NEW SECTION. 557B.16 RULES.

The attorney general may prescribe rules in accordance with this chapter as deemed necessary to carry out the provisions of this chapter.

Approved June 2, 1987

CHAPTER 182

DEPENDENT ADULT ABUSE AND NEGLECT

H.F. 660

AN ACT relating to dependent adult abuse, providing penalties, and establishing an effective date.

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

Section 1. Section 235A.13, subsection 9, Code 1987, is amended to read as follows:

9. "Multidisciplinary team" means a group of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, child development, education, law, juvenile probation, or law enforcement, or a group established pursuant to section 235B.1, subsection 3, paragraph "a".

Sec. 2. Section 235B.1, subsection 1, Code 1987, is amended to read as follows:

1. As used in this ~~section~~ chapter, "dependent adult abuse" means:

a. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(1) Physical injury to or unreasonable confinement or ~~cruel~~ unreasonable punishment of a dependent adult.

(2) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(3) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

(4) The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health.

b. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

Sec. 3. Section 235B.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Dependent adult" means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

NEW SUBSECTION. 2B. "Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

Sec. 4. Section 235B.1, subsection 3, Code 1987, is amended to read as follows:

3. The department of human services shall operate a program relating to the providing of services in cases of dependent adult abuse. The program shall emphasize the reporting and evaluation of dependent adult abuse of an adult who is unable to protect the adult's own interests or unable to perform or obtain essential services. The program shall include:

a. The establishment of multidisciplinary teams to provide leadership at the local and district levels in the delivery of services to victims of dependent adult abuse. A team shall include a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

b. Provisions for information sharing and case consultation among service providers, care providers, and victims of dependent adult abuse.

c. Procedures for referral of cases among service providers, including the referral of victims of dependent adult abuse residing in licensed health care facilities.

Sec. 5. Section 235B.1, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. A health practitioner, as defined in section 232.68, who examines, attends, or treats a dependent adult and who reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected abuse to the department of human services. If the health practitioner examines, attends, or treats the dependent adult as a member of the staff of a hospital or similar institution, the health practitioner shall immediately notify the person in charge of the institution or the person's designated agent, and the person in charge or the designated agent shall make the report.

A self-employed social worker, a social worker under the jurisdiction of the department of human services, a social worker employed by a public or private agency or institution, or by

a public or private health care facility as defined in section 135C.1, a certified psychologist, a member of the staff of a mental health center, a member of the staff of a hospital, a member of the staff or employee of a public or private health care facility as defined in section 135C.1, or a peace officer, who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered adult abuse shall report the suspected abuse to the department of human services. An in-home homemaker/home health aide or an individual employed as an outreach person shall report suspected adult abuse to the department of human services. If a person is required to report under this section as a member of the staff or employee of a public or private institution, agency, or facility, the person shall immediately notify the person in charge of the institution, agency, or facility, or the person's designated agent, and the person in charge or the designated agent shall make the report.

PARAGRAPH DIVIDED. ~~A~~ Any other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.

PARAGRAPH DIVIDED. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports pursuant to sections 235A.12 through 235A.24 by expanding the central registry for child abuse to include reports of dependent adult abuse. The department shall evaluate the reports expeditiously. However, the ~~Iowa department of public health~~ state department of inspections and appeals is solely responsible for the evaluation and disposition of adult abuse cases within health care facilities and shall inform the department of human services of such evaluations and dispositions.

Sec. 6. Section 235B.1, subsection 4, paragraph b, Code 1987, is amended to read as follows:

b. The department of human services shall inform the appropriate county attorneys of any reports. County attorneys, law enforcement agencies, multidisciplinary teams ~~as defined in section 235A.13, subsection 9~~, and social services agencies in the state shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

Sec. 7. Section 235B.1, subsection 7, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 4, cooperating or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or assistance based solely upon the person's reporting or participation relative to the instance of dependent adult abuse. A person or employer found in violation of this paragraph shall, upon conviction, be guilty of a simple misdemeanor.

Sec. 8. Section 235B.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 8. A person, institution, agency, or facility required by this section to report a suspected case of a dependent adult abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor. A person, institution, agency, or facility required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so is civilly liable for the damages proximately caused by the failure.

NEW SUBSECTION. 9. The department of inspections and appeals shall adopt rules which require licensed health care facilities to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of abuse and prior to the completion of an investigation of the allegation.

Sec. 9. NEW SECTION. 235B.2 INFORMATION, EDUCATION, AND TRAINING PROGRAMS.

1. The department of elder affairs, in cooperation with the department of human services, shall conduct a public information and education program. The elements and goals of the program include but are not limited to:

a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.

b. Providing care givers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the care giver and dependent adult relationship.

c. Changing public attitudes regarding the role of a dependent adult in society.

2. The department of human services, in cooperation with the department of elder affairs and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may be in contact with dependent adult abuse. The program shall include but is not limited to instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

3. The content of the continuing education required pursuant to chapter 258A for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.

4. The department of inspections and appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.

Sec. 10. NEW SECTION. 726.8 WANTON NEGLECT OR NONSUPPORT OF A DEPENDENT ADULT.

1. A caretaker commits wanton neglect of a dependent adult if the caretaker knowingly acts in a manner likely to be injurious to the physical, mental, or emotional welfare of a dependent adult. Wanton neglect of a dependent adult is a serious misdemeanor.

2. A person who has legal responsibility either through contract or court order for support of a dependent adult and who fails or refuses to provide support commits nonsupport. Nonsupport is a class "D" felony.

3. A person alleged to have committed wanton neglect or nonsupport of a dependent adult shall be charged with the respective offense unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

4. For the purposes of this section, "dependent adult" means a dependent adult as defined in section 235B.1, subsection 2A, and "caretaker" means a caretaker as defined in section 235B.1, subsection 2B.

Sec. 11. MONITORING AND REPORTING. The legislative fiscal bureau shall monitor the reporting of dependent adult abuse, the conducting of dependent adult abuse investigations, and the workload and performance of the personnel of the department of human services and department of inspections and appeals regarding dependent adult abuse investigators in order to project the effect of the provisions of this Act relative to workload and performance standards of the departments. The bureau shall report its findings to the general assembly by February 1, 1988. The department of elder affairs, department of human services, and department of inspections and appeals shall cooperate with the legislative fiscal bureau in the implementation of this section. Following its initial report, the legislative fiscal bureau shall continue the monitoring program, and shall report the findings to the general assembly by February 1 of each year.

Sec. 12. EFFECTIVE DATE. Section 5 of this Act shall be effective July 1, 1988.

Approved June 3, 1987

CHAPTER 183

ECONOMIC DEVELOPMENT AND CONFLICTS OF INTEREST

S.F. 139

AN ACT relating to the use of public funds to aid economic development.

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

Section 1. LEGISLATIVE FINDINGS.

The general assembly finds and declares as follows:

1. Any prolonged farm crisis that threatens the existence or stability of agricultural producers has a side effect upon agriculturally related industries and rural communities which do not have a diversified economy but rely heavily on the agricultural producers or agriculturally related industries.

2. Foreign competition, where the competition is from cheaper prices as a result of lower labor and material costs, results in plant closings, business failures, and the transformation of our industrial makeup to newer and different types of industries.

3. Technological advances in various aspects of many industries have occurred at greater frequencies than in the past resulting in the need of many businesses to retool, add new machinery, develop new processes, or retrain workers. Some businesses are able to profitably adjust to these advances while others find it very difficult if not impossible. In addition these technological advances offer opportunities for new industries to develop.

4. At times of high inflation rates, large federal deficits, or negative trade balances, the interest rates trend higher making it very difficult for agricultural producers and small businesses, which represent the principal pursuits of the inhabitants of this state, to find affordable capital for operating expenses and servicing of existing debt on operation, machinery, and real estate loans. This difficulty in finding affordable capital often results in a number of these enterprises contracting their operations or failing to maintain profitable operations. This, in turn, affects other businesses, both large and small, that rely on the enterprises as suppliers, middlemen, or consumers.

5. Small businesses account for the large majority of jobs in this and other states. Small businesses are continuously seeking to start up operations which may be in traditional areas or in new areas as a result of the change in technology or consumer tastes. These new operations have one thing in common risk. As the risk increases the availability of capital or availability of adequate affordable capital decreases. This may result in some businesses not being able to begin operations with a resulting loss in new jobs and additional income for the communities.

6. The effect on the economy of this state, locally and as a whole, of the situations described in subsections 1 through 5 and other adverse economic conditions is to increase unemployment, give impetus to migration of state residents, and lower the tax bases. These effects result in the inability of the state and its political subdivisions to provide needed services to and to improve the health and welfare of its inhabitants. In order to combat the conditions and situations affecting the ability of the state and its political subdivisions to provide for the needs, health, and welfare of its inhabitants, which are public purposes, economic development, involving but not limited to, the creation, maintenance, and expansion of business, industry, and farming and providing for increased employment, must occur.

7. Because economic development with its component parts is the answer to maintaining employment in the state, retaining population, and keeping and increasing the tax bases, which will enable the state and its political subdivisions to continue to provide for the health and welfare of its inhabitants, the state, its cities, and its counties need to provide assistance in order for economic development to become a reality.

Sec. 2. NEW SECTION. 15A.1 ECONOMIC DEVELOPMENT — PUBLIC PURPOSE.

1. Economic development is a public purpose for which the state, a city, or a county may provide grants, loans, guarantees, and other financial assistance to or for the benefit of private persons.

For purposes of this chapter, "economic development" means private or joint public and private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost.

2. Before public funds are used for grants, loans, or other financial assistance to private persons or on behalf of private persons for economic development, the governing body of the state, city, county, or other public body dispensing those funds or the governing body's designee, shall determine that a public purpose will reasonably be accomplished by the dispensing or use of those funds. In determining whether the funds should be dispensed, the governing body or designee of the governing body shall consider any or all of the following factors:

a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.

b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes or which generate tourism-related activities.

c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.

d. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state unless the business is considering in good faith to relocate outside the state or unless the relocation is related to an expansion which will generate significant new job creation. Jobs created as a result of other jobs in similar Iowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds.

Sec. 3. NEW SECTION. 15A.2 CONFLICTS OF INTEREST.

If a member of the governing body of a city or county or an employee of a state, city, or county board, agency, commission or other governmental entity of the state, city, or county has an interest, either direct or indirect, in a private person for which grants, loans, guarantees, or other financial assistance may be provided by such governing board or governmental entity, the interest shall be disclosed to that governing body or governmental entity in writing. The member or employee having the interest shall not participate in the decision-making process with regard to the providing of such financial assistance to the private person.

Employment by a public body, its agencies, or institutions or by any other person having such an interest shall not be deemed an interest by such employee or of any ownership or control by such employee of interests of the employee's employer.

The word "participation" shall be deemed not to include discussion or debate preliminary to a vote of a local governing body or agency upon proposed ordinances or resolutions relating to such a project or any abstention from such a vote.

The designation of a bank or trust company as depository, paying agent, or agent for investment of funds shall not be deemed a matter of interest or personal interest.

Stock ownership in a corporation having such an interest shall not be deemed an indicia of an interest or of ownership or control by the person owning such stocks when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by such person.

The word "action" shall not be deemed to include resolutions advisory to the local governing body or agency by any citizens group, board, body, or commission designated to serve a purely advisory approving or recommending function for economic development.

A violation of a provision of this section is misconduct in office under section 721.2. However, a decision of the governing board or governmental entity is not invalid because of the participation of the member or employee in the decision-making process or because of a vote cast by a member or employee in violation of this section unless the participation or vote was decisive in the awarding of the financial assistance.

CHAPTER 184

GAMES OF SKILL OR CHANCE, AND RAFFLES

S.F. 55

AN ACT to remove the requirement that a gambling license cannot be issued for a period of two years for a location for which a gambling license was revoked, and removing the prohibition against conducting games of skill, games of chance, and raffles on the premises of a liquor control licensee or beer permittee, and relating to the age of individuals allowed to be present at a bingo occasion, and providing an effective date.

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

Section 1. Section 99B.2, subsection 1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

~~A license shall not be issued for a location for which a previous license issued under this chapter or chapter 123 has been revoked until the period of the revocation or revocations has elapsed.~~ A license shall not be issued to an individual whose previous license issued under this chapter or chapter 123 has been revoked until the period of revocation or revocations has elapsed. This prohibition applies even though the individual has created a different legal entity than the one to which the previous license that had been revoked was issued. Except as otherwise provided in this chapter, a license is valid for a period of two years from the date of issue. The license fee is not refundable, but shall be returned to the applicant if an application is not approved. If a bingo license is issued by the division, the licensee shall be notified by the division of the renewal date for the license ten days prior to that date.

Sec. 2. Section 99B.5, subsection 1, paragraph g, Code 1987, is amended to read as follows:

g. The actual retail value of any prize does not exceed fifty dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed fifty dollars. However, either a fair sponsor or a qualified organization, but not both, may hold one raffle per calendar year at which ~~a prize~~ prizes having a combined value not greater than twenty thousand dollars may be offered. If the prize is merchandise, its value shall be determined by the purchase price paid by the fair sponsor or qualified organization.

Sec. 3. Section 99B.6, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Except as provided in subsections 5, 6, and ~~6~~ 7, gambling is unlawful on premises for which a class "A", class "B", class "C", or class "D" liquor control license, or class "B" beer permit has been issued pursuant to chapter 123 unless all of the following are complied with:

Sec. 4. Section 99B.6, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The holder of a liquor control license or beer permit may conduct a sports betting pool if the game is publicly displayed and the rules of the game, including the cost per participant and the amount of the winning is conspicuously displayed on or near the pool. No participant may wager more than five dollars and the maximum winnings to all participants from the pool shall not exceed five hundred dollars. The provisions of subsection 1, except paragraphs "c" and "h" and the prohibition of the use of concealed numbers in paragraph "d", are applicable to pools conducted under this subsection. If a pool permitted by this subsection involves the use of concealed numbers, the numbers shall be selected by a random method and no person shall be aware of the numbers at the time wagers are made in the pool. All moneys wagered shall be awarded to participants. For purposes of this subsection, "pool" means a game in which the participants select a square on a grid corresponding to numbers on two intersecting sides of the grid and winners are determined by whether the square selected corresponds to numbers relating to an athletic event in the manner prescribed by the rules of the game.

Sec. 5. Section 99B.7, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. p. The person or organization shall keep records of all persons who serve as manager or cashier, or who are responsible for carrying out duties with respect to a bingo account. Any person or organization which knowingly permits a person who was a manager, cashier, or responsible for carrying out duties with respect to a bingo account for another organization at the time of one or more violations leading to revocation of its license, and which license is currently under revocation shall be subject to license revocation.

Sec. 6. Section 99B.7, subsection 2, paragraph c, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~The~~ Except for purposes of bingo, the person from whom the premises are rented shall not be a liquor control licensee or beer permittee with respect to those premises or with respect to adjacent premises.

Sec. 7. Section 99B.8, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Games of skill, games of chance, card games and raffles lawfully may be conducted during a period of twelve consecutive hours once each year ~~at any location, or~~ by any person~~,~~. The games or raffles may be conducted at any location except one for which a license is required pursuant to section 99B.3 or section 99B.5, ~~or except a location covered by a class "C", or class "D" liquor control license, or any beer permit unless such location has been licensed pursuant to section 99B.6 as premises upon which gambling is allowed,~~ but only if all of the following are complied with:

Sec. 8. Section 99B.8, subsection 3, Code 1987, is amended to read as follows:

3. The division may issue a license pursuant to this section only once during a calendar year to any one person ~~or for any one location~~. The license may be issued only upon submission to the division of an application and a license fee of twenty-five dollars.

Sec. 9. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 3, 1987

CHAPTER 185

TESTING BODILY SPECIMENS OF PERSONS IN CORRECTIVE FACILITIES

S.F. 340

AN ACT relating to the testing of blood or other bodily specimens of persons committed to an institution under the control of the Iowa department of corrections or a jail under the charge of a sheriff or other person, and providing penalties.

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

Section 1. NEW SECTION. 246.514 REQUIRED TEST.

A person committed to an institution under the control of the department who bites another person, who causes an exchange of bodily fluids with another person, or who causes any bodily secretion to be cast upon another person, shall submit to the withdrawal of a bodily specimen for testing to determine if the person is infected with a contagious infectious disease. The bodily specimen to be taken shall be determined by the staff physician of the institution. The specimen taken shall be sent to the state hygienic laboratory at the state university at Iowa City or some other laboratory approved by the Iowa department of public health. If a person to be tested pursuant to this section refuses to submit to the withdrawal of a bodily specimen, application may be made by the superintendent of the institution to the district court for an

order compelling the person to submit to the withdrawal and, if infected, to available treatment. An order authorizing the withdrawal of a specimen for testing may be issued only by a district judge or district associate judge upon application by the superintendent of the institution.

Failure to comply with an order issued pursuant to this section may result in the forfeiture of good conduct time, not to exceed one year, earned up to the time of the failure to comply.

Personnel at an institution under the control of the department or of a residential facility operated by a judicial district department of correctional services shall be notified if a person committed to any of these institutions is found to have a contagious infectious disease.

The department shall adopt policies and procedures to prevent the transmittal of a contagious infectious disease to other persons.

For purposes of this section, "infectious disease" means any infectious condition which if spread by contamination would place others at a serious health risk.

Sec. 2. NEW SECTION. 356.48 REQUIRED TEST.

A person confined to a jail, who bites another person, who causes an exchange of bodily fluids with another person, or who causes any bodily secretion to be cast upon another person, shall submit to the withdrawal of a bodily specimen for testing to determine if the person is infected with a contagious infectious disease. The bodily specimen to be taken shall be determined by the attending physician of that jail or the county medical examiner. The specimen taken shall be sent to the state hygienic laboratory at the state university at Iowa City or some other laboratory approved by the Iowa department of public health. If a person to be tested pursuant to this section refuses to submit to the withdrawal of a bodily specimen, application may be made by the sheriff or person in charge of the jail to the district court for an order compelling the person to submit to the withdrawal and, if infected, to available treatment. An order authorizing the withdrawal of a specimen for testing may be issued only by a district judge or district associate judge upon application by the sheriff or person in charge of the jail.

A person who fails to comply with an order issued pursuant to this section is guilty of a serious misdemeanor.

Personnel at the jail shall be notified if a person confined is found to have a contagious infectious disease.

The sheriff or person in charge of the jail shall take any appropriate measure to prevent the transmittal of a contagious infectious disease to other persons, including the segregation of a confined person who tests positive for acquired immune deficiency syndrome from other confined persons.

For purposes of this section, "infectious disease" means any infectious condition which if spread by contamination would place others at serious health risk.

Approved June 3, 1987

CHAPTER 186

VEHICLE SIZE, WEIGHT, LOAD, AND EQUIPMENT REGULATION

S.F. 359

AN ACT relating to movement of vehicles of excess size, weight, and load and providing an effective date.

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

Section 1. Section 321.1, subsection 16, paragraph b, Code 1987, is amended to read as follows:

b. Any vehicle which is principally designed for agricultural purposes and which is moved during daylight hours for a distance not to exceed one hundred miles by a person either:

(1) From a place at which the vehicles are manufactured, fabricated, repaired, or sold to a farm site or a retail seller or from a retail seller to a farm site;

(2) To a place at which the vehicles are manufactured, fabricated, repaired, or sold ~~to~~ from a farm site or a retail seller or ~~from~~ to a retail seller from a farm site; or

(3) From one farm site to another farm site.

PARAGRAPH DIVIDED. For the purpose of this subsection ~~the term~~ and sections 321.383 and 321.453, "farm site" means a place or location at which vehicles principally designed for agricultural purposes are used or intended to be used in agricultural operations or for the purpose of exhibiting, demonstrating, testing, or experimenting with ~~the same, provided, however, that said place or location shall not be deemed a "farm site" if the movement of said vehicle, from or to the place at which vehicles principally designed for agricultural purposes are manufactured, fabricated, repaired, or sold at retail, exceeds a distance of fifty miles~~ the vehicles.

Sec. 2. Section 321.1, subsection 69, Code 1987, is amended to read as follows:

69. "Tandem axle" means any two or more consecutive axles whose centers are more than forty inches but not more than ~~eighty-four~~ ninety-six inches apart.

Sec. 3. Section 321.383, subsection 1, Code 1987, is amended to read as follows:

1. This chapter with respect to equipment on vehicles does not apply to implements of husbandry, road machinery, bulk spreaders and other fertilizer and chemical equipment defined as special mobile equipment, road rollers, or farm tractors except as made applicable in this section. However, the movement of implements of husbandry between the retail seller and a farm purchaser or from farm site to farm site or the movement of indivisible implements of husbandry between the place of manufacture and a retail seller or farm purchaser under section 321.453 is subject to safety rules adopted by the department. The safety rules shall prohibit the movement of any power unit towing more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

Sec. 4. Section 321.453, Code 1987, is amended to read as follows:

321.453 EXCEPTIONS.

The provisions of this chapter governing size, weight, and load do not apply to fire apparatus, to road maintenance equipment owned by or under lease to any state or local authority, or to implements of husbandry temporarily moved upon a highway, or to implements moved from farm site to farm site or between the retail seller and a farm purchaser within a ~~fifty~~ one hundred mile radius from the retail seller's place of business, or to indivisible implements of husbandry temporarily moved between the place of manufacture and a retail seller or a farm purchaser, or implements received and moved by a retail seller of implements of husbandry in exchange for an implement purchased, or implements of husbandry moved for repairs, except on any part of the interstate highway system, or to a vehicle operating under the terms of a special permit issued as provided in chapter 321E.

Sec. 5. Section 321.454, subsection 2, Code 1987, is amended to read as follows:

2. The total outside width of any vehicle and load shall not exceed eight feet six inches, exclusive of safety equipment determined necessary for safe and efficient operation by the secretary of the United States department of transportation, on highways designated by the transportation commission. The ~~department~~ commission shall adopt rules to designate the highways, ~~in compliance with the highways designated by the secretary of the United States department of transportation as a part of the national system of interstate and defense highways and any other qualifying highways~~. The rules adopted under this subsection are exempt from chapter 17A.

Sec. 6. Section 321.457, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. Except for combinations of vehicles, provisions for which are otherwise made in this chapter, no combination of a truck tractor and a semitrailer coupled together or a motor truck and a trailer or semitrailer coupled together unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.

Sec. 7. Section 321.457, subsection 2, paragraph e, Code 1987, is amended to read as follows:

e. Combinations of vehicles coupled together which are used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, and boats shall not exceed sixty-five feet in overall length. However, the load carried on a truck-semitrailer combination may extend up to ~~two~~ three feet beyond the front bumper and up to ~~three~~ four feet beyond the rear bumper.

Sec. 8. Section 321.457, subsection 3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state which are designated by the ~~secretary of the United States department of transportation and the~~ transportation commission ~~as a part of the national system of interstate and defense highways and the federal-aid primary system~~ shall be as follows:

Sec. 9. Section 321.457, subsection 3, paragraph d, Code 1987, is amended to read as follows:

d. The ~~department~~ commission shall adopt rules to designate ~~those~~ the highways ~~designated by the secretary of the United States department of transportation as a part of the national system of interstate and defense highways and the federal-aid primary system~~. The rules adopted by the department under this paragraph are exempt from chapter 17A.

Sec. 10. Section 321.457, subsection 5, Code 1987, is amended by striking the subsection.

Sec. 11. Section 321E.14, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The annual fee for an all-system permit is ~~two~~ one hundred ~~fifty~~ twenty dollars which shall be deposited in the road use tax fund.

Sec. 12. This Act, being deemed of immediate importance, takes effect upon its enactment. Section 2 of this Act applies to motor vehicles registered on or after the effective date of this Act.

Approved June 3, 1987

CHAPTER 187

AREA SCHOOL EQUIPMENT REPLACEMENT TAX

H.F. 589

AN ACT to strike the repeal of the tax for equipment replacement at the area schools.

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

Section 1. 1983 Iowa Acts, chapter 180, section 2, is repealed.

Approved June 4, 1987

CHAPTER 188

SCHOOL ALLOWABLE GROWTH ADJUSTMENTS

S.F. 481

AN ACT adjusting the allowable growth under the school foundation formula.

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

Section 1. Section 442.7, subsection 1, paragraph a, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The difference in the receipts of state general fund revenues, adjusted for changes in rates or basis, computed or estimated as follows:

Approved June 4, 1987

CHAPTER 189

MOVEMENT OF MOBILE HOMES AND MOTOR HOMES

S.F. 29

AN ACT relating to the movement of certain vehicles on the public highways of the state by authorizing the movement of motor homes with an outside width up to eight feet six inches and the movement of mobile homes by transporters.

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

Section 1. Section 321.1, subsection 39, Code 1987, is amended to read as follows:

39. "Transporter" means a person engaged in the business of delivering vehicles of a type required to be registered or titled in this state who has received authority to make delivery as specified by rules adopted by the department.

Sec. 2. Section 321.454, subsection 1, Code 1987, is amended to read as follows:

1. The total outside width of any vehicle or the load thereon shall not exceed eight feet except that a motor home or bus having a total outside width not exceeding eight feet six inches, exclusive of safety equipment, is exempt from the permit requirements of chapter 321E and may be operated on the public highways of the state. However, if hay, straw or stover moved on any implement of husbandry and the total width of load of the implement of husbandry exceeds eight feet in width, the implement of husbandry is not subject to the permit requirements of chapter 321E. If hay, straw or stover is moved on any other vehicle subject to registration, the moves are subject to the permit requirements for transporting loads exceeding

eight feet in width as required under chapter 321E. The vehicle width limitations imposed by this subsection only apply to the public highways of the state not subject to the width limitations imposed under subsection 2.

Approved June 4, 1987

CHAPTER 190

HEALTH CARE FACILITY ADMISSIONS

H.F. 210

AN ACT relating to certain admissions to health care facilities.

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

Section 1. Section 135C.23, subsection 2, unnumbered paragraph 2, Code 1987, is amended to read as follows:

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility, ~~or~~ skilled nursing facility, or county care facility when the intermediate care facility, ~~or~~ skilled nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility, ~~or~~ skilled nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility, ~~or~~ skilled nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and mental retardation commission, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities, ~~and~~ skilled nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 2. Section 229.21, subsection 3, Code 1987, 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 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. However, any commitment to a facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

Sec. 3. Section 253.9, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A judge, magistrate, or judicial hospitalization referee shall make all placements to a county care facility pursuant to section 135C.23.

Approved June 4, 1987

CHAPTER 191

CONTRACTS FOR CERTIFICATED EMPLOYEES OF STATE SCHOOLS

H.F. 460

AN ACT relating to the contract provisions for certain certificated employees of certain institutions governed by the state board of regents.

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

Section 1. Section 262.9, subsection 2, Code 1987, is amended to read as follows:

2. Elect a president of each of ~~said~~ the institutions of higher learning; a superintendent of each of ~~said~~ the other institutions; a treasurer and a secretarial officer for each institution annually; professors, instructors, officers, and employees; and fix their compensation. Sections 279.12 through 279.19 and section 279.27 apply to employees of the Iowa braille and sight-saving school and the state school for the deaf, who are certificated pursuant to chapter 260. In following those sections in chapter 279, the references to boards of directors of school districts shall be interpreted to apply to the board of regents.

Approved June 4, 1987

CHAPTER 192

DISTRICT COURT ADMINISTRATORS' FACILITIES

H.F. 493

AN ACT to provide office space and other physical facilities for the district court administrator.

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

Section 1. Section 602.1303, subsection 1, Code 1987, is amended by adding the following new lettered paragraph after paragraph a and by relettering the subsequent paragraph:

NEW LETTERED PARAGRAPH. b. The counties within the judicial districts shall provide suitable offices and other physical facilities for the district court administrator and staff at locations within the judicial districts determined by the chief judge of the respective judicial districts. The county auditor of the host county shall apportion the costs of providing the offices and other physical facilities among the counties within the judicial district in the proportion that the population of each county in the judicial district is to the total population of all counties in the district.

Approved June 4, 1987

CHAPTER 193

PUBLIC UTILITY RATES

H.F. 640

AN ACT relating to revenue adjustments and revised revenue requirements to be reflected in rates and charges to customers of certain public utilities based on the federal Tax Reform Act of 1986, with civil penalties applicable and providing an effective date.

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

Section 1. NEW SECTION. 476.8A TAX REFORM ACT RATE ADJUSTMENT.

The utilities board may require a rate-regulated investor-owned public utility to file revised rates to reflect the provisions of applicable state tax reform and the provisions of the federal Tax Reform Act of 1986. In lieu of filing revised rates to reflect the change in state and federal taxes, a public utility may file for a general rate change under section 476.6. If the public utility has not received board approval to collect the revised rates by July 1, 1987, the utility shall file a bond or other undertaking approved by the board conditioned upon the refund in a manner to be prescribed by the board of any amounts collected in excess of those amounts which would have been collected under the rates finally approved by the board. The utilities board shall adopt rules implementing this section.

A utility may delay implementation of the revised rates required by this section until September 30, 1987, if sufficient bond or corporate undertaking is approved and on file with the board. The bond or corporate undertaking shall be one and one-half times the estimated refund obligation accrued during the delay in implementing the revised rates. A utility having pledged a bond or corporate undertaking pursuant to this section may file for a general rate proceeding by September 30, 1987, with the historical test year ending June 30, 1987.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 4, 1987

CHAPTER 194

INTERMEDIATE CARE FACILITIES FOR THE MENTALLY ILL

H.F. 669

AN ACT relating to intermediate care facilities for the mentally ill.

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

Section 1. Section 135C.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 18. "Intermediate care facility for the mentally ill" means an intermediate care facility licensed under this chapter and designed primarily to provide services to individuals with mental illness.

NEW SUBSECTION. 19. "Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life.

Sec. 2. Section 135E.1, subsection 3, Code 1987, is amended to read as follows:

3. "Nursing home" means ~~any~~ an institution or facility, or part thereof, licensed as an intermediate care facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill, defined as such for licensing purposes under state law or pursuant to the rules ~~and regulations~~ for nursing homes ~~established~~ promulgated by the ~~Iowa department of public~~ state board of health, in consultation with the department of inspections and appeals, whether proprietary or nonprofit, including but not limited to, nursing homes owned or administered by the federal or state government or an agency or political ~~subdivisions thereof~~ subdivision of government.

Approved June 4, 1987

CHAPTER 195

LOCAL OPTION SALES AND SERVICES TAX

H.F. 676

AN ACT relating to the imposition and repeal of a local option sales and services tax and providing effective dates.

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

Section 1. In any county that is required to impose a local option sales and services tax on July 1, 1987, the board of supervisors shall not impose the local option sales and services tax, notwithstanding any contrary provision of chapter 422B, in an incorporated city area in which the tax is to be imposed upon receipt of a motion adopted by the governing body of that incorporated city area requesting the tax not be imposed. The board of supervisors shall not impose the local option sales and services tax if the motion was received prior to July 1, 1987.

Sec. 2. Section 1 of this Act is repealed July 1, 1987.

Sec. 3. This Act being deemed of immediate importance is effective upon enactment.

Approved June 4, 1987

CHAPTER 196

INCOME AND SALES TAX PROCEDURES

H.F. 682

AN ACT relating to certain state taxes by allowing composite returns to be filed for nonresidents for income tax purposes and providing for fuel exemption certificates under the state sales, services, and use tax and providing an effective date.

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

Section 1. Section 422.13, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code is entitled to request permission from the director to file a composite return for the nonresident partners, beneficiaries, and shareholders. The director may grant permission to file or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection, including but not limited to, the provisions of this division and division VI of this chapter.

Sec. 2. Section 422.47, subsection 3, paragraphs a and b, Code 1987, are amended to read as follows:

a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for purposes of resale or for processing, except fuel consumed in processing.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section 422.42, subsection 3, or unless the seller takes a fuel exemption certificate pursuant to subsection 4. If the tangible personal

property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

Sec. 3. Section 422.47, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The department shall issue or the seller may separately provide fuel exemption certificates in the form prescribed by the director.

b. The seller may accept a completed fuel exemption certificate, as prepared by the purchaser, for five years unless the purchaser files a new completed exemption certificate. If the fuel is purchased tax free pursuant to a fuel exemption certificate which is taken by the seller, and the fuel is used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes, and shall remit the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

c. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within thirty days after the postmark date of the notice of determination. The director shall grant a hearing, and upon the hearing the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 422.55 within thirty days after the postmark date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 422.58, both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 422.54.

d. If the circumstances change and the fuel is used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department in accordance with subsection 3.

e. The purchaser shall attach documentation to the fuel exemption certificate which is reasonably necessary to support the exemption for fuel consumed in processing. If the purchaser files a new exemption certificate with the seller, documentation shall not be required if the purchaser previously furnished the seller with this documentation and substantial change has not occurred since that documentation was furnished or if fuel consumed in processing is separately metered and billed by the seller.

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of 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. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less

than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Sec. 4. Section 422.52, subsection 6, paragraph a, Code 1987, is amended to read as follows:

a. If a purchaser fails to pay tax imposed by this division to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, the tax is payable by the purchaser directly to the department, and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the purchaser. For failure, the retailer and purchaser are liable, unless the circumstances described in section 422.47, subsection 3, ~~paragraphs~~ paragraph "b" ~~and~~ or "e" or subsection 4, paragraph "b" or "d" are applicable.

Sec. 5. This Act takes effect on January 1, 1988. Any valid exemption certificate, as defined in section 422.47, subsection 3, Code 1987, given for fuel consumed in processing and accepted by a seller prior to the effective date of this Act shall be deemed a fuel exemption certificate, as defined in this Act, for five years from the date the seller accepts the valid exemption certificate, if that valid exemption certificate contains all information required by this Act to be in a fuel exemption certificate.

Approved June 4, 1987

CHAPTER 197

SANITARY DISTRICTS

H.F. 518

AN ACT relating to powers and duties of sanitary districts in relation to their operational procedures and financial arrangements, and providing an effective date.

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

Section 1. Section 358.13, Code 1987, is amended to read as follows:

358.13 ORDINANCES — PUBLICATION OR POSTING — TIME OF TAKING EFFECT.

All ordinances, resolutions, orders, rules, and regulations adopted by the board ~~shall~~ take effect ~~five days~~ from and after their adoption and publication. The publication ~~thereof~~ shall be by one publication in a newspaper ~~published~~ of general circulation in the district, ~~or~~ by posting copies ~~thereof~~ in ~~five~~ three public places within the district, or by other steps necessary to inform the public.

Sec. 2. Section 358.16, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The board of trustees may require connection to the sanitary sewer system established, maintained, or operated by the district from any adjacent property within the district, and require the installation of sanitary toilets or other sanitary sewage facilities and removal of other toilet and other sewage facilities on the property.

NEW UNNUMBERED PARAGRAPH. If the property owner does not perform an action required under the preceding paragraph within a reasonable time after notice and hearing, the board of trustees may perform the required action and assess the costs of the action against the property for collection in the same manner as a property tax. The notice shall state the nature of the action and the time within which the action is required to be performed by the property owner, state the date, time, and place where the property owner will be heard by the board of trustees for the purpose of stating why the intended action should not be required, and shall be given by certified mail to the property owner as shown on the records of the county auditor not less than four nor more than twenty days before the date of the hearing.

NEW UNNUMBERED PARAGRAPH. However, in the event of an emergency when the

delay of notice and hearing might cause serious loss or injury to persons or property within the district, the board of trustees may perform any action which may be required under this section without prior notice and hearing, and assess the cost as provided in this section, following notice to the property owner and hearing in the time and manner provided in the preceding paragraph. In that event the board of trustees shall, by resolution, make a finding of the necessity to institute emergency proceedings under this section, and shall procure a certificate from a competent registered professional engineer or architect certifying that emergency action is necessary.

NEW UNNUMBERED PARAGRAPH. If any amount assessed against property pursuant to this section will exceed one hundred dollars, the board of trustees may permit the assessment to be paid in up to ten annual installments, in the manner and with the same interest rates as provided for assessments against benefited property under chapter 384, division IV.

NEW UNNUMBERED PARAGRAPH. An assessment levied pursuant to this section, including all interest and penalties, is a lien against the property with respect to which action was taken from the date of filing the schedule of assessments until the assessment is paid. Assessments have equal precedence with ordinary taxes and are not divested by judicial sale.

NEW UNNUMBERED PARAGRAPH. The procedures for making and levying an assessment pursuant to this section and for an appeal of the assessment are the same procedures as provided in sections 384.59 through 384.67 and sections 384.72 through 384.75, except that any notice required in those sections to be published in a newspaper may be sent by certified mail to the owner of the property to be assessed as shown on the records of the county auditor in lieu of the publication. The references in those sections to the city council are applicable to the board of trustees.

Sec. 3. Section 358.20, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 4. Section 358.22, Code 1987, is amended to read as follows:

358.22 SPECIAL ASSESSMENTS.

The board of trustees of ~~any~~ a sanitary district may provide for payment of all or any portion of the costs ~~and expenses~~ of acquiring, locating, laying out, constructing, reconstructing, repairing, changing, enlarging, or extending ~~any~~ conduits, ditches, channels, outlets, drains, sewers, ~~or~~ laterals, treatment plants, pumping plants, and other necessary adjuncts thereto, ~~including pumping stations,~~ by assessing all, or any portion ~~thereof~~ of the costs, on ~~abutting and~~ adjacent property according to the benefits derived ~~thereby, and for this purpose said~~. For the purposes of this chapter, the board of trustees may define adjacent property as all that included within a designated benefited district or districts to be fixed by the board, which may be all of the property located within the sanitary district or any lesser portion ~~thereof~~ of that property. It ~~shall constitute no~~ is not a valid objection to ~~any~~ a special assessment that the improvement for which the ~~same~~ assessment is levied is outside the limits of ~~such~~ the sanitary district, but ~~no~~ a special assessment shall not be made upon property situated outside of ~~such~~ the sanitary district. Special assessments pursuant to this section shall be in proportion to the special benefits conferred upon the property ~~thereby~~, and not in excess of ~~such~~ the benefits, and ~~the same~~ an assessment shall not exceed twenty-five percent of the actual value of the property at the time of levy, and the last preceding assessment roll shall be taken as prima-facie evidence of ~~such~~ that value.

~~Such~~ The assessments may be made to extend over a period of ten years, payable in as nearly equal annual installments as practicable~~, and certificates or bonds may be issued in anticipation thereof. Proceedings for improvements to be made and paid for, in whole or in part, by special assessments, as herein authorized shall be initiated by resolution of necessity, and said resolution and the plat, schedule, hearings, notices, objections, orders, assessments, levies, contracts, bonds, certification of assessments, liens, payment, tax sales, and appeals, and the issuance and sale of certificates, and bonds, shall correspond, as near as may be, to the provisions~~

~~therefor relating to special assessment bonds of a city, which provisions shall govern such proceedings, to the extent applicable, except as modified hereby.~~ A majority vote of the board of trustees ~~shall be~~ is requisite and sufficient for any action required by the board of trustees under ~~the provisions of~~ this section.

Subject to the limitations otherwise stated in this section, a sanitary district organized under this chapter has all of the powers to specially assess the costs of improvements described in this section, including the power to issue special assessment bonds, warrants, project notes, or other forms of interim financing obligations, which cities have under the laws of this state.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 4, 1987

CHAPTER 198

PROPERTY TAX PROCEDURES

H.F. 374

AN ACT relating to eligibility for a mobile home reduced tax rate, a military service property tax exemption, the filing of late claims for a homestead tax credit and military service property tax exemption, an exemption from the real estate transfer tax, continuing education for assessors and deputy assessors, the length of board of review sessions, and appeal rights.

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

Section 1. Section 135D.22, subsection 2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

2. If the owner of the mobile home is an Iowa resident, was totally disabled, as defined in section 425.17, subsection 6 on or before December 31 of the base year, is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year or has attained the age of sixty-five years on or before December 31 of the base year and has an income when included with that of a spouse which is less than five thousand dollars per year, no semiannual tax shall be imposed on the mobile home. If the income is five thousand dollars or more but less than twelve thousand dollars, the semiannual tax shall be computed as follows:

Sec. 2. Section 425.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The failure of a person to file a claim under this section on or before July 1 of the year for which the person is first claiming the credit or to have the evidence of ownership recorded in the office of the county recorder does not disqualify the claim if the person claiming the credit or through whom the credit is claimed is otherwise qualified. The belated claim shall be filed with the appropriate assessor on or before December 31 of the following calendar year and, if approved by the board of supervisors, the county treasurer shall file an amended certificate of homestead tax credits with the director of revenue and finance pursuant to section 425.4.

Sec. 3. Section 427.5, unnumbered paragraphs 1 and 5, Code 1987, are amended to read as follows:

A person named in section 427.3, who is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to the exemption, to be made from any property owned by the person and so designated by proceeding as ~~hereafter~~ provided in the section. ~~In order to~~ To be eligible to receive the exemption the person claiming it shall have ~~had~~ recorded in the office

of the county recorder of the county in which is located the property designated for the exemption, evidence of property ownership and the military certificate of satisfactory service, order transferring to inactive status, reserve, retirement, ~~or~~ order of separation from service, ~~or~~ honorable discharge or a copy of any of these documents of the person claiming or through whom is claimed the exemption. ~~If the evidence of satisfactory service, separation, retirement, furlough to reserve, inactive status, or honorable discharge is lost the claimant may record in lieu thereof a certified copy.~~

The failure of a person to file a claim under this section before July 1 of the year for which the person is first claiming the exemption or to have ~~the~~ evidence of property ownership and satisfactory service, separation, retirement, furlough to reserve, inactive status, or honorable discharge recorded in the office of the county recorder does not disqualify the claim if the person claiming the exemption or through whom the exemption is claimed is otherwise qualified. The belated claim shall be filed with the appropriate assessor on or before ~~the succeeding July 1~~ December 31 of the following calendar year and, if approved by the board of supervisors, the county treasurer shall file an amended certificate of military service tax credits with the director of revenue ~~before the director certifies the total credits claimed by each county to the state comptroller as provided in~~ pursuant to section ~~426A.4~~ 426A.3.

Sec. 4. Section 428A.1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

~~At the time~~ When 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~~ 19, or 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 and finance 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 and finance requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue and finance, at times as directed by the director of revenue and finance. 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 and finance 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. 5. Section 428A.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Deeds executed by public officials in the performance of their official duties.

Sec. 6. Section 441.8, unnumbered paragraphs 4 and 5, Code 1987, are amended to read as follows:

The director of revenue and finance shall establish, designate, or approve courses, workshops, seminars, or symposiums to be offered as part of the continuing education program, the content of these courses, workshops, seminars, or symposiums and the number of hours

of classroom instruction for each. The director of revenue and finance may provide that no more than thirty hours of tested credit may be received for the submission of a narrative appraisal approved by a professional appraisal society designated by the director. At least once each year the director of revenue and finance shall evaluate the continuing education program and make necessary changes in the program.

Upon the successful completion of courses, workshops, seminars, a narrative appraisal or symposiums contained in the program of continuing education, as demonstrated by attendance at sessions of the courses, workshops, seminars or symposiums and, in the case of a course designated by the director of revenue and finance, attaining a grade of at least seventy percent on an examination administered at the conclusion of the course, or the submission of proof that a narrative appraisal has been approved by a professional appraisal society designated by the director of revenue and finance the assessor or deputy assessor shall receive credit equal to the number of hours of classroom instruction contained in those courses, workshops, seminars, or symposiums or the number of hours of credit specified by the director of revenue and finance for a narrative appraisal. An assessor or deputy assessor shall not be allowed to obtain credit for a course, workshop, seminar, or symposium for which the assessor or deputy assessor has previously received credit during the current term or appointment except for those courses, workshops, seminars, or symposiums designated by the ~~commission~~ director of revenue and finance. Only one narrative appraisal may be approved for credit during the assessor's or deputy assessor's current term or appointment and credit shall not be allowed for a narrative appraisal approved by a professional appraisal society prior to the beginning of the assessor's or deputy assessor's current term or appointment. The examinations shall be confidential, except that the director of revenue and finance and persons designated by the director may have access to the examinations.

Sec. 7. Section 441.33, Code 1987, is amended to read as follows:

441.33 SESSIONS OF BOARD OF REVIEW.

The board of review shall be in session from May 1 ~~to~~ through the period of time necessary to act on all protests filed under section 441.37 but not later than May 31 each year and for an additional period as required under section 441.37 and shall hold as many meetings as are necessary to discharge its duties. On or before May 31 in those years in which a session has not been extended as required under section 441.37, the board shall return all books, records and papers to the assessor except undisposed of protests and records pertaining to those protests. If it has not completed its work ~~prior to~~ by May 31, in those years in which the session has not been extended under section 441.37, the director of revenue and finance may authorize the board of review to continue in session for a period necessary to complete its work, but the director of revenue and finance shall not approve a continuance extending beyond July 15. On or before May 31 or on the final day of any extended session required under section 441.37 or authorized by the director of revenue and finance, the board of review shall ~~be adjourned~~ adjourn until May 1 of the following year. It shall adopt its own rules of procedure, elect its own chairperson from its membership, and keep minutes of its meetings. The board shall appoint a clerk who may be a member of the board or any other qualified person, except the assessor or any member of the assessor's staff. It may be reconvened by the director of revenue and finance. All undisposed protests in its hands on July 15 shall be automatically overruled and returned to the assessor together with its other records.

Within fifteen days following the adjournment of any regular or special session, the board of review shall submit to the director of revenue and finance, on forms prescribed by the director, a report of any actions taken during that session.

Sec. 8. Section 441.38, Code 1987, is amended to read as follows:

441.38 APPEAL TO DISTRICT COURT.

Appeals may be taken from the action of the board of review with reference to protests of assessment, to the district court of the county in which ~~such~~ the board holds its sessions

within twenty days after its adjournment or May 31, whichever date is later. No new grounds in addition to those set out in the protest to the board of review as provided in section 441.37 can be pleaded, but additional evidence to sustain ~~said~~ those grounds may be introduced. The assessor shall have the same right to appeal and in the same manner as an individual taxpayer, public body or other public officer as provided in section 441.42. Appeals shall be taken by a written notice to that effect to the chairperson or presiding officer of the board of review and served as an original notice.

Approved June 4, 1987

CHAPTER 199

REVENUE AND FINANCE DEPARTMENT PROCEDURES

H.F. 334

AN ACT relating to the administration of Iowa revenue laws pertaining to cigarette and tobacco tax assessment periods, penalties and appeal periods, offsetting of claims against the state with a person's liabilities to the state, tax return confidentiality, the filing of sales and services tax refund claims, audit periods for sales, services, and use tax returns, use tax penalty, and providing effective dates.

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

Section 1. Section 98.45, subsection 1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

When a licensed distributor sells tobacco products exclusively to the ultimate consumer at the address given in the license, ~~no~~ an invoice of those sales ~~shall be~~ is not required, but itemized invoices shall be made of all tobacco products transferred to other retail outlets owned or controlled by that licensed distributor. All books, records and other papers and documents required by this subdivision to be kept shall be preserved for a period of at least ~~one year~~ two years after the date of the documents~~, as aforesaid,~~ or the date of the entries ~~thereof~~ appearing in the records, unless the director, in writing, authorized their destruction or disposal at an earlier date. At any time during usual business hours, the director, or the director's duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this subdivision, and the tobacco products contained therein, to determine ~~whether or not~~ if all the provisions of this division are being fully complied with. If the director, or any such agent or employee, is denied free access or is hindered or interfered with in making ~~such~~ the examination, the license of the distributor at ~~such~~ that premises ~~shall be~~ is subject to revocation by the director.

Sec. 2. Section 98.46, subsection 1, Code 1987, is amended to read as follows:

1. On or before the twentieth day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product ~~(a)~~ brought, or caused to be brought, into this state for sale; and ~~(b)~~ made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director and shall contain ~~such~~ other information as the director may require. Each return shall be accompanied by a remittance for the full tax liability shown ~~therein~~ on the return, less a discount as fixed by the director not to exceed five percent of the tax. Within two years after the return is filed or within two years after the return became due, whichever is later, the department

shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency.

Sec. 3. Section 98.46, subsections 2, 3, 4, 5, and 6, Code 1987, are amended by striking the subsections and inserting in lieu thereof the following:

2. All taxes shall be due and payable not later than the twentieth day of the month following the calendar month in which they were incurred, and shall bear interest at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due.

The director may reduce or abate interest when in the director's opinion the facts warrant the reduction or abatement. The exercise of this power shall be subject to the approval of the attorney general.

3. The director in issuing an assessment shall add to the amount of tax found due and unpaid a penalty of seven and one-half percent of the tax if less than ninety percent of the tax has been paid, except as provided in section 421.27, except that, if the director finds that the taxpayer has made a false and fraudulent return with intent to evade the tax or failed to file a return with intent to evade the tax imposed by this division, the penalty shall be seventy-five percent of the entire tax as shown by the return as corrected. The penalty imposed under this subsection is not subject to waiver.

4. The department shall notify any person assessed pursuant to this section by sending a written notice of the determination and assessment by mail to the principal place of business of the person as shown on the person's application for permit, and if an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within thirty days from the postmark date of the notice of determination of tax, penalty, and interest or refund owing. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with chapter 17A and section 422.29.

Sec. 4. Section 421.17, subsection 26, Code 1987, is amended to read as follows:

26. To provide that in the case of multiple claims to ~~refunds or rebates~~ payments filed under subsections 21, 23, ~~and~~ 25, and 29 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, next priority shall be given to claims filed by the office of investigations under subsection 21, ~~and last~~ next priority shall be given to claims filed by a clerk of the district court under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Sec. 5. Section 421.17, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 29. To establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency, except the setoff procedures provided for in subsections 21, 23, and 25. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:

a. For purposes of this subsection unless the context requires otherwise:

(1) "State agency" means a board, commission, department, including the department of revenue and finance, or other administrative office or unit of the state of Iowa. The term "state agency" does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.

(2) "Department" means the department of revenue and finance.

(3) The term "person" does not include a state agency.

b. Before setoff, a person's liability to a state agency and the person's claim on a state agency shall be in the form of a liquidated sum due, owing, and payable.

c. Before setoff, the state agency shall obtain and forward to the department the full name and social security number of the person liable to it or to whom a claim is owing who is a natural person. If the person is not a natural person, before setoff, the state agency shall forward to the department the information concerning the person as the department shall, by rule, require. The department shall cooperate with other state agencies in the exchange of information relevant to the identification of persons liable to or claimants of state agencies. However, the department shall provide only relevant information required by a state agency. The information shall be held in confidence and used for the purpose of setoff only. Section 422.72, subsection 1, does not apply to this paragraph.

d. Before setoff, a state agency shall, at least annually, submit to the department the information required by paragraph "c" along with the amount of each person's liability to and the amount of each claim on the state agency. The department may, by rule, require more frequent submissions.

e. Before setoff, the amount of a person's claim on a state agency and the amount of a person's liability to a state agency shall be at least fifty dollars.

f. Upon submission of an allegation of liability by a state agency, the department shall notify the state agency whether the person allegedly liable is entitled to payment from a state agency, and, if so entitled, shall notify the state agency of the amount of the person's entitlement and of the person's last address known to the department. Section 422.72, subsection 1, does not apply to this paragraph.

g. Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency's assertion of its rights to all or a portion of the payment and of the state agency's entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person's opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the department. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

h. Upon the timely request of a person liable to a state agency or of the spouse of that person and upon receipt of the full name and social security number of the person's spouse, a state agency shall notify the department of the request to divide a jointly or commonly owned right to payment. Any jointly or commonly owned right to payment is rebuttably presumed to be owned in equal portions by its joint or common owners.

i. The department shall, after the state agency has sent notice to the person liable, set off the amount owed to the agency against any amount which a state agency owes that person. The department shall refund any balance of the amount to the person. The department shall periodically transfer amounts set off to the state agencies entitled to them. If a person liable to a state agency gives written notice of intent to contest an allegation, a state agency shall hold a refund or rebate until final disposition of the allegation. Upon completion of the setoff, a state agency shall notify in writing the person who was liable.

j. The department's existing right to credit against tax due or to become due under section 422.73 is not to be impaired by a right granted to or a duty imposed upon the department or other state agency by this subsection. This subsection is not intended to impose upon the department any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73.

NEW SUBSECTION. 30. Under substantive rules established by the director, the department shall seek reimbursement from other state agencies to recover its costs for setting off liabilities.

Sec. 6. Section 422.20, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 23, 25, and 29, sections 252B.9, 324.63, 421.19, 421.28, and 422.72, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

This prohibition precludes persons or entities other than the taxpayer, the department, or the internal revenue service from obtaining such information from the department, and a subpoena, order, or process which requires the department to produce such information to a person or entity, other than the taxpayer, the department, or internal revenue service for use in a nontax proceeding is void.

NEW SUBSECTION. 4. The director may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the director, after reasonable effort and lapse of time, has been unable to locate the persons.

Sec. 7. Section 422.45, subsection 33, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Claims for refund of tax, interest, or penalty which arise under this subsection for the sale or use of automotive fluids occurring between January 1, 1979, and June 30, 1986, shall not be allowed unless filed prior to December 31, 1987, notwithstanding any other provision of law.

Sec. 8. Section 422.54, subsection 1, Code 1987, is amended to read as follows:

1. As soon as practicable after a return is filed and in any event within five years after the return is filed the department shall examine it, assess and determine the tax due if the return is found to be incorrect and give notice to the taxpayer of such assessment and determination as provided in subsection 2 ~~hereof~~. The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. If the determination that a return is incorrect is the result of an audit of the books and records of the taxpayer, the tax, or additional tax, if any is found due, shall be assessed and determined and the ~~aforesaid~~ notice to the taxpayer shall be given by the department within one year after the completion of the examination of ~~said~~ the books and records.

Sec. 9. Section 422.72, subsection 3, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

3. Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 23, 25, and 29, sections 252B.9, 324.63, 421.19, 421.28, and 422.20, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

This prohibition precludes persons or entities other than the taxpayer, the department, or the internal revenue service from obtaining such information from the department, and a subpoena, order, or process which requires the department to produce such information to a person or entity, other than the taxpayer, the department, or internal revenue service for use in a nontax proceeding is void.

4. A person violating subsection 1, 2, or 3 is guilty of a serious misdemeanor.

5. The director may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the director, after reasonable effort and lapse of time, has been unable to locate the persons.

Sec. 10. Section 423.18, subsection 1, Code 1987, is amended to read as follows:

1. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or return on or before the due date, or pays less than

ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of seven and one-half percent of the tax due, except as provided in section 421.27. For tax due under section 423.9, the penalty shall be ~~ten~~ fifteen percent. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return seventy-five percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this chapter. The penalty imposed under this subsection is not subject to waiver.

Sec. 11. Sections 4 and 5 of this Act are effective July 1, 1988.

Sec. 12. Sections 6 and 9 of this Act are effective July 1, 1987 for requests and subpoenas for returns, schedules, and attachments to returns made on or after that date.

Sec. 13. Section 10 of this Act is retroactive to January 1, 1987 for taxes due on or after that date.

Approved June 4, 1987

CHAPTER 200

BIRTH CENTERS

H.F. 328

AN ACT relating to the licensure and regulation of birth centers and providing penalties.

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

Section 1. NEW SECTION. 135G.1 LICENSURE AND REGULATION OF BIRTH CENTERS — LEGISLATIVE INTENT.

It is the intent of the general assembly to provide for the protection of public health and safety in the establishment, construction, maintenance, and operation of birth centers by providing for licensure of birth centers and for the development, establishment, and enforcement of minimum standards with respect to birth centers.

Sec. 2. NEW SECTION. 135G.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Birth center" means any facility, institution, or place, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur away from the mother's usual residence following a normal, uncomplicated, low-risk pregnancy.

2. "Clinical staff" means individuals employed full time or part time by a birth center who are licensed or certified to provide care at childbirth, which includes the clinical director.

3. "Consultant" means a physician licensed under chapter 148, 150, or 150A, who agrees to provide medical and obstetrical advice and services to a birth center and clients of the birth center, and who either:

a. Is certified or eligible for certification by the American board of obstetrics and gynecology, or

b. Has hospital obstetrical privileges.

4. "Department" means the department of inspections and appeals.

5. "Governing body" means any individual, group, corporation, or institution which is responsible for the overall operation and maintenance of a birth center.

6. "Political subdivision" means the state or any county, municipality, or other entity or subdivision of government.

7. "Licensed birth center" means a birth center licensed in accordance with section 135G.4.

8. "Low-risk pregnancy" means a pregnancy which is expected to result in an uncomplicated birth, as determined through risk criteria developed by departmental rule, and which is accompanied by adequate prenatal care.

9. "Person" means person as defined in section 4.1, subsection 13.

10. "Premises" means those buildings, beds, and facilities located at the main address of the licensee and all other buildings, beds, and facilities for the provision of maternity care located in such reasonable proximity to the main address of the licensee as to appear to the public to be under the dominion and control of the licensee.

Sec. 3. NEW SECTION. 135G.3 LICENSURE REQUIREMENT FOR BIRTH CENTERS.

1. A person or governmental unit shall not establish, conduct, or maintain a birth center in this state without first obtaining a license under section 135G.4.

2. A person shall not use or advertise to the public, in any way or by any medium whatsoever, any facility as a birth center unless such facility has first secured a license under section 135G.4.

Sec. 4. NEW SECTION. 135G.4 LICENSURE — ISSUANCE, RENEWAL, DENIAL, SUSPENSION, REVOCATION — FEES.

1. a. The department shall not issue a birth center license to any applicant until:

(1) The department has ascertained that the staff and equipment of the birth center is adequate to provide the care and services required of a birth center.

(2) The birth center has been inspected by the state fire marshal or a deputy appointed by the fire marshal for that purpose, who may be a member of a municipal fire department, and the department has received either a certificate of compliance or a provisional certificate of compliance by the birth center with the fire-hazard and fire-safety rules and standards of the department as promulgated by the fire marshal. The state fire marshal shall adopt rules relating to fire-hazard and fire-safety standards pursuant to chapter 17A which shall not exceed the provision of smoke alarms, fire extinguishers, sprinkler systems, and fire escape routes and necessary rules which parallel state or local building code rules.

The rules and standards promulgated by the fire marshal shall be substantially in keeping with the latest generally recognized safety criteria for the birth centers covered, of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima facie evidence.

The state fire marshal or the fire marshal's deputy may issue successive provisional certificates of compliance for periods of one year each to a birth center which is in substantial compliance with the applicable fire-hazard and fire-safety rules and standards, upon satisfactory evidence of an intent, in good faith, by the owner or operator of the birth center to correct the deficiencies noted upon inspection within a reasonable period of time as determined by the state fire marshal or the fire marshal's deputy. Renewal of a provisional certificate shall be based on a showing of substantial progress in eliminating deficiencies noted upon the last previous inspection of the birth center without the appearance of additional deficiencies other than those arising from changes in the fire-hazard and fire-safety rules, regulations and standards which have occurred since the last previous inspection, except that substantial progress toward achievement of a good-faith intent by the owner or operator to replace the entire

facility within a reasonable period of time, as determined by the state fire marshal or the fire marshal's deputy, may be accepted as a showing of substantial progress in eliminating deficiencies, for the purposes of this section.

b. A provisional license may be issued to any birth center that is in substantial compliance with this chapter and with the rules adopted by the department. A provisional license may be granted for a period of no more than one year from the effective date of rules adopted by the department, shall expire automatically at the end of its term, and shall not be renewed.

c. A license, unless sooner suspended or revoked, automatically expires one year from its date of issuance and is renewable upon application for renewal and payment of the fee prescribed, provided the applicant and the birth center meet the requirements established under this chapter and by rules adopted by the department. A complete application for renewal of a license shall be made ninety days prior to expiration of the license on forms provided by the department.

2. An application for a license, or renewal thereof, shall be made to the department upon forms provided by the department and shall contain information the department may require.

3. a. Each application for a birth center license, or renewal thereof, shall be accompanied by a license fee. Fees shall be established by rule of the department. Such fees shall be deposited in the general fund of the state.

b. The fees established shall be based on actual costs incurred by the department in the administration of its duties under this chapter.

4. Each license is valid only for the person or governmental unit to whom or which the license is issued and is not subject to sale, assignment, or other transfer, voluntary, or involuntary; and is not valid for any premises other than those for which the license was originally issued.

5. Each license shall be posted in a conspicuous place on the licensed premises.

6. The department may deny, suspend, or revoke a license when the department finds that there has been a substantial failure to comply with the requirements established under this chapter or by administrative rule.

Sec. 5. NEW SECTION. 135G.5 ADMINISTRATION OF BIRTH CENTER.

1. Each licensed birth center shall have a governing body which is responsible for the overall operation and maintenance of the birth center.

a. The governing body shall develop a table of organization which shows the structure of the birth center and identifies the governing body, the birth center director, the clinical director, the clinical staff, the medical consultant, and other administrative positions.

b. The governing body shall develop and make available to staff, clinicians, consultants, and licensing authorities, a manual which documents policies, procedures, and protocols, including the roles and responsibilities of all personnel.

2. There shall be an adequate number of licensed personnel as determined by departmental rule to provide clinical services needed by mothers and newborns and a sufficient number of qualified personnel as determined by departmental rule to provide services for families and to maintain the birth center.

3. All clinical staff members and consultants shall hold current and valid licenses from this state to practice their respective disciplines. All services provided to and procedures performed on a client of a birth center, which are required by statute to be performed by a licensed or certified person, shall be performed only by a person so licensed or certified.

4. The governing body shall adopt bylaws for the birth center which shall include recommendations for clinical staff or consultation appointments, delineation of clinical privileges, and the organization of the clinical staff.

Sec. 6. NEW SECTION. 135G.6 BIRTH CENTER AND EQUIPMENT — REQUIREMENTS.

1. A licensed birth center shall be so designed to assure adequate provision for birthing rooms, bath and toilet facilities, storage areas for supplies and equipment, examination areas,

and reception or family areas. Handwashing facilities shall be in, or immediately adjacent to, all examining areas and birthing rooms.

2. a. A licensed birth center shall be equipped with those items needed to provide low-risk maternity care and readily available equipment to initiate emergency procedures in life-threatening events to mother and baby, as defined by departmental rule.

b. Provisions shall be made, on or off the premises, for laundry, sterilization of supplies and equipment, laboratory examinations, and light snacks. If a food service is provided, special requirements shall be met as defined by departmental rule.

3. a. A licensed birth center shall be maintained in a safe, clean, and orderly manner.

b. The governing body shall ensure that there is compliance with fire safety provisions required by the state.

Sec. 7. NEW SECTION. 135G.7 MINIMUM STANDARDS FOR BIRTH CENTERS — RULES AND ENFORCEMENT.

The department shall adopt rules pursuant to chapter 17A to administer this chapter. The rules shall be subject to approval by the board of health prior to adoption by the department of inspections and appeals. The department shall adopt and enforce rules setting minimum standards for birth centers. However, the standards shall parallel and shall not exceed standards adopted by the maternity center association, and state and local building codes where applicable, including:

1. Sufficient numbers and qualified types of personnel and occupational disciplines are available at all times to provide necessary and adequate patient care and safety.

2. Infection control, housekeeping, sanitary conditions, disaster plan, and medical record procedures which adequately protect patient care and provide safety are established and implemented.

3. Licensed birth centers are established, organized, and operated consistent with established programmatic standards in accordance with the maternity center association.

Sec. 8. NEW SECTION. 135G.8 SELECTION OF CLIENTS — INFORMED CONSENT.

1. a. A licensed birth center may accept only those patients who are expected to have normal pregnancies, labors, and deliveries.

b. The criteria for the selection of clients and the establishment of risk status shall be defined by departmental rule, which shall reflect risk status standards adopted by the maternity center association.

2. a. A patient may not be accepted for care until the patient has signed a client informed-consent form.

b. The department shall develop a client informed-consent form to be used by the center to inform the client of the benefits and risk related to childbirth outside a hospital.

Sec. 9. NEW SECTION. 135G.9 EDUCATION AND ORIENTATION FOR BIRTH CENTER CLIENTS AND THEIR FAMILIES.

1. The clients and their families shall be fully informed of the policies and procedures of the licensed birth center, including, but not limited to, policies and procedures on:

a. The selection of clients.

b. The expectation of self-help and family/client relationships.

c. The qualifications of the clinical staff.

d. The transfer to a licensed hospital.

e. The philosophy of childbirth care and the scope of services.

f. The customary length of stay after delivery.

2. The clients shall be prepared for childbirth and childbearing by education in:

a. The course of pregnancy and normal changes occurring during pregnancy.

b. The need for prenatal care.

c. Nutrition.

d. The effects of smoking and substance abuse.

e. Labor and delivery.

f. The care of the newborn.

Sec. 10. NEW SECTION. 135G.10 PRENATAL CARE OF BIRTH CENTER CLIENTS.

1. A licensed birth center shall ensure that its clients have adequate prenatal care, as defined by the department, and shall ensure that serological tests are administered as required by this chapter.

2. Records of prenatal care shall be maintained for each client and shall be available during labor and delivery.

Sec. 11. NEW SECTION. 135G.11 PERFORMANCE OF LABORATORY AND SURGICAL SERVICES — USE OF ANESTHETIC AND CHEMICAL AGENTS.

1. LABORATORY SERVICES. A licensed birth center may collect specimens for those tests that are required under protocol. A licensed birth center staff member may perform simple laboratory tests, as defined by administrative rule.

2. SURGICAL SERVICES. Surgical procedures shall be limited to those normally performed during uncomplicated childbirths, such as episiotomies and repairs and shall not include operative obstetrics or caesarean sections.

3. ADMINISTRATION OF ANALGESIA AND ANESTHESIA. General and conduction anesthesia may not be administered at a licensed birth center. Systemic analgesia may be administered, and local anesthesia for pudendal block and episiotomy repair may be performed if procedures are outlined by the clinical staff.

4. INTRAPARTAL USE OF CHEMICAL AGENTS. Labor may not be inhibited, stimulated, or augmented with chemical agents during the first or second stage of labor unless prescribed by personnel with statutory authority to do so and unless in connection with and prior to emergency transport.

Sec. 12. NEW SECTION. 135G.12 AGREEMENTS WITH CONSULTANTS FOR ADVICE OR SERVICES — MAINTENANCE.

1. A licensed birth center shall maintain in writing a consultation agreement, signed within the current license year, with each consultant who has agreed to provide advice and services to the birth center and clients of the birth center, as requested, which shall include emergency backup services.

2. Consultation may be provided on-site or by telecommunication as required by clinical and geographic conditions.

3. The consultation agreement shall provide for a minimum of two prenatal visits between each patient and a consultant.

Sec. 13. NEW SECTION. 135G.13 TRANSFER AND TRANSPORT OF CLIENTS TO HOSPITALS.

1. If complications arise during labor, the client shall be transferred to a hospital.

2. Each licensed birth center shall make arrangements with a local ambulance service for the transport of emergency patients to a hospital. Such arrangements shall be documented in the policy and procedures manual of the birth center if the birth center does not own or operate a licensed ambulance. The policy and procedures manual shall also contain specific protocols for the transfer of any patient to a licensed hospital.

3. A licensed birth center shall identify neonatal/specific transportation services, including ground and air ambulances, list particular qualifications of such services, and have the telephone numbers for access to these services clearly listed and immediately available.

4. Annual assessments of the transportation services and transfer protocols shall be made and documented and kept on file at the licensed birth center.

Sec. 14. NEW SECTION. 135G.14 POSTPARTUM CARE FOR BIRTH CENTER CLIENTS AND INFANTS.

1. A mother and her infant shall be dismissed from the licensed birth center within twenty-four hours after the birth of the infant except in unusual circumstances as defined by administrative rule. If a mother or infant is retained at the birth center for more than twenty-four hours after the birth, a report shall be filed with the department within forty-eight hours of the birth describing the circumstances and the reasons for the decision.

2. A prophylactic shall be instilled in the eyes of each newborn in accordance with section 140.13.

3. Postpartum evaluation and follow-up care shall be provided, which shall include:

a. Physical examination of the infant.

b. Metabolic screening tests required by statute or administrative rule.

c. Referral to sources for pediatric care.

d. Maternal postpartum assessment.

e. Instruction in child care, including immunization.

f. Family planning services.

g. Referral to a licensed hospital.

Sec. 15. NEW SECTION. 135G.15 CLINICAL RECORDS.

1. Clinical records shall contain information prescribed by rule, including, but not limited to:

a. Identifying information.

b. Risk assessments.

c. Information relating to prenatal visits.

d. Information relating to course of labor and intrapartum care.

e. Information relating to consultation, referral, and transport to a hospital.

f. Newborn assessment, apgar score, treatments as required, and follow-up.

g. Postpartum follow-up.

2. Clinical records shall be immediately available at the birth center:

a. At the time of admission.

b. When transfer of care is necessary.

c. For audit by licensure personnel.

3. a. Clinical records shall be kept confidential in accordance with chapter 22.

b. A client's clinical records are considered confidential documents and shall be open to inspection only under the following conditions:

(1) If a consent to release information has been signed by the client; or

(2) The review is made by the department for a licensure survey or complaint investigation.

4. a. Clinical records shall be audited periodically, but no less frequently than every three months, to evaluate the process and outcome of care.

b. Statistics on maternal and perinatal morbidity and mortality, maternal risk, consultant referrals, and transfers of care shall be analyzed at least semiannually.

c. The governing body shall examine the results of the record audits and statistical analyses and shall make such reports available for inspection by the public and licensing authorities.

Sec. 16. NEW SECTION. 135G.16 INSPECTIONS AND INVESTIGATIONS — INSPECTION FEES.

1. The department shall make or cause to be made such inspections and investigations as the department deems necessary.

2. Each licensed birth center shall pay to the department, at the time of inspection, an inspection fee established by administrative rule, in an amount to cover the cost of the inspection. The fees collected shall be deposited into the general fund of the state.

3. The department shall coordinate all periodic inspections for licensure made by the department to ensure that the cost to the birth center of such inspections and the disruption of services by such inspections is minimized.

Sec. 17. NEW SECTION. 135G.17 INSPECTION REPORTS.

1. Each licensed birth center shall maintain as public information, available upon request, records of all inspection reports pertaining to that birth center which has been filed with, or issued by, any governmental agency. Copies of such reports shall be retained in the records of the birth center for no less than five years from the date the reports are filed and issued.

2. Any record, report, or document which, by state or federal law or regulation, is deemed confidential shall not be distributed or made available for purposes of compliance with this section unless or until such confidential status expires, except as pursuant to section 135G.15.

3. A licensed birth center shall, upon the request of any person who has completed a written application with intent to be admitted to such birth center or any person who is a patient of such birth center, or any relative, spouse, or guardian of any such person, furnish to the requestor a copy of the last inspection report issued by the department or an accrediting organization, whichever is most recent, pertaining to the licensed birth center, as provided in subsection 1, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

Sec. 18. NEW SECTION. 135G.18 BIRTH AND DEATH RECORDS — REPORTS.

1. A completed certificate of birth shall be filed pursuant to section 144.13, and the registration fee pursuant to section 144.13A shall be charged and remitted.

2. Each newborn death and stillbirth shall be reported pursuant to section 144.29.

3. The licensee shall comply with all requirements of this chapter and administrative rules.

4. A report shall be submitted annually to the department by the licensee. The contents of the report shall be prescribed by administrative rule.

Sec. 19. NEW SECTION. 135G.19 ADMINISTRATIVE PENALTIES — EMERGENCY ORDERS — MORATORIUM ON ADMISSIONS.

1. a. The department may deny, revoke, or suspend a license, or impose an administrative fine not to exceed five hundred dollars per violation per day, for the violation of this chapter or any administrative rule. Each day of violation constitutes a separate violation and is subject to a separate fine.

b. In determining the amount of the fine to be levied for a violation, as provided in paragraph "a", the following factors shall be considered:

(1) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this chapter and administrative rules were violated.

(2) Actions taken by the licensee to correct the violations or to remedy complaints.

(3) Any previous violations by the licensee.

c. All amounts collected pursuant to this section shall be deposited into the general fund of the state.

2. The department may issue an emergency order immediately suspending or revoking a license when the department determines that any condition in the licensed birth center presents a clear and present danger to the public health and safety.

3. The department may impose an immediate moratorium on elective admissions to any licensed birth center, building or portion thereof, or service when the department determines that any condition in the birth center presents a threat to the public health or safety.

Sec. 20. NEW SECTION. 135G.20 INJUNCTIVE RELIEF.

Notwithstanding the existence or pursuit of any other remedy, the department may maintain an action in the name of the state for injunction or other process to enforce this chapter and administrative rules.

Sec. 21. NEW SECTION. 135G.21 ESTABLISHING, MANAGING, OR OPERATING A BIRTH CENTER WITHOUT A LICENSE – PENALTY.

Any person who establishes, conducts, manages, or operates any birth center without a license is guilty of a simple misdemeanor. Each week of continuing violation after conviction shall be considered a separate offense.

Approved June 4, 1987

CHAPTER 201

PREGNANCY AND CHILDBIRTH LEAVES OF ABSENCE

H.F. 580

AN ACT relating to the granting of leaves of absence to persons disabled by pregnancy.

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

Section 1. Section 601A.6, Code 1987, is amended by adding the following new subsection after subsection 1 and renumbering the subsequent subsections:

NEW SUBSECTION. 2. Employment policies relating to pregnancy and childbirth shall be governed by the following:

a. A written or unwritten employment policy or practice which excludes from employment applicants or employees because of the employee's pregnancy is a prima facie violation of this chapter.

b. Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to the employee's pregnancy or giving birth, on the same terms and conditions as they are applied to other temporary disabilities.

c. Disabilities caused or contributed to by legal abortion and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any temporary disability or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to legal abortion on the same terms and conditions as they are applied to other temporary disabilities. The employer may elect to exclude health insurance coverage for abortion from a plan provided by the employer, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

d. An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy.

e. Where a leave is not available or a sufficient leave is not available under any health or temporary disability insurance or sick leave plan available in connection with employment, the employer of the pregnant employee shall not refuse to grant to the employee who is disabled by the pregnancy a leave of absence if the leave of absence is for the period that the employee is disabled because of the employee's pregnancy, childbirth, or related medical conditions, or for eight weeks, whichever is less. However, the employee must provide timely notice of the period of leave requested and the employer must approve any change in the period

requested before the change is effective. Before granting the leave of absence, the employer may require that the employee's disability resulting from pregnancy be verified by medical certification stating that the employee is not able to reasonably perform the duties of employment.

Approved June 5, 1987

CHAPTER 202

BED AND BREAKFAST INNS

H.F. 556

AN ACT relating to, and defining, bed and breakfast inns, and subjecting violators to existing penalties.

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

Section 1. NEW SECTION. 170A.17 BED AND BREAKFAST INN.

1. This chapter does not apply to a bed and breakfast inn as defined in section 170B.2, subsection 8, if the inn provides food service to overnight guests only.

2. This chapter does apply to a bed and breakfast inn which provides food service to the general public other than its overnight guests, but separate kitchen facilities shall not be required.

Sec. 2. Section 170B.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Bed and breakfast inn" means a hotel which has nine or fewer guest rooms.

Sec. 3. NEW SECTION. 170B.21 BED AND BREAKFAST INN.

A bed and breakfast inn is subject to regulation, licensing, and inspection under this chapter, but separate toilet and lavatory facilities shall not be required for each guest room.

Approved June 5, 1987

CHAPTER 203

CITY OFFICERS AND EMPLOYEES

H.F. 410

AN ACT relating to city officers and employees, by authorizing an interest of a city officer or employee in contracts for the purchase of goods and services by a city and by providing for the employment of a former city council member by a city.

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

Section 1. Section 362.5, subsection 11, Code 1987, is amended to read as follows:

11. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city having a population of more than two thousand five hundred but less than ten thousand, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand dollars in a fiscal year.

Sec. 2. Section 362.5, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city having a population of two thousand five hundred or less,

which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars in a fiscal year.

Sec. 3. Section 372.13, subsection 8, Code 1987, is amended to read as follows:

8. By ordinance, the council shall prescribe the compensation of the mayor, council members, and other elected city officers, but a change in the compensation of the mayor shall not become effective during the term in which the change is adopted, and the council shall not adopt such an ordinance changing the compensation of the mayor or council members during the months of November and December immediately following a regular city election. A change in the compensation of council members shall become effective for all council members at the beginning of the term of the council members elected at the election next following the change in compensation. Except as provided in section 362.5, an elected city officer shall not receive any other compensation for any other city office or city employment during that officer's ~~term of~~ tenure in office, but may be reimbursed for actual expenses incurred. However, if the mayor pro tem performs the duties of the mayor during the mayor's absence or disability for a continuous period of fifteen days or more, the mayor pro tem may be paid for that period such compensation as determined by the council, based upon the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.

Approved June 5, 1987

CHAPTER 204

SPECIAL EXHIBIT ITEMS INDEMNIFICATION

H.F. 315

AN ACT relating to the indemnification of eligible special exhibit items and the limitations of indemnity coverage of these items.

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

Section 1. Section 304A.22, subsection 1, Code 1987, is amended to read as follows:

1. The administrator, after receiving the advice and recommendations of the council, may make agreements on behalf of the state to indemnify against loss of or damage to eligible special exhibit items of public educational, cultural, artistic, historical or scientific significance borrowed ~~from outside the state~~ by nonprofit organizations or governmental entities as provided in this division.

Sec. 2. Section 304A.24, Code 1987, is amended to read as follows:

304A.24 APPLICATIONS.

A nonprofit organization or governmental entity desiring to obtain an indemnification agreement for special exhibit items it proposes to borrow ~~from outside this state~~ may submit an application to the administrator. The application shall:

Sec. 3. Section 304A.28, subsection 2, Code 1987, is amended to read as follows:

2. Indemnity agreements entered into by the director for a single exhibition or for any single location shall not exceed a total coverage for loss or damage of two million dollars, and all idemnity agreements entered into by the director shall not exceed an aggregate ~~value~~ coverage for loss or damage of ~~one~~ five million dollars at any one time. The agreements, together with the claims paid to date, shall not exceed ~~one~~ five million dollars at any one time.

Approved June 5, 1987

CHAPTER 205

SALES TAX EXEMPTION FOR FOOD STAMP PURCHASES

H.F. 266

AN ACT relating to the exemption from the state sales, services and use tax of the gross receipts from the sale of foods purchased with federal food stamps and providing an effective date.

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

Section 1. Section 422.45, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. The gross receipts from the sale of foods purchased with coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. § 2011, et seq.

Sec. 2. This Act is effective October 1, 1987.

Approved June 5, 1987

CHAPTER 206

MOTORCYCLE RIDER EDUCATION

S.F. 399

AN ACT establishing a motorcycle rider education fund, increasing fees for certain operator's licenses, crediting moneys to the fund, and appropriating moneys from the fund to the department of education to reimburse sponsors of motorcycle rider education courses for the costs of the courses.

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

Section 1. Section 312.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 18. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the motorcycle rider education fund established in section 321.189, subsection 3, an amount equal to one dollar per year of license validity for each issued or renewed motor vehicle license which is valid for the operation of a motorcycle. Moneys credited to the motorcycle rider education fund under this subsection shall be taken from moneys credited to the road use tax fund under section 423.24.

Sec. 2. Section 321.189, subsection 1, unnumbered paragraph 3, Code 1987, is amended to read as follows:

After January 1, 1982, a person under the age of eighteen applying for a motor vehicle license valid for the operation of a motorcycle shall be required to successfully complete a motorcycle education course approved and established by the department of ~~public instruction~~ education or successfully complete an approved motorcycle education course at a private or commercial driver education school licensed by the department. A public school district shall charge a student a fee which shall not exceed the actual cost of instruction minus moneys received by the school district under section 321.189, subsection 3.

Sec. 3. Section 321.189, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. MOTORCYCLE RIDER EDUCATION FUND. The motorcycle rider education fund is established in the office of the treasurer of state. The moneys credited to the fund are appropriated to the department of education to be used to establish new motorcycle rider education courses and reimburse sponsors of motorcycle rider education courses

for the costs of providing motorcycle education courses approved and established by the department of education. The department of education shall adopt rules under chapter 17A providing for the distribution of moneys to sponsors of motorcycle rider education courses based upon the costs of providing the education courses.

Sec. 4. Section 321.191, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The fee for an operator's license shall be seven dollars if issued for a period of two years, and twenty dollars if issued for a period of six years. If a motor vehicle license issued is valid for the operation of a motorcycle, an additional fee of one dollar per year of license validity shall be charged. The fee for a chauffeur's license shall be fourteen dollars if issued for a period of two years, and forty dollars if issued for a period of six years. The fee for an instruction permit shall be six dollars, for a chauffeur's instruction permit, twelve dollars, for a temporary driver's permit, ten dollars and for a motorized bicycle license, ten dollars.

Approved June 5, 1987

CHAPTER 207

TELECOMMUNICATIONS USE BY SCHOOLS, AREA SCHOOLS, AND REGENTS' INSTITUTIONS

S.F. 333

AN ACT relating to the use of telecommunications systems and services for educational instructional purposes and providing an effective date.

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

Section 1. Section 256.7, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 8. Adopt rules under chapter 17A for the use of telecommunications as an instructional tool for students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, merged area schools, institutions of higher education under the state board of regents, and independent colleges and universities in elementary and secondary school classes and courses. The rules shall include but need not be limited to rules relating to programs, educational policy, instructional practices, staff development, use of pilot projects, curriculum monitoring, and the accessibility of certificated teachers.

When curriculum is provided by means of telecommunications, it shall be taught by a certificated teacher who is properly endorsed or approved. The teacher shall either be present in the classroom, or be present at the location at which the curriculum delivered by means of telecommunications originates.

The rules shall provide that when the curriculum is taught by a certificated and properly endorsed or approved teacher at the location at which the telecommunications originates, the curriculum received shall be under the supervision of a certificated teacher. For the purposes of this subsection, "supervision" means that the curriculum is monitored by a certificated teacher and the certificated teacher is accessible to the students receiving the curriculum by means of telecommunications.

The rules shall provide that telecommunications shall not be used by school districts as the exclusive means to provide curriculum which is required by the minimum educational standards for approval or accreditation. However, for curriculum which is not required by the minimum educational standards, the rules shall not require that a certificated teacher must be present in the classroom when the curriculum is being received by means of telecommunications.

The state board shall establish an advisory committee to make recommendations for rules required under this subsection on the use of telecommunications as an instructional tool. The

committee shall be composed of representatives from merged area schools, area education agencies, accredited or approved nonpublic schools, and local school districts from various enrollment categories. The representatives shall include board members, school administrators, teachers, parents, students, and associations interested in education.

For the purpose of the rules adopted by the state board, telecommunications means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications.

NEW SUBSECTION. 9. Develop evaluation procedures that will measure the effects of instruction by means of telecommunications on student achievement, socialization, intellectual growth, motivation, and other related factors deemed relevant by the state board, for the development of an educational data base. The state board shall consult with the state board of regents and the teacher education departments at its institutions, other approved teacher education departments located within private colleges and universities, educational research agencies or facilities, and other agencies deemed appropriate by the state board, in developing these procedures.

Sec. 2. NEW SECTION. 279.46 PARTICIPATION BY SCHOOL DISTRICTS IN DATA BASE DEVELOPMENT.

The board of directors of each school district utilizing telecommunications as an instructional tool shall participate in procedures adopted by the state board of education under section 256.7, subsection 9.

Sec. 3. The state board of education shall study options for the coordination of school calendars and schedules for purposes of facilitating the use of educational telecommunications systems and services and shall report the results of its study, together with any recommendations to the general assembly not later than January 15, 1989. The state board shall consult with areas of the state utilizing educational telecommunications systems and services in developing its recommendations.

Sec. 4. By July 1, 1989, each area education agency shall file a report with the department of education of the results of a needs assessment relating to the use of telecommunications as an instructional tool for education in the school districts located in the area education agency. The assessment shall include both technological needs and educational needs and shall include both short-range and long-range plans for achieving goals.

Sec. 5. The department of education shall establish a program for awarding grants to school districts, area education agencies, merged area schools, and institutions of higher education under the state board of regents, or a combination of these, for staff development programs that will assist teachers and administrators to acquire methodology for assisting students to learn when telecommunications is used as an instructional tool for education. Grants shall be awarded from moneys appropriated for that purpose to the department of education to be distributed to school districts, area education agencies, merged area schools, and institutions of higher education under the state board of regents, or a combination of these, submitting approved staff development plans. The department shall give priority in awarding grants under this section to applications submitted jointly by eligible recipients of grants.

Sec. 6. Section 262.9, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Adopt policies and procedures for the use of telecommunications as an instructional tool at its institutions. The policies and procedures shall include but not be limited to policies and procedures relating to programs, educational policy, practices, staff development, use of pilot projects, and the instructional application of the technology.

Sec. 7. Section 280A.23, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Adopt policies and procedures for the use of telecommunications as an instructional tool at the area school. The policies and procedures shall include but not be limited to policies and procedures relating to programs, educational policy, practices, staff development, use of pilot projects, and the instructional application of the technology.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved June 5, 1987

CHAPTER 208

DRUG TESTING OF EMPLOYEES AND APPLICANTS

H.F. 469

AN ACT to regulate the circumstance and procedure under which an employer may request a drug test of an employee or an applicant for employment and providing a penalty.

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

Section 1. NEW SECTION. 730.5 DRUG TESTING OF EMPLOYEES OR APPLICANTS REGULATED.

1. As used in this section, "drug test" means any blood, urine, saliva, chemical, or skin tissue test conducted for the purpose of detecting the presence of a chemical substance in an individual.

2. Except as provided in subsection 7, an employer shall not require or request employees or applicants for employment to submit to a drug test as a condition of employment, preemployment, promotion, or change in status of employment. An employer shall not request, require, or conduct random or blanket drug testing of employees. However, this section does not apply to preemployment drug tests authorized for peace officers or correctional officers of the state, or to drug tests required under federal statutes, or to drug tests conducted pursuant to a nuclear regulatory commission policy statement, or to drug tests conducted to determine if an employee is ineligible to receive workers' compensation under section 85.16, subsection 2.

3. This section does not prohibit an employer from requiring a specific employee to submit to a drug test if all of the following conditions are met:

a. The employer has probable cause to believe that an employee's faculties are impaired on the job.

b. The employee is in a position where such impairment presents a danger to the safety of the employee, another employee, a member of the public, or the property of the employer, or when impairment due to the effects of a controlled substance is a violation of a known rule of the employer.

c. The test sample withdrawn from the employee is analyzed by a laboratory or testing facility that has been approved under rules adopted by the department of public health.

d. If a test is conducted and the results indicate that the employee is under the influence of alcohol or a controlled substance or indicate the presence of alcohol or a controlled substance, a second test using an alternative method of analysis shall be conducted. When possible and practical, the second test shall use a portion of the same test sample withdrawn from the employee for use in the first test.

e. An employee shall be accorded a reasonable opportunity to rebut or explain the results of a drug test.

f. The employer shall provide substance abuse evaluation, and treatment if recommended by the evaluation, with costs apportioned as provided under the employee benefit plan or at employer expense, if there is no employee benefit plan, the first time an employee's drug test

indicates the presence of alcohol or a controlled substance. An employer shall take no disciplinary action against an employee due to the employee's drug involvement the first time the employee's drug test indicates the presence of alcohol or a controlled substance if the employee undergoes a substance abuse evaluation, and if the employee successfully completes substance abuse treatment if treatment is recommended by the evaluation. However, if an employee fails to undergo substance abuse evaluation when required under the results of a drug test, or fails to successfully complete substance abuse treatment when recommended by an evaluation, the employee may be disciplined up to and including discharge. The substance abuse evaluation and treatment provided by the employer shall take place under a program approved by the department of public health or accredited by the joint commission on accreditation of hospitals.

4. In conducting those tests designed to identify the presence of chemical substances in the body, the employer shall ensure to the extent feasible that the tests only measure and that the records of the tests only show or make use of information regarding chemical substances in the body which are likely to affect the ability of the employee to perform safely the employee's duties while on the job.

5. This section does not restrict an employer's ability to prohibit the use of alcohol or controlled substances during work hours or to discipline employees for being under the influence of alcohol or controlled substances during work hours.

6. This section does not prevent an employer from conducting medical screening in order to monitor exposure to toxic or other unhealthy substances encountered in the workplace or in the performance of their job responsibilities. Any such screening must be limited to the specific substances required to be monitored.

7. A drug test conducted as a part of a physical examination performed as a part of a preemployment physical or as a part of a regularly scheduled physical is only permissible under the following circumstances:

a. For a preemployment physical, the employer shall include notice that a drug test will be part of a preemployment physical in any notice or advertisement soliciting applicants for employment or in the application for employment, and an applicant for employment shall be personally informed of the requirement for a drug test at the first interview.

b. For a regularly scheduled physical, the employer shall give notice that a drug test will be part of the physical at least thirty days prior to the date the physical is scheduled.

Drug testing conducted under this subsection shall conform to the requirements of subsection 3, paragraphs "c", "d", "e", and "f"; however, paragraph "f" shall not apply to drug tests conducted as a part of a preemployment physical.

8. An employer shall protect the confidentiality of the results of any drug test conducted on an employee. The results of the test may be recorded in the employee's personnel records; however, if an employee whose test indicated the employee was under the influence of alcohol or a controlled substance or indicated the presence of a controlled substance has undergone substance abuse evaluation and, when treatment is indicated under the substance abuse evaluation, successfully completed treatment for substance abuse, the employee's personnel records shall be expunged of any reference to the test or its results when the employee leaves employment.

9. This section may be enforced through a civil action.

a. A person who violates this section or who aids in the violation of this section is liable to an aggrieved employee or applicant for employment for affirmative relief including reinstatement or hiring, with or without back pay, or any other equitable relief as the court deems appropriate including attorney fees and court costs.

b. When a person commits, is committing, or proposes to commit, an act in violation of this section, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or applicant for employment, the county attorney, or the attorney general.

In an action brought under this subsection alleging that an employer has required or requested a drug test in violation of this section, the employer has the burden of proving that the requirements of this section were met.

10. An employee shall not be discharged, disciplined, or discriminated against in any manner for filing a complaint or testifying in any proceeding or action involving violations of this section. An employee discharged, disciplined, or otherwise discriminated against in violation of this section shall be compensated by the employer in the amount of any loss of wages and benefits arising out of the discrimination and shall be restored to the employee's previous position of employment.

11. A person who violates this section is, upon conviction, guilty of a simple misdemeanor.

Approved June 5, 1987

CHAPTER 209

ENERGY CONSERVATION ASSISTANCE

H.F. 654

AN ACT relating to the funding of the energy bank program.

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

Section 1. Section 93.19, Code 1987, is amended to read as follows:

93.19 ENERGY BANK PROGRAM.

The energy bank program is established by the department. The energy bank program consists of the following forms of assistance for school districts, area education agencies, cities, counties, and merged area schools:

1. Providing moneys from the petroleum overcharge fund for conducting energy audits under section 279.44.

2. Providing loans, leases, and other methods of alternative financing from the energy loan fund established in section 93.20 and section 93.20A for school districts ~~and~~, area schools, area education agencies, cities and counties to implement energy conservation measures.

3. Serving as a source of technical support for energy conservation management.

4. Providing assistance for obtaining insurance on the energy savings expected to be realized from the implementation of energy conservation measures.

5. Providing self-liquidating financing for school districts, area schools, area education agencies, cities, and counties, pursuant to section 93.20A.

For the purpose of this section, ~~and~~ section 93.20, and section 93.20A, "energy conservation measure" means construction, rehabilitation, acquisition, or modification of an installation in a building which is intended to reduce energy consumption, or energy costs, or both, or allow the use of an alternative energy source, which may contain integral control and measurement devices.

Sec. 2. Section 93.20, Code 1987, is amended to read as follows:

93.20 ENERGY LOAN FUND.

An energy loan fund is established in the office of the treasurer of state to be administered by the department. The department may make loans to school districts, ~~and~~ area schools, area education agencies, cities, and counties for implementation of energy conservation measures identified in a comprehensive engineering analysis. Loans shall not be made for energy conservation measures that require more than an average of six years for the school district, area school, area education agency, city and county as an entity to recoup the actual or projected cost of construction and acquisition of the improvements; and cost of the engineering ~~analysis,~~ plans, and specifications; ~~and cost of the surety bonds securing the operation of the energy~~

~~conservation measure~~. For a school district, ~~or merged~~ area school, area education agency, city or county to receive a loan from the fund, the department shall require completion of an energy management plan including an energy audit and a comprehensive engineering analysis. The department shall approve loans made under this section. Cities and counties shall repay the loans from moneys in their debt service funds. Area education agencies shall repay the loans from any moneys available to them.

School districts and area schools may enter into financing arrangements with the department or its duly authorized agents or representatives obligating the school district or area school to make payments on the loans beyond the current budget year of the school district or area school. Chapter 75 shall not be applicable. School districts shall repay the loans from moneys in either their general fund or schoolhouse fund. Area schools shall repay the loans from their general fund.

The department may accept gifts, federal funds, state appropriations, and other moneys for deposit in the energy loan fund or may fund the energy loan fund in accordance with section 93.20A.

For the purpose of this section, "loans" means loans, leases, or alternative financing arrangements.

Sec. 3. NEW SECTION. 93.20A SELF-LIQUIDATING FINANCING.

1. The department of natural resources may enter into financing agreements with school districts, area schools, area education agencies, cities, or counties in order to provide the financing to pay the costs of furnishing energy conservation measures. The provisions of section 93.20 defining eligible energy conservation measures and the method of repayment of the loans apply to financings under this section.

The financing agreement may contain provisions, including interest, term, and obligations to make payments on the financing agreement beyond the current budget year, as may be agreed upon between the department of natural resources and the school district, area school, area education agency, city, or county.

2. For the purpose of funding its obligation to furnish moneys under the financing agreements, or to fund the energy loan fund created in section 93.20, the treasurer of state, with the assistance of the department of natural resources, or the treasurer of state's duly authorized agents or representatives, may incur indebtedness or enter into master lease agreements or other financing arrangements to borrow to accomplish energy conservation measures, or the department of natural resources may enter into master lease agreements or other financing arrangements to permit school districts, area education agencies, area schools, cities, or counties to borrow sufficient funds to accomplish the energy conservation measure. The obligations may be in such form, for such term, bearing such interest and containing such provisions as the department of natural resources, with the assistance of the treasurer of state, deems necessary or appropriate. Funds remaining after the payment of all obligations have been redeemed shall be paid into the energy loan fund.

3. School districts, area schools, area education agencies, cities, or counties may enter into financing agreements and issue obligations necessary to carry out the provisions of the chapter. Chapter 75 shall not be applicable.

Approved June 5, 1987

CHAPTER 210

MOBILE HOME TAXES

S.F. 101

AN ACT relating to mobile home taxes and providing an effective date.

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

Section 1. Section 135D.22, Code 1987, is amended to read as follows:

135D.22 ~~SEMIANNUAL~~ ANNUAL TAX.

The owner of each mobile home shall pay to the county treasurer ~~a semiannual~~ an annual tax ~~as herein provided~~. However, when the owner is any educational institution and the mobile home is used solely for student housing or when the owner is the state of Iowa or a subdivision thereof, the owner shall be exempt from the tax ~~provided herein~~. The ~~semiannual~~ annual tax shall be computed as follows:

1. Multiply the number of square feet of floor space each mobile home contains when parked and in use by ~~ten~~ twenty cents. In computing floor space, the exterior measurements of the mobile home shall be used as shown on the certificate of registration and title, but not including any area occupied by a hitching device.

2. If the owner of the mobile home was totally disabled, as defined in section 425.17, subsection 6 on or before December 31 of the base year, is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year or has attained the age of sixty-five years on or before December 31 of the base year and has an income when included with that of a spouse which is less than five thousand dollars per year, no ~~semiannual~~ annual tax shall be imposed on the mobile home. If the income is five thousand dollars or more but less than twelve thousand dollars, the ~~semiannual~~ annual tax shall be computed as follows:

If the Household Income is:	~~Semiannual~~ Annual Tax Per Square Foot
$5,000 - 5,999.99	~~3.0~~ 6.0 cents
6,000 - 6,999.99	~~5.0~~ 10.0
7,000 - 7,999.99	~~6.0~~ 12.0
8,000 - 8,999.99	~~7.0~~ 14.0
9,000 - 11,999.99	~~7.5~~ 15.0

For purposes of this subsection "income" means income as defined in section 425.17, subsection 1, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The mobile home reduced rate of tax shall only be allowed on the mobile home in which the claimant is residing at the time in which the claim for a reduced rate of tax is filed.

3. The amount thus computed shall be the ~~semiannual~~ annual tax for all mobile homes ~~for the first five years after the year of manufacture~~.

~~4. For the sixth through ninth years after the year of manufacture the semiannual tax is ninety percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.~~

~~5. For all mobile homes ten or more years after the year of manufacture the semiannual tax is eighty percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.~~

~~6~~ 4. The ~~semiannual~~ tax shall be figured to the nearest even whole dollar.

~~7. On or before April 1 of each year, each mobile home owner eligible for a reduced tax rate shall file a claim for this tax rate with the county treasurer. The forms for filing the claim shall be provided by the department of revenue and finance. The forms shall require information as determined by the director of revenue and finance. The reduced tax rate is applicable to both semiannual tax payments due in the calendar year in which the claim is filed. If an eligible mobile home owner fails to file a claim by April 1, the reduced tax rate shall not be~~

~~granted for the semiannual tax payment due by April 1, of that year. Claims filed with the county treasurer after April 1, but before October 1, are applicable to the semiannual tax payment due by October 1, only.~~

~~On or before April 15 of each year, the county treasurer shall prepare a statement listing for each taxing district in the county the total amount of taxes which will not be collected for the calendar year by reason of the reduced tax rate granted under subsection 2. The county treasurer shall certify and forward the statement to the director of revenue and finance not later than April 15 of each year.~~

5. A claim for credit for mobile home tax due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the mobile home taxes are due and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the mobile home for six months or more during the fiscal year beginning in the calendar year in which the claim is filed. The county treasurer shall submit the claim to the director of revenue and finance on or before August 1 each year.

The forms for filing the claim shall be provided by the department of revenue and finance. The forms shall require information as determined by the department.

In case of sickness, absence, or other disability of the claimant or if, in the judgment of the director of revenue and finance, good cause exists and the claimant requests an extension, the director may extend the time for filing a claim for credit or reimbursement. However, any further time granted shall not extend beyond December 31 of the year in which the claim was required to be filed. Claims filed as a result of this paragraph shall be filed with the director who shall provide for the reimbursement of the claim to the claimant.

The director of revenue and finance shall certify the amount due to each county, which amount shall be the dollar amount which will not be collected due to the granting of the reduced tax rate under subsection 2.

The amounts due each county shall be paid by the department of revenue and finance on December 15 of each year, drawn upon warrants payable to the respective county treasurers. The county treasurer in each county shall apportion the payment in accordance with section 135D.25.

There is appropriated annually from the general fund of the state to the department of revenue and finance an amount sufficient to carry out this subsection.

Sec. 2. Section 135D.23, Code 1987, is amended to read as follows:

135D.23 EXEMPTIONS PRORATING TAX.

~~There shall be exempted from the semiannual tax the~~ The manufacturer's and dealer's inventory of mobile homes not in use as a place of human habitation shall be exempt from the annual tax. All travel trailers shall be exempt from this tax. Mobile homes and travel trailers in the inventory of manufacturers and dealers shall be exempt from personal property tax. Mobile homes coming into Iowa from out of state shall be liable for the tax computed pro rata to the nearest whole month, for the time such mobile home is actually situated in Iowa.

Sec. 3. Section 135D.24, subsection 1, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

1. The annual tax is due and payable to the county treasurer on or after July 1 in each fiscal year and is collectible in the same manner and at the same time as ordinary taxes as provided in sections 445.36, 445.37, and 445.39. Penalties at the rate prescribed by law shall accrue on unpaid taxes but the penalty shall not exceed forty-eight percent. Both installments of taxes may be paid at one time. The September installment represents a tax period beginning July 1 and ending December 31. The March installment represents a tax period beginning January 1 and ending June 30. A mobile home, coming into this state from outside the state, put in use from a dealer's inventory, or put in use at any time after July 1 or January 1, is subject

to the taxes prorated for the remaining unexpired months of the tax period, but the purchaser is not required to pay the tax at the time of purchase. A penalty attaches the following April 1 for taxes prorated on or after October 1. A penalty attaches the following October 1 for taxes prorated on or after April 1. If the taxes are not paid, the county treasurer shall send a statement of delinquent taxes as part of the notice of tax sale as provided in section 446.9. The owner of a mobile home who sells the mobile home between July 1 and December 31 and obtains a tax clearance statement is responsible only for the September tax payment and is not required to pay taxes for subsequent tax periods. Interest added as a penalty for delinquent taxes shall be calculated to the nearest whole dollar.

Sec. 4. Section 135D.24, subsection 5, Code 1987, is amended to read as follows:

5. A modular home as defined by this chapter is not subject to or assessed the ~~semiannual~~ annual tax pursuant to this section, but shall be assessed and taxed as real estate pursuant to chapter 427.

Sec. 5. Section 135D.24, subsection 6, Code 1987, is amended to read as follows:

6. Before a mobile home may be moved from its present site, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. However, a tax clearance statement shall not be required for a mobile home in a manufacturer's or dealer's stock which is not used as a place for human habitation. A tax clearance form is not required to move an abandoned mobile home. A tax clearance form is not required in eviction cases provided the mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a dealer acquires a mobile home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer and shall be made out in quadruplicate. Two copies are to be provided to the company or person transporting the mobile home with one copy to be carried in the vehicle transporting the mobile home. One copy is to be forwarded to the county treasurer of the county in which the mobile home is to be relocated and one copy is to be retained by the county treasurer issuing the tax clearance statement.

Sec. 6. Section 135D.25, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Chapters 446, 447, and 448 apply to the sale of a mobile home for the collection of delinquent taxes and penalties, the redemption of a mobile home sold for the collection of delinquent taxes and penalties, and the execution of a tax sale certificate of title for the purchase of a mobile home sold for the collection of delinquent taxes and penalties in the same manner as though a mobile home were real property within the meaning of these chapters to the extent consistent with this chapter. The certificate of title shall be issued by the county treasurer. The county treasurer shall charge ten dollars for each certificate of title except that the county treasurer shall issue a tax sale certificate of title to the county at no charge.

Sec. 7. Section 135D.25, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a mobile home is removed from the county where delinquent taxes, both regular or special, are owing, or when it is administratively impractical to pursue tax collection through the remedies of this section, all taxes, both regular or special, penalties, interest, and costs shall be abated by resolution of the county board of supervisors. The resolution shall direct the county treasurer to strike from the tax books the reference to that mobile home.

Sec. 8. This Act takes effect July 1, 1988.

Approved June 5, 1987

CHAPTER 211

IOWA PUBLIC BROADCASTING

S.F. 162

AN ACT relating to the authority and composition of the Iowa public broadcasting board including authority over narrowcast and broadcast systems to serve the educational needs of the state and to provide an effective date.

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

Section 1. Section 18.133, subsection 1, Code 1987, is amended to read as follows:

1. "State communications" refers to the transmission of voice, data, video, the written word or other visual signals by electronic means to serve the needs of state agencies but does not include communications activities of the state board of regents, radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the division of public broadcasting, department of transportation distributed data processing and mobile radio network, or law enforcement communications systems.

Sec. 2. Section 256.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Rules adopted under this section shall provide that telecommunications shall not be used by school districts as the exclusive means to provide any course which is required by the minimum educational standards for approval or accreditation.

Sec. 3. Section 303.1, subsection 4, Code 1987, is amended to read as follows:

4. The director may create, combine, eliminate, alter or reorganize the organization of the department by rule except for those matters prescribed by sections 303.75 through ~~303.83~~ 303.85.

Sec. 4. Section 303.1A, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Except for those matters prescribed by sections 303.75 through ~~303.83~~ 303.85, the director shall:

Sec. 5. Section 303.2, subsection 1, Code 1987, is amended to read as follows:

1. The administrative services section shall provide administrative, accounting, public relations and clerical services for the department, report to the director and perform other duties assigned to it by the director, except for those matters prescribed by sections 303.75 through ~~303.83~~ 303.85. The administrative services section may provide services to the public broadcasting division.

Sec. 6. Section 303.75, unnumbered paragraph 1, Code 1987, is amended to read as follows:

As used in this section and sections 303.76 through ~~303.83~~ 303.85 unless the context otherwise requires:

Sec. 7. Section 303.75, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 4. "Narrowcast" means communications through systems that are directed toward a narrowly defined audience.

NEW SUBSECTION. 5. "Broadcast" means communications through a system that is receivable by the general public with programming designed for a large group of users.

NEW SUBSECTION. 6. "Radio and television facility" means transmitters, towers, studios and all necessary associated equipment for broadcasting, including closed circuit television.

Sec. 8. Section 303.77, subsection 1, Code 1987, is amended by striking the subsection and inserting the following:

1. The Iowa public broadcasting board is created to plan, establish, and operate educational radio and television facilities and other telecommunications services including narrowcast and broadcast systems to serve the educational needs of the state. The board shall be composed of nine members selected in the following manner:

a. Four members shall be appointed by the governor so that the portion of the board membership appointed under this paragraph includes two male board members and two female board members at all times:

(1) One member shall be appointed from the business community other than the commercial broadcasting industry and the telecommunications industry.

(2) One member shall be appointed from the commercial broadcast industry.

(3) One member shall be appointed from the membership of a fund-raising nonprofit organization financially assisting the Iowa public broadcasting division.

(4) One member shall represent the general public.

b. Five members shall be selected in the manner provided in this paragraph and the gender balance of the membership shall be coordinated among the associations and boards making the appointments so that not more than three members serving under this paragraph at the same time are of the same gender.

(1) One member shall be appointed by the state association of private colleges and universities.

(2) One member shall be appointed jointly by the superintendents of the merged area schools created by chapter 280A.

(3) One member shall be appointed jointly by the administrators of the area education agencies created by chapter 273.

(4) One member who is knowledgeable about telecommunications shall be appointed by the state board of regents.

(5) One member shall be appointed by the state board of education.

Sec. 9. Section 303.77, subsection 3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The board shall appoint at least two advisory committees, each of which has no more than a simple majority of members of the same gender, as follows:

Sec. 10. Section 303.77, subsection 3, paragraphs a and b, Code 1987, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. Advisory committee on the operation of the narrowcast system. The advisory committee shall be composed of members from among the users of the narrowcast system including representatives of institutions under the state board of regents, merged area schools, area education agencies, classroom teachers, school district administrators, school district boards of directors, the department of economic development, the department of education, and private colleges and universities.

b. Advisory committee on journalistic and editorial integrity. The division shall be governed by the national principles of editorial integrity developed by the editorial integrity project.

Sec. 11. Section 303.77, subsection 3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Members of advisory committees shall receive actual expenses incurred in performing their official duties.

Sec. 12. Section 303.78, subsection 2, Code 1987, is amended to read as follows:

2. Board members shall receive actual expenses incurred in performing their official duties. ~~Members may also be eligible for compensation as provided in section 7E.6.~~

Sec. 13. Section 303.79, Code 1987, is amended to read as follows:

303.79 ~~FACILITIES AND PERMITS~~ FUNCTIONS OF THE BOARD.

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

2. The board shall apply for channels, frequencies, licenses, and permits as ~~required for broadcasting~~ necessary for the performance of the board's duties.

3. This section does not prohibit institutions under the state board of regents and merged area schools under the department of education from owning, operating, improving, ~~and~~ maintaining, and restructuring educational radio and television stations and transmitters now in existence ~~and operation~~ or other educational narrowcast telecommunications systems and services. The institutions and schools may enter into agreements with the board for the lease or purchase of equipment and facilities.

4. The board may locate its administrative offices and production facilities outside the city of Des Moines.

5. The board shall adopt and update a design plan for educational telecommunications systems and services in this state. Not later than January 1, 1988, the board shall transmit to the general assembly a progress report concerning the development of the design plan. The design plan shall be adopted by the board not later than January 1, 1989, and shall be updated at least every two years thereafter. Copies of the design plan and updated design plan shall be made available to the governor and members of the general assembly upon request. The plan shall include a list of public utilities and private telecommunications companies being utilitized* by the educational telecommunications system; the cost of the system; the fees or charges established for the system; and information on areas where construction is required because facilities are not available from private telecommunications companies.

6. The board shall establish guidelines for and may impose and collect fees and charges for services. Fees and charges collected by the board for services shall be deposited to the credit of the division. Any interest earned on these receipts, and revenues generated under subsection 7, shall be retained and may be expended by the division subject to the approval of the board.

7. The board may make and execute agreements, contracts, and other instruments with any public or private entity and may retain revenues generated from these contracts. State departments and agencies, other public agencies, and governmental subdivisions and private entities including but not limited to institutions of higher education and nonpublic schools may enter into contracts and otherwise cooperate with the board.

8. The board may contract with engineers, attorneys, accountants, financial experts, and other advisors upon the recommendation of the director. The board may enter into contracts or agreements for such services with local, state, or federal governmental agencies.

~~5~~ 9. The board may adopt rules to implement and administer the programs of the division.

~~6~~ 10. The decision of the board is final agency action under chapter 17A.

Sec. 14. Section 303.82, Code 1987, is amended to read as follows:

303.82 TRUSTS.

Notwithstanding section 633.63, the board may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of ~~the educational radio and television facility~~ educational telecommunications including the broadcast and narrowcast systems to accept and administer trusts deemed by the board to be beneficial to the operation of the educational radio and television facility. The board and the foundations may act as trustees in such instances.

Sec. 15. NEW SECTION. 303.84 STATE PLAN.

The board shall cause to be developed and adopt a state educational telecommunications design plan. Any agency of the state and any political subdivision of the state shall submit plans for the development of educational telecommunications systems to the board to be coordinated with the state educational telecommunications design plan adopted by the board.

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*According to enrolled Act

Private institutions and entities may submit educational telecommunications proposals for coordination.

Sec. 16. NEW SECTION. 303.85 NARROWCAST OPERATIONS.

The board shall not use, permit use, or permit resale of its telecommunications narrowcast system for other than educational purposes. The board, in the establishment and operation of its telecommunications narrowcast system, shall use facilities and services of the private telecommunications industry companies to the greatest extent possible and is prohibited from constructing telecommunications facilities unless comparable facilities are not available from the private telecommunications industry at comparable quality and price.

Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public utility in furnishing a telecommunications service or facility to the board.

Sec. 17. Section 303.83, Code 1987, is repealed.

Sec. 18. The terms of office of members of the Iowa public broadcasting board shall expire on the effective date of this Act. Insofar as possible, members of the board shall be appointed from the membership of the Iowa public broadcasting board on June 30, 1987. For the initial board, the members appointed by the state board of regents, by the state board of education and by the governor from the fund-raising nonprofit organization shall serve one-year terms; the members appointed by the administrators of the area education agencies and by the state association representing private colleges and universities and by the governor from the business community shall serve two-year terms; and the member appointed by the superintendents of the merged area schools, the member appointed by the governor from the commercial broadcast industry, and the member appointed by the governor from the general public shall serve three-year terms.

Sec. 19. Section 2 of this Act prevails over section 256.7, subsection 8, unnumbered paragraph 4, contained in section 1 of Senate File 333 if Senate File 333 is enacted by the Seventy-second General Assembly, 1987 Session, and becomes law.

Approved June 5, 1987

CHAPTER 212

PERSONAL LIABILITY AND INDEMNIFICATION

S.F. 471

AN ACT relating to indemnification and limitation of liability of directors and officers and to liability of persons who volunteer services to the state or a municipality or a nonprofit organization.

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

Section 1. NEW SECTION. 25A.24 STATE VOLUNTEERS.

A person who performs services for the state government or any agency or subdivision of state government and who does not receive compensation is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, "compensation" does not include payments to reimburse a person for expenses.

Sec. 2. Section 491.5, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A provision which eliminates or limits the personal liability of a director to the corporation or its shareholders or members for monetary damages for breach

of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a breach of the director's duty of loyalty to the corporation or its shareholders or members, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the director derives an improper personal benefit. A provision in the articles of incorporation shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision becomes effective.

Sec. 3. Section 496A.4A, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. "Director" means ~~any~~ a person who is or was a director of the corporation and ~~any~~ a person who, while a director of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan. Heirs, executors, personal representatives, and administrators of the person are included.

Sec. 4. Section 496A.4A, subsection 7, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

7. Except as limited in subsection 2 with respect to proceedings by or in the right of the corporation, the indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this section are not exclusive of any other rights to which those seeking indemnification or advancement of expenses are entitled under a provision in the articles of incorporation or bylaws, agreements, vote of shareholders or disinterested directors, or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding the office. However, the provisions or agreements shall not provide indemnification for a breach of the director's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, for a transaction from which the director derives an improper personal benefit, or under section 496A.44.

Sec. 5. Section 496A.49, Code 1987, is amended by adding the following new subsection as subsection 13 and renumbering the existing subsection 13:

NEW SUBSECTION. 13. A provision which eliminates or limits the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision shall not eliminate or limit the liability of a director for a breach of the director's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, for a transaction from which the director derives an improper personal benefit, or under section 496A.44. A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 6. NEW SECTION. 497.33 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the corporation is not liable on the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the corporation, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 7. NEW SECTION. 498.35 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the association's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon

an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the association, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 8. NEW SECTION. 499.72 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the debts or obligations, and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the association, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 9. NEW SECTION. 504.17 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the corporation is not liable on the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the corporation, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 10. Section 504A.4, subsection 14, is amended by striking the subsection and inserting in lieu thereof the following:

14. A corporation operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in section 496A.4A.

Sec. 11. Section 504A.101, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

504A.101 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the corporation is not liable on the corporation's debts nor obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the corporation, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 12. Section 524.302, Code 1987, is amended by adding the following new subsection as subsection 10 and renumbering the existing subsection 10:

NEW SUBSECTION. 10. A provision which eliminates or limits the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a breach of the director's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, for a transaction from which the director derives an improper personal benefit, or under subsections 1 and 2 of section 524.605. A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 13. Section 533.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The original articles or amended articles may contain a provision which eliminates or limits the personal liability of a director, officer, or employee of the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, officer, or employee, provided that the provision does not eliminate or limit the liability of a director, officer, or employee for a breach of the director's, officer's, or employee's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the director, officer, or employee derives an improper personal benefit. A provision shall not eliminate or limit the liability of a director, officer, or employee for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 14. Section 533.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 27. To provide indemnity for the director, officer, or employee in the same fashion that a corporation organized under chapter 496A could under section 496A.4A, provided that where section 496A.4A provides for action by shareholders the section is applicable to action by members of the credit union and where the section has reference to the corporation organized under chapter 496A, it is applicable to the association organized under this chapter.

Sec. 15. Section 534.501, subsection 1, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTER PARAGRAPH. m. A provision which eliminates or limits the personal liability of a director to the corporation or its shareholders or members, for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a breach of the director's duty of loyalty to the association or its stockholders or members, for an act or omission not in good faith or which involves intentional misconduct or knowing violation of the law, or for a transaction from which the director derives an improper personal benefit. A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 16. Section 534.501, subsection 3, Code 1987, is amended to read as follows:

3. RESTATED ARTICLES. Restated articles of incorporation shall set forth the information specified in paragraphs "a", "b", "c", "d", "e", "f", "g", "h", "i", ~~and~~ "j", and "m" of subsection 1.

Sec. 17. Section 534.605, subsection 4, Code 1987, is amended to read as follows:

4. Any association operating under this chapter shall have the power to indemnify any present or former director, officer or employee in the manner and in the instances authorized in section 496A.4A. If the association is a mutual association, the references in section 496A.4A to stockholder shall be deemed to be references to members.

Sec. 18. NEW SECTION. 534.607 INDEMNIFICATION.

Except as otherwise provided in section 534.602, section 496A.4A applies to associations incorporated under this chapter.

Sec. 19. NEW SECTION. 613.19 PERSONAL LIABILITY.

A director, officer, employee, member, trustee, or volunteer, of a nonprofit organization is not liable on the debts or obligations of the nonprofit organization and a director, officer, employee, member, trustee, or volunteer is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of

this section, "nonprofit organization" includes an unincorporated club, association, or other similar entity, however named, if no part of its income or profit is distributed to its members, directors, or officers.

Sec. 20. Section 613A.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who performs services for a municipality or an agency or subdivision of a municipality and who does not receive compensation is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, "compensation" does not include payments to reimburse a person for expenses.

Sec. 21. A corporation may adopt a provision pursuant to section 2, 5, 12, 13, or 15 of this Act prior to the effective date of this Act which shall become effective upon the effective date of this Act.

Approved June 5, 1987

CHAPTER 213

GIFTS TO PERSONS SERVING IN PUBLIC CAPACITIES AND CANDIDATES

S.F. 480

AN ACT relating to things of value given to and received by public employees, officials, members of the general assembly, other persons serving in a public capacity, and candidates, mandating reporting of certain things of value, subjecting violators to penalties, and providing an effective date.

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

Section 1. Section 68B.2, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

68B.2 DEFINITIONS.

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

1. "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.

2. "Legislative employee" means a full-time officer or employee of the general assembly but does not include members of the general assembly.

3. "Member of the general assembly" means an individual duly elected to the senate or the house of representatives of the state of Iowa.

4. "Regulatory agency" means the department of agriculture and land stewardship, department of employment services, department of commerce, department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue and finance, department of inspections and appeals, department of personnel, public employment relations board, department of transportation, civil rights commission, department of public defense, and department of natural resources.

5. "Employee" means a full-time, salaried employee of the state of Iowa and does not include part-time employees or independent contractors. Employee includes but is not limited to all clerical personnel.

6. "Official" means an officer of the state of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time. Official includes but is not limited

to supervisory personnel and members of state agencies and does not include members of the general assembly or legislative employees.

7. "Agency" means a department, division, board, commission, or bureau of the state, including a regulatory agency, or any of its political subdivisions.

8. "Candidate" means a candidate as defined in section 56.2 and includes a person elected to public office until the person takes office.

9. a. "Gift" means a rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, or anything else of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:

(1) Is doing or seeking to do business of any kind with the donee's agency.

(2) Is engaged in activities which are regulated or controlled by the donee's agency.

(3) Has interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the donee's official duty.

(4) Is a lobbyist with respect to matters within the donee's jurisdiction.

b. However, "gift" does not mean any of the following:

(1) Campaign contributions.

(2) Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents, or periodicals, and registration fees or tuition not including travel or lodging, for not more than three days, at seminars or other public meetings conducted in this state, at which the public servant receives information relevant to the public servant's official functions. Information or participation received under the exclusion of this paragraph may be applied to satisfy a continuing education requirement of the donee's regulated occupation or profession if the donee pays any registration costs exceeding thirty-five dollars.

(3) Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(4) An inheritance.

(5) Anything available to or distributed to the public generally without regard to official status of the recipient.

(6) Food, beverages, registration, and scheduled entertainment at group events to which all members of either house or both houses of the general assembly are invited.

(7) Actual expenses for food, beverages, travel, lodging, registration, and scheduled entertainment of the donee for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting.

(8) Plaques or items of negligible resale value given as recognition for public services.

10. "Local official" and "local employee" mean an official or employee of a political subdivision of this state.

11. "Public disclosure" means a written report filed by the fifteenth day of the month following the month in which a gift is received as required by this chapter or required by rules adopted or executive order issued pursuant to this chapter.

12. "Immediate family members" means the spouse and minor children of a person required to file reports pursuant to this chapter or the rules adopted or executive order issued pursuant to this chapter.

13. "Is doing business with the donee's agency" means being a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the state or a political subdivision, or any agency thereof.

Where the terms "legislative employee", "member of the general assembly", "candidate", "employee", "local employee", "official" or "local official" are used in this chapter, they include a firm of which any of those persons is a partner and a corporation of which any of those persons holds ten percent or more of the stock either directly or indirectly, and the spouse and minor children of any of those persons.

Sec. 2. Section 68B.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

68B.5 GIFTS SOLICITED OR ACCEPTED.

1. An official, employee, local official, local employee, member of the general assembly, candidate, legislative employee or that person's immediate family member shall not, directly or indirectly, solicit, accept, or receive from any one donor in any one calendar day a gift or a series of gifts having a value of thirty-five dollars or more.

2. A person shall not, directly or indirectly, offer or make a gift or a series of gifts to an official, employee, local official, local employee, member of the general assembly, candidate, or legislative employee, in any one calendar day, if the gift or series of gifts has a value of thirty-five dollars or more. A person shall not, directly or indirectly, join with one or more other persons to offer or make a gift or a series of gifts to an official, employee, local official, local employee, member of the general assembly, candidate, or legislative employee, in any one calendar day, if the gift or series of gifts has a total value of thirty-five dollars or more. The thirty-five dollar limitation of this section applies separately to a person and the person's immediate family member.

3. A person may give and an official, employee, local official, local employee, member of the general assembly, candidate, legislative employee or the person's immediate family member may accept in any one calendar day a gift or a series of gifts which has a value of thirty-five dollars or more and not be in violation of this section if the gift or series of gifts is donated within thirty days to a public body, a bona fide educational or charitable organization, or the department of general services. All such items donated to the department of general services shall be disposed of by assignment to state agencies for official use or by public sale.

Sec. 3. Section 68B.8, Code 1987, is amended to read as follows:

68B.8 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates ~~the provisions~~ a provision of section 68B.3 to 68B.6 ~~and this section shall be~~ is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

Sec. 4. Section 68B.10, subsection 3, Code 1987, is amended to read as follows:

3. Issue advisory opinions interpreting the intent of constitutional and statutory provisions relating to legislators and lobbyists as well as interpreting the code of ethics and rules issued pursuant to this section. Opinions shall be issued when approved by a majority of the seven members and may be issued upon the written request of a member of the general assembly or upon the committee's initiation. Opinions are not binding on the legislator or lobbyist.

Sec. 5. Section 68B.10, subsection 4, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

4. Receive and investigate complaints and charges against members of its house alleging a violation of the code of ethics, rules governing lobbyists, this chapter, or other matters referred to it by its house. The committee shall recommend rules for the receipt and processing of complaints made during the legislative session and those made after the general assembly adjourns.

Sec. 6. Section 68B.10, Code 1987, is amended by adding the following new unnumbered paragraph after subsection 5:

NEW UNNUMBERED PARAGRAPH. The ethics committees may employ independent legal counsel to assist them in carrying out their duties under this chapter with the approval of a committee's house when the general assembly is in session and with the approval of the rules and administration committee of that house when the general assembly is not in session. Payment of costs for the independent legal counsel shall be made from section 2.12.

Sec. 7. Section 68B.10, unnumbered paragraph 5, Code 1987, is amended to read as follows:

Violation of the code of ethics may result in ~~the suspension of a member from the general assembly and the forfeiture of the~~ censure, reprimand, or other sanctions as determined by a majority of the member's house. However, a member may be suspended or expelled and the member's salary forfeited only if directed by a two-thirds vote of the member's house ~~to which the member belongs. Such~~ A suspension, expulsion, or forfeiture of salary shall be for ~~such~~ the duration ~~as~~ specified in the directing resolution ~~provided however, that~~. However, it ~~cannot~~ shall not extend beyond the ~~date of adjournment of the session~~ end of the general assembly during which the violation occurred. Violation of ~~the rules~~ a rule relating to lobbyists and lobbying activities may result in ~~the suspension of any~~ censure, reprimand, or other sanctions as determined by a majority of the members of the house in which the violation occurred. However, a lobbyist may be suspended from lobbying activities for the duration provided in the directing resolution only if directed by a two-thirds vote of the house ~~wherein~~ in which the violation occurred.

Sec. 8. Section 68B.11, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

68B.11 REPORTING OF GIFTS AND FINANCIAL DISCLOSURE.

1. The house of representatives and the senate shall adopt rules requiring the reporting of gifts made to members of the general assembly, legislative employees, and their immediate family members. The rules shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceed fifteen dollars in cumulative value in any one calendar day. The rules shall require such disclosure by both the donor and donee. However, the rules of either or both houses may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor.

2. The governor shall issue an executive order requiring the reporting of gifts made to officials and employees of the executive department of the state and their immediate family members. The executive order shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceeds fifteen dollars in cumulative value in any one calendar day. The executive order shall require such disclosure by both the donor and donee. The executive order may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor.

3. The supreme court of this state shall adopt rules requiring the reporting of gifts made to officials and employees of the judicial department of this state and their immediate family members. The rules shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceeds fifteen dollars in cumulative value in any one calendar day. The rules shall require such disclosure by both the donor and donee. The rules may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor.

4. The governing body of a political subdivision of this state shall adopt rules requiring the reporting of gifts made to its respective members and their immediate family members and its local officials and local employees and their immediate family members. The rules as adopted shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceeds fifteen dollars in cumulative value in any one calendar day. The rules shall require such disclosure by both the donor and donee. The rules may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor. Copies of the rules and reports shall be filed with the county auditor of the county in which the political subdivision is located.

The secretary of state shall develop a standard form for public disclosure of gifts in compliance with this subsection which shall be available at every county auditor's office without cost.

5. a. In determining the value of a gift, an individual making a gift on behalf of more than one person shall not divide the value of the gift by the number of persons on whose behalf the gift is made.

b. The value of a gift to the donee is the value actually received.

c. For the purposes of the reporting requirements of this section, a donor of a gift made by more than one individual to one or more donees shall report the gift if the total value of the gift to the donee exceeds fifteen dollars.

6. The rules required under this section shall provide that expenses for food, beverages, registration, and scheduled entertainment at group events to which all members of either house or both houses of the general assembly have been invited shall be reported for each such event by reporting the date, location, and total expense incurred by the donor or donors.

7. Reporting requirements adopted or issued under this section may include requirements relating to the reporting of income which is not a gift.

8. A person who does not make public disclosure of gifts as required by this chapter or the rules adopted or executive order issued pursuant to this chapter is guilty of a serious misdemeanor.

Sec. 9. Section 722.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

722.1 BRIBERY.

A person who offers, promises, or gives anything of value or any benefit to a person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration, pursuant to an agreement or arrangement or with the understanding that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "D" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

Sec. 10. Section 722.2, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

722.2 ACCEPTING BRIBE.

A person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration who solicits or knowingly accepts or receives a promise or anything of value or a benefit given pursuant to an understanding or arrangement that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "C" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

Sec. 11. This Act, being deemed of immediate importance, is effective upon enactment.

Approved June 5, 1987

CHAPTER 214

INCOME, SALES, SERVICES, AND USE TAXES

H.F. 675

AN ACT relating to taxation in regard to the withholding on pari-mutuel winnings, application of a net operating loss, filing of nonresident income tax returns, due date of individual estimated tax payments, the taxation of certain services and the determination, for purposes of the state sales, services, and use tax, of when certain building materials are not subject to the tax and of the gross receipts and purchase price when tangible personal property is used in processing or is traded to the retailer as part of the transaction subject to the tax.

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

Section 1. NEW SECTION. 99D.16 WITHHOLDING TAX ON WINNINGS.

All winnings provided in section 99D.11 are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from winnings for payment of the state tax shall be remitted to the department of revenue and finance on behalf of the individual who won the wager.

Sec. 2. Section 422.5, subsection 2, Code 1987, is amended to read as follows:

2. However, ~~no~~ the tax shall not be imposed on ~~any~~ a resident or nonresident whose net income, as defined in section 422.7, is five thousand dollars or less; but in the event that the payment of tax under this division would reduce the net income to less than five thousand dollars, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of five thousand dollars. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part ~~thereof~~ of the net income not allocated to Iowa, shall be taken into account. If the combined net income of a husband and wife exceeds five thousand dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of five thousand dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding five thousand dollars or the person claiming the dependent and the person's spouse have combined net income exceeding five thousand dollars.

Sec. 3. Section 422.13, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code is entitled to request permission from the director to file a composite return for the nonresident partners, beneficiaries, or shareholders. The director may grant permission to file or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection including, but not limited to, the provisions of this division and division VI of this chapter.

Sec. 4. Section 422.16, subsection 11, paragraph a, Code 1987, is amended to read as follows:

a. Every person or married couple filing a return shall make estimated tax payments if the person's or couple's Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars or more for the taxable year, except that, in the cases of farmers and ~~fishers~~ fishermen, the exceptions provided in the Internal

Revenue Code of 1954 with respect to making estimated payments ~~shall apply~~ applies. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the ~~last~~ fifteenth day of the fourth month of the taxpayer's tax year for which the estimated payments apply. The other installments shall be paid on or before June ~~30~~ 15, September ~~30~~ 15, and January ~~31~~ 15. However, at the election of the person or married couple, ~~any~~ an installment of the estimated tax may be paid prior to the date prescribed for its payment. If a person or married couple filing a return has reason to believe that the person's or couple's Iowa income tax may increase or decrease, either for purposes of meeting the requirement to make estimated tax payments or for the purpose of increasing or decreasing estimated tax payments, shall increase or decrease any subsequent estimated tax payments accordingly.

Sec. 5. Section 422.42, subsection 3, Code 1987, is 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, 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, agricultural limestone, or 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, and does not include electricity, 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 the property 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 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 be consumed in self-propelled implements of husbandry engaged in agricultural production, or 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 or consumed in the maintenance or repair of fabric or clothing, 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 is a retail sale for purposes of the processing exemption.

Sec. 6. Section 422.42, subsection 6, paragraph b, subparagraph (2), Code 1987, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail ~~and will be subject to the tax under section 422.43 when sold~~ or is intended to be used by the retailer or another in the remanufacturing of a like item.

Sec. 7. Section 422.42, subsections 9 and 10, Code 1987, are amended to read as follows:

9. Sales of building materials, supplies, and equipment to owners, contractors, subcontractors or builders, for the erection of buildings or the alteration, repair, or improvement of real

property, are retail sales in whatever quantity sold. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the person shall purchase such items of tangible personal property without liability for the tax if such property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes. The sales tax shall be due in the reporting period when the materials, supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail. The tax shall not be due when materials are withdrawn from inventory for use in construction outside of Iowa and the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials in the performance by the manufacturer or its subcontractor of construction outside of Iowa.

10. The use within this state of tangible personal property by the manufacturer thereof, as building materials, supplies, or equipment, in the performance of construction contracts ~~or for any other purpose except for resale or processing~~ in Iowa, shall, for the purpose of this division, be construed as a sale at retail thereof by the manufacturer who shall be deemed to be the consumer of such tangible personal property. The tax shall be computed upon the cost to the manufacturer of the fabrication or production thereof.

Sec. 8. Section 422.43, subsection 11, Code 1987, is amended to read as follows:

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 of all financial institutions; 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; 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, "financial institutions" means all national banks, federally chartered savings and loan associations, federally chartered savings banks, federally chartered credit unions, banks organized under chapter 524, savings and loan associations and savings banks organized under chapter 534, and credit unions organized under chapter 533. ~~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. 9. Section 422.45, subsection 19, Code 1987, is amended to read as follows:

19. The gross receipts from the sale of property which is a container, label, carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing.

Sec. 10. Section 423.1, subsection 3, paragraph b, subparagraph (2), Code 1987, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail ~~and will be subject to the tax under section 422.43 or this chapter when sold~~ or is intended to be used by the retailer or another in the remanufacturing of a like item.

Sec. 11. Section 423.1, subsection 10, Code 1987, is amended to read as follows:

10. Definitions contained in section 422.42 shall apply to ~~the provisions of~~ this chapter according to their context. The use in this state of building materials, supplies, or equipment, the sale or use of which is not treated as a retail sale or a sale at retail under section 422.42, subsections 9 and 10, shall not be subject to tax under this chapter.

Sec. 12. Sections 1, 2, and 3 of the Act are retroactive to January 1, 1987 for tax years beginning on or after that date.

Sec. 13. Section 4 of this Act is effective January 1, 1988 for tax years beginning on or after that date.

Approved June 5, 1987

CHAPTER 215

PHARMACY, PHARMACISTS, AND DRUG REGULATION

H.F. 594

AN ACT relating to the regulation of pharmacists and pharmacies and to administration, dispensing, and distribution of certain drugs, and providing penalties.

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

Section 1. NEW SECTION. 155A.1 SHORT TITLE.

This chapter may be cited as the "Iowa Pharmacy Practice Act."

Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION — PURPOSE.

1. It is the purpose of this chapter to promote, preserve, and protect the public health, safety, and welfare through the effective regulation of the practice of pharmacy and the licensing of pharmacies, pharmacists, and others engaged in the sale, delivery, or distribution of prescription drugs and devices or other classes of drugs or devices which may be authorized.

2. Practitioners licensed under a separate chapter of the Code are not regulated by this chapter except when engaged in the operation of a pharmacy for the retailing of prescription drugs.

Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by one of the following:

a. A practitioner or the practitioner's authorized agent.

b. The patient or research subject at the direction of a practitioner.

2. "Authorized agent" means an individual designated by a practitioner who is under the supervision of the practitioner and for whom the practitioner assumes legal responsibility.

3. "Board" means the board of pharmacy examiners.

4. "Brand name" or "trade name" means the registered trademark name given to a drug product or ingredient by its manufacturer, labeler, or distributor.

5. "College of pharmacy" means a school, university, or college of pharmacy that satisfies the accreditation standards of the American council on pharmaceutical education as adopted by the board, or that has degree requirements which meet the standards of accreditation adopted by the board.

6. "Controlled substance" means a drug substance, immediate precursor, or other substance listed in division II of chapter 204.

7. "Controlled substances Act" means chapter 204.

8. "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

9. "Demonstrated bioavailability" means the rate and extent of absorption of a drug or drug ingredient from a specified dosage form, as reflected by the time-concentration curve of the drug or drug ingredient in the systemic circulation.

10. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

11. "Dispense" means to deliver a prescription drug or controlled substance to an ultimate user or research subject by or pursuant to the lawful prescription drug order or medication order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

12. "Distribute" means the delivery of a prescription drug or device.

13. "Drug" means one or more of the following:

a. A substance recognized as a drug in the current official United States Pharmacopoeia and National Formulary, official Homeopathic Pharmacopoeia, or other drug compendium or any supplement to any of them.

b. A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

c. A substance, other than food, intended to affect the structure or any function of the body of humans or other animals.

d. A substance intended for use as a component of any substance specified in paragraph "a", "b", or "c".

e. A controlled substance.

14. "Drug product selection" means the act of selecting the source of supply of a drug product.

15. "Generic name" means the official title of a drug or drug ingredient published in the current official United States Pharmacopoeia and National Formulary, official Homeopathic Pharmacopoeia, or other drug compendium published by the United States pharmacopoeial convention or any supplement to any of them.

16. "Internship" means a practical experience program approved by the board for persons training to become pharmacists.

17. "Label" means written, printed, or graphic matter on the immediate container of a drug or device.

18. "Labeling" means the process of preparing and affixing a label including information required by federal or state law or regulation to a drug or device container. The term does not include the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged prescription drug or device or unit dose packaging.

19. "Medication order" means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent for administration of a drug or device.

20. "Pharmacist" means a person licensed by the board to practice pharmacy.

21. "Pharmacist in charge" means the pharmacist designated on a pharmacy license as the pharmacist who has the authority and responsibility for the pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

22. "Pharmacist-intern" means an undergraduate student enrolled in the professional sequence of a college of pharmacy approved by the board, or a graduate of a college of pharmacy, who is participating in a board-approved internship under the supervision of a preceptor.

23. "Pharmacy" means a location where prescription drugs are compounded, dispensed, or sold by a pharmacist and where prescription drug orders are received or processed in accordance with the pharmacy laws.

24. "Pharmacy license" means a license issued to a pharmacy or other place where prescription drugs or devices are dispensed to the general public pursuant to a prescription drug order.

25. "Practice of pharmacy" is a dynamic patient-oriented health service profession that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and related drug therapy.

26. "Practitioner" means a physician, dentist, podiatrist, veterinarian, or other person licensed or registered to distribute or dispense a prescription drug or device in the course of professional practice in this state or a person licensed by another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

27. "Preceptor" means a pharmacist in good standing licensed in this state to practice pharmacy and approved by the board to supervise and be responsible for the activities and functions of a pharmacist-intern in the internship program.

28. "Prescription drug" means any of the following:

a. A substance for which federal or state law requires a prescription before it may be legally dispensed to the public.

b. A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) Caution: Federal law prohibits dispensing without a prescription.

(2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

c. A drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only, or is restricted to use by a practitioner only.

29. "Prescription drug order" means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent who communicates the practitioner's instructions, to a pharmacist for a prescription drug or device to be dispensed.

30. "Proprietary medicine" means a nonnarcotic drug or device that may be sold without a prescription and that is labeled and packaged in compliance with applicable state or federal law.

31. "Ultimate user" means a person who has lawfully obtained and possesses a prescription drug or device for the person's own use or for the use of a member of the person's household or for administering to an animal owned by the person or by a member of the person's household.

32. "Unit dose packaging" means the packaging of individual doses of a drug in containers which preserve the identity and integrity of the drug from the point of packaging to administration and which are properly labeled pursuant to rules of the board.

33. "Wholesaler" means a person operating or maintaining, either within or outside this state, a manufacturing plant, wholesale distribution center, wholesale business, or any other

business in which prescription drugs, medicinal chemicals, medicines, or poisons are sold, manufactured, compounded, dispensed, stocked, exposed, or offered for sale at wholesale in this state. "Wholesaler" does not include those wholesalers who sell only proprietary medicines.

34. "Wholesale salesperson" or "manufacturer's representative" means an individual who takes purchase orders on behalf of a wholesaler for prescription drugs, medicinal chemicals, medicines, or poisons. "Wholesale salesperson" or "manufacturer's representative" does not include an individual who sells only proprietary medicines.

Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION DRUGS — EXCEPTIONS.

1. A person shall not dispense prescription drugs unless that person is a licensed pharmacist or is authorized by section 147.107 to dispense or distribute prescription drugs.

2. Notwithstanding subsection 1, it is not unlawful for:

a. A manufacturer or wholesaler to distribute prescription drugs as provided by state or federal law.

b. A practitioner, licensed by the appropriate state board, to dispense prescription drugs to patients as incident to the practice of the profession, except with respect to the operation of a pharmacy for the retailing of prescription drugs.

c. A practitioner, licensed by the appropriate state board, to administer drugs to patients. This chapter does not prevent a practitioner from delegating the administration of a prescription drug to a nurse, intern, or other qualified individual or, in the case of a veterinarian, to an orderly or assistant, under the practitioner's direction and supervision.

d. A person to sell at retail a proprietary medicine, an insecticide, a fungicide, or a chemical used in the arts, if properly labeled.

e. A person to procure prescription drugs for lawful research, teaching, or testing and not for resale.

f. A pharmacy to distribute a prescription drug to another pharmacy or to a practitioner.

Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

Notwithstanding the existence or pursuit of any other remedy the board may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person to restrain or prevent the establishment, conduct, management, or operation of a pharmacy or wholesaler, without license, or to prevent the violation of provisions of this chapter. Upon request of the board, the attorney general shall institute the proper proceedings and the county attorney, at the request of the attorney general, shall appear and prosecute the action when brought in the county attorney's county.

Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS — PHARMACIST-INTERN REGISTRATION.

1. A program of pharmacist internships is established. Each internship is subject to approval by the board.

2. A person desiring to be a pharmacist-intern in this state shall apply to the board for registration. The application must be on a form prescribed by the board. A pharmacist-intern must be registered during internship training and thereafter pursuant to rules adopted by the board.

3. The board shall establish standards for registration and may deny, suspend, or revoke a pharmacist-intern registration for failure to meet the standards or for any violation of this chapter.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to registration standards, registration fees, conditions of registration, termination of registration, and approval of preceptors.

Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

A person shall not engage in the practice of pharmacy in this state without a license. The license shall be identified as a pharmacist license.

Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST LICENSE.

To qualify for a pharmacist license, an applicant shall meet the following requirements:

1. Be a graduate of a school or college of pharmacy or of a department of pharmacy of a university recognized and approved by the board.

2. File proof, satisfactory to the board, of internship for a period of time fixed by the board.

3. Pass an examination prescribed by the board.

Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES — GRADUATES OF FOREIGN COLLEGES.

1. A college of pharmacy shall not be approved by the board unless the college is accredited by the American council on pharmaceutical education.

2. 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 pharmacist license in this state may be deemed to have satisfied the requirements of section 155A.8, subsection 1, by verification to the board of the applicant's academic record and graduation and by meeting other requirements established by rule of the board. The board may require the applicant to pass an examination or examinations given or approved by the board to establish proficiency in English and equivalency of education as a prerequisite for taking the licensure examination required in section 155A.8, subsection 3.

Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST LICENSE.

A pharmacist shall publicly display the license to practice pharmacy and the license renewal certificate pursuant to rules adopted by the board.

Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST LICENSE.

The board shall specify by rule the procedures to be followed and the fee to be paid for a renewal certificate, and penalties for late renewal or failure to renew a pharmacist license.

Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE — GROUNDS FOR DISCIPLINE.

The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.

2. Engaged in unethical conduct as that term is defined by rules of the board.

3. Violated any of the provisions for licensee discipline set forth in section 147.55.

4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.

5. Violated any provision of the controlled substances Act or rules relating to that Act.

6. Aided or abetted an unlicensed individual to engage in the practice of pharmacy.

7. Refused an entry into any pharmacy for any inspection authorized by this chapter.

8. Violated the pharmacy or drug laws or rules of any other state of the United States while under the other state's jurisdiction.

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 203, 203A, 204, or the Federal Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

10. Had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

1. A person shall not establish, conduct, or maintain a pharmacy in this state without a license. The license shall be identified as a pharmacy license. A pharmacy license issued pursuant to subsection 4 may be further identified as a hospital pharmacy license.

2. The board shall specify by rule the licensing procedures to be followed, including specifications of forms for use in applying for a pharmacy license and fees for filing an application.

3. The board may issue a special or limited-use pharmacy license based upon special conditions of use imposed pursuant to rules adopted by the board for cases in which the board determines that certain requirements may be waived.

4. The board shall adopt rules for the issuance of a hospital pharmacy license to a hospital which provides pharmacy services for its own use. The rules shall:

a. Recognize the special needs and circumstances of hospital pharmacies.

b. Give due consideration to the scope of pharmacy services that the hospital's medical staff and governing board elect to provide for the hospital's own use.

c. Consider the size, location, personnel, and financial needs of the hospital.

d. Give recognition to the standards of the joint commission on accreditation of hospitals and the American osteopathic association and to the conditions of participation under medicare.

To the maximum extent possible, the board shall coordinate the rules with the standards and conditions described in paragraph "d" and shall coordinate its inspections of hospital pharmacies with the medicare surveys of the department of inspections and appeals and with the board's inspections with respect to controlled substances conducted under contract with the federal government.

A hospital which provides pharmacy services by contracting with a licensed pharmacy is not required to obtain a hospital pharmacy license or a general pharmacy license.

5. A hospital which elects to operate a pharmacy for other than its own use is subject to the requirements for a general pharmacy license. If the hospital's pharmacy services for other than its own use are special or limited, the board may issue a special or limited-use pharmacy license pursuant to subsection 3.

6. To qualify for a pharmacy license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board that shall include the following information and be given under oath:

a. Ownership.

b. Location.

c. The license number of each pharmacist employed by the pharmacy at the time of application.

d. The trade or corporate name of the pharmacy.

e. The name of the pharmacist in charge, who has the authority and responsibility for the pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

7. A person who falsely makes the affidavit prescribed in subsection 6 is subject to all penalties prescribed for making a false affidavit.

8. A pharmacy license issued by the board under this chapter shall be issued in the name of the pharmacist in charge and is not transferable or assignable.

9. The board shall specify by rule minimum standards for professional responsibility in the conduct of a pharmacy.

10. A separate license is required for each principal place of practice.

11. The license of the pharmacy shall be displayed.

Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY LICENSE.

The board shall specify by rule the procedures to be followed and the fee to be paid for a renewal certificate, and the penalties for late renewal or failure to renew a pharmacy license.

Sec. 15. NEW SECTION. 155A.15 PHARMACIES — LICENSE REQUIRED — DISCIPLINE, VIOLATIONS, AND PENALTIES.

1. A pharmacy subject to section 155A.13 shall not be operated until a license or renewal certificate has been issued to the pharmacy by the board.

2. The board shall refuse to issue a pharmacy license for failure to meet the requirements of section 155A.13. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

a. Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony or a misdemeanor involving moral turpitude, under the law of this state, another state, or the United States.

b. Advertised any prescription drugs or devices in a deceitful, misleading, or fraudulent manner.

c. Violated any provision of this chapter or any rule adopted under this chapter or that any owner or employee of the pharmacy has violated any provision of this chapter or any rule adopted under this chapter.

d. Delivered without legal authorization prescription drugs or devices to a person other than one of the following:

(1) A pharmacy licensed by the board.

(2) A practitioner.

(3) A person who procures prescription drugs or devices for the purpose of lawful research, teaching, or testing, and not for resale.

(4) A manufacturer or wholesaler licensed by the board.

However, this chapter does not prohibit a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with regulations of the Iowa department of public health.

e. Allowed an employee who is not a licensed pharmacist to practice pharmacy.

f. Delivered mislabeled prescription or nonprescription drugs.

g. Failed to engage in or ceased to engage in the business described in the application for a license.

h. Failed to keep and maintain records as required by this chapter, the controlled substances Act, or rules adopted under the controlled substances Act.

i. Failed to establish effective controls against diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by this chapter and other Iowa or federal laws or rules.

Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

Unless otherwise provided, any disciplinary action taken by the board under section 155A.12 or 155A.15 is governed by chapter 17A and the rules of practice and procedure before the board.

Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

A person shall not establish, conduct or maintain a wholesale drug business as defined in this chapter without a license. The license shall be identified as a wholesale drug license. This section does not apply to a manufacturer's representative acting in the usual course of business or employment as a manufacturer's representative.

Sec. 18. NEW SECTION. 155A.18 PENALTIES.

The board shall impose penalties as allowed under section 258A.3. In addition, civil penalties not to exceed twenty-five thousand dollars, may be imposed.

Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

1. A pharmacy shall report in writing to the board, pursuant to its rules, the following:

a. Permanent closing.
b. Change of ownership.
c. Change of location.
d. Change of pharmacist in charge.
e. The sale or transfer of prescription drugs, including controlled substances, on the permanent closing or change of ownership of the pharmacy.
f. Out-of-state purchases of controlled substances.
g. Theft or significant loss of any controlled substance on discovery of the theft or loss.
h. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.
2. A pharmacist shall report in writing to the board within ten days a change of address or place of employment.

Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND TITLES — IMPERSONATION.
1. A person shall not display in or on any store or place of business the word or words: "apothecary", "drug", "drug store", or "pharmacy", either in English or any other language, any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead the public unless it is a pharmacy or drug wholesaler licensed under this chapter.
2. A person shall not do any of the following:
a. Impersonate before the board an applicant applying for licensing under this chapter.
b. Impersonate an Iowa licensed pharmacist.
c. Use the title pharmacist, druggist, apothecary, or words of similar intent unless the person is licensed to practice pharmacy.
3. A pharmacist shall not utilize the title "Dr." or "Doctor" if that pharmacist has not acquired the doctor of pharmacy degree from an approved college of pharmacy or the doctor of philosophy degree in an area related to pharmacy.

Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF PRESCRIPTION DRUG — PENALTY.
1. A person found in possession of a drug limited to dispensation by prescription, unless the drug was so lawfully dispensed, commits a serious misdemeanor.
2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist, therapeutically certified optometrist, 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, manufacturer's representative, or messenger when transporting the drug in the same unbroken package in which the drug was delivered to that person for transportation.

Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.
A person who violates any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty is not provided commits a simple misdemeanor.

Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.
A person shall not:
1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a prescription drug by:
a. Fraud, deceit, misrepresentation, or subterfuge.
b. Forgery or alteration of a prescription or of any written order.
c. Concealment of a material fact.
d. Use of a false name or the giving of a false address.

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

3. For the purpose of obtaining a prescription drug, falsely assume the title of or claim to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatrist, veterinarian, or other authorized person.

4. Make or utter any false or forged prescription or written order.

5. Affix any false or forged label to a package or receptacle containing prescription drugs.

Information communicated to a physician in an unlawful effort to procure a prescription drug or to procure the administration of a prescription drug shall not be deemed a privileged communication.

Sec. 24. NEW SECTION. 155A.24 PENALTIES.

A person who violates a provision of section 155A.23 or who sells or offers for sale, gives away, or administers to another person any prescription drug commits a public offense and shall be punished as follows:

If the prescription drug is a controlled substance, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411.

If the prescription drug is not a controlled substance, the person, upon conviction of a first offense, is guilty of a serious misdemeanor. For a second offense, or if in case of a first offense the offender previously has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender is guilty of an aggravated misdemeanor. For a third or subsequent offense or if in the case of a second offense the offender previously has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender is guilty of a class "D" felony.

A person who violates any provision of this chapter by selling, giving away, or administering any prescription drug to a minor is guilty of a class "C" felony.

This section does not prevent a licensed practitioner of medicine, dentistry, podiatry, nursing, veterinary medicine, or pharmacy from acts necessary in the ethical and legal performance of the practitioner's profession.

Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provisions of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT — AGENTS AS PEACE OFFICERS.

The board of pharmacy examiners, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to prescription drugs. Officers, agents, inspectors, and representatives of the board of pharmacy examiners shall have the powers and status of peace officers when enforcing the provisions of this chapter.

Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR PRESCRIPTION.

Each prescription drug order issued or filled in this state:

1. If written, shall contain:

a. The date of issue.

b. The name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed.

c. The name, strength, and quantity of the drug, medicine, or device prescribed.

d. The directions for use of the drug, medicine, or device prescribed.

e. The name, address, and signature of the practitioner issuing the prescription.

f. The federal drug enforcement administration number, if required under chapter 204.

2. If oral, the practitioner issuing the prescription shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner. Upon receipt of an oral prescription, the pharmacist shall promptly reduce the oral prescription to a written format by recording the information required in a written prescription.

Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION DRUGS.

The label of any drug or device sold and dispensed on the prescription of a practitioner shall be in compliance with rules adopted by the board.

Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.

1. Except as specified in subsection 2, a prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than eleven times.

2. A pharmacist may exercise professional judgment by refilling a prescription without prescriber authorization if all of the following are true:

a. The pharmacist is unable to contact the prescriber after reasonable effort.

b. Failure to refill the prescription might result in an interruption of therapeutic regimen or create patient suffering.

c. The pharmacist informs the patient or the patient's representative at the time of dispensing, and the practitioner at the earliest convenience that prescriber reauthorization is required.

3. Prescriptions may be refilled once pursuant to subsection 2 for a period of time reasonably necessary for the pharmacist to secure prescriber authorization.

Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION ORDERS.

Prescription drug orders issued by out-of-state practitioners who would be authorized to prescribe if they were practicing in Iowa may be filled by licensed pharmacists operating in licensed Iowa pharmacies.

Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

A licensed pharmacy in this state shall maintain a reference library pursuant to rules of the board.

Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT SELECTION — RESTRICTIONS.

1. If an authorized prescriber prescribes, either in writing or orally, a drug by its brand or trade name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale. If the pharmacist exercises drug product selection, the pharmacist shall inform the patient of the savings which the patient will obtain as a result of the drug product selection and pass on to the patient no less than fifty percent of the difference in actual acquisition costs between the drug prescribed and the drug substituted.

2. The pharmacist shall not exercise the drug product selection described in this section if either of the following is true:

a. The prescriber specifically indicates that no drug product selection shall be made.

b. The person presenting the prescription indicates that only the specific drug product prescribed should be dispensed. However, this paragraph does not apply if the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A.

3. If selection of a generically equivalent product is made under this section, the pharmacist making the selection shall note that fact and the name of the manufacturer of the selected drug on the prescription presented by the patient or the patient's adult representative.

Sec. 33. NEW SECTION. 155A.33 DELEGATION OF NONJUDGMENTAL FUNCTIONS.

A pharmacist may delegate nonjudgmental dispensing functions to assistants, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient's prescription prior to delivery to the patient or the patient's representative.

Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

A pharmacist may transfer a valid prescription order to another pharmacist pursuant to rules adopted by the board.

Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION RECORDS.

A licensed pharmacy shall maintain patient medication records in accordance with rules adopted by the board.

Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY SYSTEMS.

Drugs dispensed utilizing unit dose packaging shall comply with labeling and packaging requirements in accordance with rules adopted by the board.

Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL RESPONSIBILITY FOR BOARD EMPLOYEES.

1. The board shall adopt a code of professional responsibility to regulate the conduct of board employees responsible for inspections and surveys of pharmacies.

2. The code shall contain a procedure to be followed by personnel of the board in all of the following:

a. On entering a pharmacy.

b. During inspection of the pharmacy.

c. During the exit conference.

3. The code shall contain standards of conduct that personnel of the board are to follow in dealing with the staff and management of the pharmacy and the general public.

4. The board shall establish a procedure for receiving and investigating complaints of violations of this code. The board shall investigate all complaints of violations. The results of an investigation shall be forwarded to the complainant.

5. The board may adopt rules establishing sanctions for violations of this code of professional responsibility.

Sec. 38. Section 106.12, subsection 2, Code 1987, is amended to read as follows:

2. ~~No~~ A person shall not operate any vessel, or manipulate any water skis, surfboard or similar device while under the influence of an alcoholic beverage, marijuana, a narcotic, hypnotic or other drug, or any combination of these substances. However, this subsection ~~shall~~ does not apply to a person operating any vessel or manipulating any water skis, surfboard or similar device while under the influence of marijuana, or a narcotic, hypnotic or other drug if the substances were prescribed for the person and have been taken under the prescription and in accordance with the directions of a medical practitioner as defined in ~~section 155.3, subsection 11~~ chapter 155A, provided there is no evidence of the consumption of alcohol and further provided the medical practitioner has not directed the person to refrain from operating a motor vehicle, any vessel or from manipulating any water skis, surfboard or similar device.

Sec. 39. Section 135.61, subsection 10, Code 1987, is amended to read as follows:

10. "Health care provider" means a person licensed or certified under chapter 147, 148, 148A, 148C, 149, 150, 150A, 151, 152, 153, 154, 154B, or ~~155~~ 155A to provide in this state professional health care service to an individual during that individual's medical care, treatment or confinement.

Sec. 40. Section 147.74, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A pharmacist who possesses a doctoral degree recognized by the American council of pharmaceutical education from a college of pharmacy approved by the board of pharmacy examiners or a doctor of philosophy degree in an area related to pharmacy may use the prefix "Doctor" or "Dr." but shall add after the person's name the word "Pharmacist" or "Pharm. D.".

Sec. 41. Section 152.1, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. The practice of medicine and surgery, as defined in chapter 148, the osteopathic practice, as defined in chapter 150, the practice of osteopathic medicine and surgery, as defined in chapter 150A, or the practice of pharmacy as defined in chapter ~~155~~ 155A, except practices which are recognized by the medical and nursing professions and approved by the board as proper to be performed by a registered nurse.

Sec. 42. Section 166.3, Code 1987, is amended to read as follows:

166.3 PERMIT TO MANUFACTURE OR SELL.

Every person, before engaging as a manufacturer of, or dealer in, biological products shall obtain from the department a permit for that purpose and shall be required to have a separate permit for each place of business. ~~No~~ A pharmacy licensed under chapter ~~155~~ 155A shall not be required to obtain a dealer's permit to deal in biological products.

Sec. 43. Section 203A.19, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Any prescription drug, as defined in ~~section 155.3, subsection 10~~ chapter 155A, is misbranded unless:

Sec. 44. Section 204.308, subsection 3, Code 1987, is amended to read as follows:

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under ~~section 155.3, subsections 9 and 10~~ chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

Sec. 45. Section 258A.5, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 114.22, 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to 148.9, 153.23 to 153.30, 153.33, and 154A.23~~, and 155.14 to 155.16~~.

Sec. 46. Section 321J.2, subsection 6, Code 1987, is amended to read as follows:

6. This section does not apply to a person operating a motor vehicle while under the influence of a drug if the substance was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in ~~section 155.3, subsection 11~~ chapter 155A, if there is no evidence of the consumption of alcohol and the medical practitioner had not directed the person to refrain from operating a motor vehicle.

Sec. 47. Section 422.45, subsection 13, Code 1987, is amended to read as follows:

13. The gross receipts from the sale of prescription drugs, as defined in ~~section 155.3, subsection 10~~ chapter 155A, if dispensed for human use or consumption by a registered pharmacist licensed under chapter ~~155~~ 155A, a physician and surgeon licensed under chapter 148, an osteopath licensed under chapter 150, an osteopathic physician and surgeon licensed under chapter 150A, a dentist licensed under chapter 153, or a podiatrist licensed under chapter 149.

Sec. 48. Section 514.5, unnumbered paragraph 3, is amended to read as follows:

Any pharmaceutical or optometric service corporation organized under the provisions of said chapter may enter into contracts for the rendering of pharmaceutical or optometric service to any of its subscribers. Membership in any pharmaceutical service corporation shall be open to all pharmacies licensed under chapter ~~155~~ 155A.

Sec. 49. Chapter 155, Code 1987, is repealed.

Sec. 50. The provisions of this Act requiring that hospital pharmacies be licensed shall not take effect until January 1, 1988.

Approved June 5, 1987

CHAPTER 216

ACQUIRED IMMUNE DEFICIENCY SYNDROME

H.F. 310

AN ACT relating to acquired immune deficiency syndrome including the establishment of a central registry for victims and screening and testing procedures.

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

Section 1. NEW SECTION. 139.34 ACQUIRED IMMUNE DEFICIENCY SYNDROME — CENTRAL REGISTRY.

The Iowa department of public health shall establish and maintain a central registry of persons diagnosed as having contracted acquired immune deficiency syndrome in order to facilitate the provision of appropriate services to those persons. The department shall maintain the confidential nature of the information collected in a manner which prevents the identification of persons who are victims of acquired immune deficiency syndrome. Access to the registry shall be limited to departmental personnel having a need for such information in connection with their official duties.

Sec. 2. NEW SECTION. 139.35 ACQUIRED IMMUNE DEFICIENCY SYNDROME — CONFIDENTIAL SCREENING AND TESTING.

The Iowa department of public health shall provide confidential screening and confirmatory testing at the request of persons at high risk of contracting acquired immune deficiency syndrome. For the purposes of this section, "persons at high risk" means homosexuals, bisexuals, and intravenous drug users. The screening and testing procedures may be provided by contract with alternate screening sites, private physicians, or a clinical laboratory for the purpose of providing these services.

A person seeking and undergoing acquired immune deficiency syndrome screening and testing procedures shall not be reported or have the person's identity revealed in any way without the express written consent of the person. The department shall provide instruction to personnel providing the screening and testing regarding proper procedure, including but not limited to prescreening and pretesting counseling techniques. The department shall, in association with qualified counselors from public and private agencies, facilitate posttest counseling of a person with positive or negative test results, and for diagnosed acquired immune deficiency syndrome cases. The department shall also promote public education efforts regarding acquired immune deficiency syndrome and shall publicize the services and confidential nature of the services provided in order to encourage persons at risk of contracting acquired immune deficiency syndrome to undergo screening and testing procedures.

Approved June 6, 1987

CHAPTER 217

PARK USER PERMITS

H.F. 316

AN ACT relating to park user permits and providing a penalty and an effective date.

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

Section 1. Section 111.85, subsections 1 through 4, 6, 7, 8, and 10, Code 1987, are amended to read as follows:

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 ~~commission~~ department 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~~ department employee residing at an area subject to the user permit requirement. The ~~commission~~ department 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 ~~commission~~ department 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~~ recreation, and preserves division of the ~~commission~~ department 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~~ department is valid for either the calendar year in which issued or for twenty-four hours from the time of purchase. The fee is ~~ten~~ five dollars fifty cents for the calendar year permit and two dollars for the daily permit. If more than one motor vehicle is registered to members of the same household which resides in Iowa, a member of that household may purchase calendar year permits for the second motor vehicle for a fee of two dollars by showing to the county recorder the registration card of the second and proof of a calendar year permit for the first motor vehicle.

6. User permits shall be sold by the ~~commission~~ department and county recorders and may be sold by depositaries designated by the recorders or the director under section 110.11. A writing fee ~~may~~ shall not be charged for dispensing the user permits ~~as provided under section 110.12 for licenses. Duplicate user permits shall not be issued.~~ The department shall issue replacement permits, without fee, to persons whose original permit has been damaged, partially destroyed, or otherwise rendered unusable. A person shall apply to the department or its authorized representative for a replacement permit by presenting a verifiable remnant of the damaged, partially destroyed, or unusable permit.

7. A user permit is not transferable between vehicles and shall be displayed as the ~~commission~~ department prescribes by rule. The permit shall contain space upon which the motor vehicle registration plate numbers and letters shall be entered.

8. a. An officer of the ~~commission~~ department 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~~ department. 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~~ department within twenty days. If the civil penalty is not timely paid, the ~~commission~~ department 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 fine shall be ~~thirty~~ fifteen dollars and court costs and the criminal penalty surcharge of section 911.2 shall not be imposed.

c. The ~~commission~~ department 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 district court of the county if the civil penalty is not timely paid to the ~~commission~~ department and one copy shall be retained by the ~~commission~~ department for record purposes.

10. A person who receives a notice of violation under this section may, before a complaint is filed and 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~~ department in the same manner as the civil penalty.

Sec. 2. Section 111.85, subsection 5, Code 1987, is amended by striking the subsection.

Sec. 3. This Act takes effect January 1, 1988.

Approved June 7, 1987

CHAPTER 218

GENDER BALANCE ON BOARDS, COMMISSIONS, COMMITTEES, AND COUNCILS

S.F. 148

AN ACT relating to gender balance in the appointment and election of judicial nominating commissioners and balance in the appointment of members of state boards, commissions, committees, and councils.

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

Section 1. Section 46.1, Code 1987, is amended to read as follows:

46.1 APPOINTMENT OF STATE JUDICIAL NOMINATING COMMISSIONERS.

The governor shall appoint, subject to confirmation by the senate, one eligible elector of each congressional district to the state judicial nominating commission for a six-year term beginning and ending as provided in section 69.19. The terms of no more than three nor less than two of the members shall expire within the same two-year period. No more than a simple majority of the members appointed shall be of the same gender.

Sec. 2. Section 46.2, Code 1987, is amended to read as follows:

46.2 ELECTION OF STATE JUDICIAL NOMINATING COMMISSIONERS.

The resident members of the bar of each congressional district shall elect one eligible elector of ~~such~~ the district to the state judicial nominating commission for a six-year term beginning July 1. The terms of no more than three nor less than two of ~~such~~ the members shall expire within the same two-year period, the expiration dates being governed by the expiration dates of the terms of the original appointive members. The members of the bar of the respective congressional districts shall in January, immediately preceding the expiration of

the term of a member of the commission, elect a successor for a like term. For the first elective term open on or after July 1, 1987, in the odd-numbered districts the elected member shall be a woman and in the even-numbered districts the elected member shall be a man. Thereafter, the districts shall alternate between women and men elected members.

Sec. 3. Section 46.3, Code 1987, is amended to read as follows:

46.3 APPOINTMENT OF DISTRICT JUDICIAL NOMINATING COMMISSIONERS.

~~In January 1972 the~~ The governor shall appoint five eligible electors of each judicial election district to the district judicial nominating commission. Appointments shall be to staggered terms of six years each and shall be made in the month of January for terms commencing February 1, ~~1972~~ of even-numbered years. ~~The governor shall appoint two such commissioners to serve until January 31, 1974, two to serve until January 31, 1976, and one to serve until January 31, 1978. In the month of January when each of those terms expires and every six years thereafter the governor shall appoint district judicial nominating commissioners for six-year terms.~~ No more than a simple majority of the commissioners appointed shall be of the same gender.

Sec. 4. Section 46.4, Code 1987, is amended to read as follows:

46.4 ELECTION OF DISTRICT JUDICIAL NOMINATING COMMISSIONERS.

~~In January 1972 the~~ The resident members of the bar of each judicial election district shall elect five eligible electors of the district to the district judicial nominating commission ~~for terms commencing February 1, 1972. One of such commissioners shall serve until January 31, 1974, two until January 31, 1976, and two until January 31, 1978, as determined by lot by such commissioners. In the month of January when each of those terms expires and every six years thereafter such members of the bar of the respective judicial election districts shall elect district nominating commissioners for six-year terms.~~ Commissioners shall be elected to staggered terms of six years each. The elections shall be held in the month of January for terms commencing February 1 of even-numbered years.

For terms commencing February 1, 1988, and every six years thereafter, one elected commissioner in each district shall be a woman and one shall be a man. For terms commencing February 1, 1990, and every six years thereafter, one elected commissioner in each district shall be a woman and one shall be a man. For the term commencing February 1, 1992, in the odd-numbered districts the elected commissioner shall be a woman and in the even-numbered districts the elected commissioner shall be a man. For the terms commencing every six years thereafter, the districts shall alternate between women and men elected commissioners.

Sec. 5. Section 46.5, Code 1987, is amended to read as follows:

46.5 VACANCIES.

When a vacancy occurs in the office of appointive judicial nominating commissioner, the chairperson of the particular commission shall promptly notify the governor in writing of such fact. Vacancies in the office of appointive judicial nominating commissioner shall be filled by appointment by the governor, consistent with eligibility requirements. The term of state judicial nominating commissioners so appointed shall commence upon their appointment pending confirmation by the senate at the then session of the general assembly or at its next session if it is not then in session. The term of district judicial nominating commissioners so appointed shall commence upon their appointment.

Except where the term has less than ninety days remaining, vacancies in the office of elective member of the state judicial nominating commission shall be filled consistent with eligibility requirements by a special election within the congressional district where the vacancy occurs, such election to be conducted as provided in sections 46.9 and 46.10.

Vacancies in the office of elective judicial nominating commissioner of district judicial nominating commissions shall be filled consistent with eligibility requirements and by majority vote of the authorized number of elective members of the particular commission, at a meeting of

such members called in the manner provided in section 46.13. The term of judicial nominating commissioners so chosen shall commence upon their selection.

If a vacancy occurs in the office of chairperson of a judicial nominating commission, or in the absence of the chairperson, the members of the particular commission shall elect a temporary chairperson from their own number.

When a vacancy in an office of an elective judicial nominating commissioner occurs, the clerk of the supreme court shall ~~arrange for the publication of~~ cause to be mailed to each member of the bar whose name appears on the certified list prepared pursuant to section 46.8 for the district or districts affected, a notice stating the existence of the vacancy, the requirements for eligibility, and the manner in which the vacancy will be filled ~~in those publications which the clerk of the supreme court deems likely to give reasonable notice to the eligible voting members of the bar of the district in which the vacancy occurs~~. Other items may be included in the same mailing if they are on sheets separate from the notice. The election of a district judicial nominating commissioner or the close of nominations for a state judicial nominating commissioner shall not occur until thirty days after the ~~publication~~ mailing of the notice.

Sec. 6. NEW SECTION. 46.9A NOTICE PRECEDING NOMINATION OF ELECTIVE NOMINATING COMMISSIONERS.

At least sixty days prior to the expiration of the term of an elective state or district judicial nominating commissioner, the clerk of the supreme court shall cause to be mailed to each member of the bar whose name appears on the certified list prepared pursuant to section 46.8 for the district or districts affected, a notice stating the date the term of office will expire, the requirements for eligibility to the office for the succeeding term, and the procedure for filing nominating petitions, including the last date for filing. Other items may be included in the same mailing if they are on sheets separate from the notice.

Sec. 7. Section 69.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~It is declared the policy of the state of Iowa that all~~ All appointive boards, commissions, and councils of the state established by the Code if not otherwise provided by law shall be bipartisan in their composition. No person shall be appointed or reappointed to any board, commission, or council established by the Code if the effect of that appointment or reappointment would cause the number of members of the board, commission, or council belonging to one political party to be greater than one-half the membership of the board, commission, or council plus one.

Sec. 8. Section 69.16A, Code 1987, is amended to read as follows:

69.16A GENDER BALANCE.

~~It is a policy of the state of Iowa that all~~ All appointive boards, commissions, committees and councils of the state established by the Code if not otherwise provided by law shall ~~reflect, as much as possible, a gender balance~~ be gender balanced. No person shall be appointed or reappointed to any board, commission, committee, or council established by the Code if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, committee, or council plus one. If there are multiple appointing authorities for a board, commission, committee, or council, they shall consult each other to avoid a violation of this section. This section shall not prohibit an individual from completing a term being served on June 30, 1987.

Sec. 9. Notwithstanding the requirements of this Act, no member of a judicial nominating commission appointed or elected prior to the effective date of this Act shall be removed solely for purposes of meeting gender requirements.

Approved June 7, 1987

CHAPTER 219

SMOKING PROHIBITIONS

H.F. 79

AN ACT prohibiting smoking in certain public places and providing a penalty.

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

Section 1. Section 98A.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

98A.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Smoking" means the carrying of or control over a lighted cigar, cigarette, pipe, or other lighted smoking equipment.

2. "Public place" means any enclosed indoor area used by the general public or serving as a place of work, including, but not limited to, all retail stores, offices containing three hundred or more square feet of floor space, including waiting rooms of three hundred or more square feet of floor space, and other commercial establishments; public conveyances with departures, travel and destination entirely within this state; educational facilities; hospitals, clinics, nursing homes, and other health care and medical facilities; and auditoriums, elevators, theaters, libraries, art museums, concert halls, indoor arenas, and meeting rooms. "Public place" does not include a restaurant, a retail store at which fifty percent or more of the sales result from the sale of tobacco or tobacco products, the portion of a retail store where tobacco or tobacco products are sold, a private, enclosed office occupied exclusively by smokers even though the office may be visited by nonsmokers, lobbies and malls which encompass floor space of three hundred or less square feet, a room used primarily as the residence of students or other persons at an educational facility, a sleeping room in a motel or hotel, or each resident's room in a health care facility. The person in custody or control of the facility shall provide a sufficient number of rooms in which smoking is not permitted to accommodate all persons who desire such rooms.

3. "Public meeting" means a gathering in person of the members of a governmental body, whether an open or a closed session under chapter 21.

4. "Bar" means an establishment or portion of an establishment where one can purchase and consume alcoholic beverages as defined in section 123.3, subsection 9, but excluding any establishment or portion of the establishment having table and seating facilities for serving of meals to more than fifty people at one time and where, in consideration of payment, meals are served at tables to the public.

Sec. 2. Section 98A.2, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

98A.2 PROHIBITION.

1. A person shall not smoke in a public place or in a public meeting except in a designated smoking area. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place. This prohibition does not apply to factories, warehouses, and similar places of work not usually frequented by the general public, except that an employee cafeteria in such place of work shall have a designated nonsmoking area.

2. Smoking areas may be designated by persons having custody or control of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance, or regulation.

3. Where smoking areas are designated, existing physical barriers and existing ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In

the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a no-smoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar has within its premises a nonsmoking area, this designation shall be posted on all entrances normally used by the public.

If the public place is subject to any state inspection process or under contract with the state, the person performing the inspection shall check for compliance with the posting requirement.

4. Notwithstanding subsection 1 of this section, smoking is prohibited on elevators.

Sec. 3. Section 98A.3, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

98A.3 RESPONSIBILITIES OF PROPRIETORS.

The person having custody or control of a public place or public meeting shall make reasonable efforts to prevent smoking in the public place or public meeting by posting appropriate signs indicating no-smoking or smoking areas and arranging seating accordingly.

Sec. 4. Section 98A.4, Code 1987, is amended to read as follows:

98A.4 ~~NO SMOKING~~ AREAS POSTED.

~~The~~ A person ~~or persons~~ having custody or control of a ~~facility in which smoking is prohibited under section 98A.2~~ public place or public meeting shall cause signs to be posted within ~~the facility, or within~~ the ~~area or~~ appropriate areas of the facility ~~where the prohibition against smoking is in effect, one or more conspicuous signs bearing the words "smoking prohibited by law" or words or symbols of similar effect~~ advising patrons of smoking and no-smoking areas. In addition the statement "Smoking prohibited except in designated areas" shall be conspicuously posted on all major entrances to the public place or public meeting.

Sec. 5. Section 98A.6, Code 1987, is amended to read as follows:

98A.6 CIVIL PENALTY FOR VIOLATION.

A person who smokes in those areas ~~covered by~~ prohibited in section 98A.2, or who violates section 98A.4, shall pay a civil fine ~~of five dollars for the first violation and not less than ten nor more than one hundred dollars~~ pursuant to section 805.8, subsection 11 for each ~~subsequent~~ violation.

Judicial magistrates shall hear and determine violations of this chapter. The civil ~~fines~~ penalties paid pursuant to this chapter shall be deposited in the county treasury.

Sec. 6. Section 805.8, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 11. SMOKING VIOLATIONS. For violations of section 98A.6, the scheduled fine is ten dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil fine is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1.

Sec. 7. Section 98A.5, Code 1987, is repealed.

Approved June 8, 1987

CHAPTER 220

HOUSING TRUST FUND

H.F. 603

AN ACT establishing and appropriating from a housing trust fund and appropriating its funds.

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

Section 1. NEW SECTION. 220.100 HOUSING TRUST FUND PROGRAM.

1. A housing trust fund is created within the authority. The moneys in the housing trust fund are annually appropriated to the authority which shall allocate the available funds among and within the programs authorized by this section. The authority may provide financial assistance in the form of loans, guarantees, grants, interest subsidies or by other means for the programs authorized by this section.

2. By rule, the authority shall establish the following financial assistance programs and provide the requirements for their proper administration:

a. A grant program for the homeless for the construction, rehabilitation, or expansion of group home shelter for the homeless.

b. A home maintenance and repair program providing repair services to elderly, handicapped, or disabled families which qualify as lower income or very low income families.

c. A rental rehabilitation program for the construction or rehabilitation of single or multifamily rental properties leased to lower income or very low income families.

d. A home ownership incentive program to help lower income and very low income families achieve single family home ownership.

3. The authority shall coordinate the programs authorized by this section with the other programs under the jurisdiction of the authority.

4. Each application for financial assistance shall be rated based on local, housing sponsor, and recipient financial commitment, proposals for leveraging other financial assistance, experience with the recipient group involved, consideration for the housing project in the context of overall community needs, including vacancy rate of rental property and ratio of subsidized rental housing to nonsubsidized housing, ability to provide a counseling support system to the recipients, and a demonstrated capability by the housing sponsor to provide follow-up monitoring of recipients to determine if identifiable results have been achieved.

5. For the purposes of this section, "housing sponsor" is limited to private nonprofit corporations and local governments and joint ventures involving a private nonprofit corporation or local government and does not include a for-profit entity.

6. None of the funds provided to a housing sponsor under this section shall be used for the costs of administration. The authority may expend up to four percent of the funds appropriated for the programs in this section for the administrative costs under this section to hire adequate staff to carry out these programs.

7. This section is repealed July 1, 1989.

Approved June 8, 1987

CHAPTER 221

ELECTIONS AND RELATED ACTIVITIES

H.F. 600

AN ACT relating to elections and political activity and subjecting violators to a penalty.

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

Section 1. Section 43.26, Code 1987, is amended to read as follows:

43.26 BALLOT – FORM.

The official primary election ballot shall be prepared, arranged, and printed substantially in the following form:

PRIMARY ELECTION BALLOT

(Name of Party)

of

~~Township or Precinct,~~

~~Ward, City of~~ , County of , State of Iowa, Rotation (if any).

Primary election held on the day of June, 19

FOR UNITED STATES SENATOR

(Vote for one.)

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____

FOR UNITED STATES REPRESENTATIVE

(Vote for one.)

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____

FOR GOVERNOR

(Vote for one.)

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____

(Followed by other elective state officers in the order in which they appear in section 39.9 and district officers in the order in which they appear in sections 39.15 and 39.16.)

FOR COUNTY AUDITOR

(Vote for one.)

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____

(Followed by other elective county officers in the order in which they appear in sections 39.17 and 39.18.)

FOR TOWNSHIP CLERK

(Vote for one.)

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____ ~~Candidate's name~~ CANDIDATE'S NAME

_____

FOR TOWNSHIP TRUSTEES
(Vote for no more than two.)
_____ ~~Candidate's name~~ CANDIDATE'S NAME
_____ ~~Candidate's name~~ CANDIDATE'S NAME
_____ ~~Candidate's name~~ CANDIDATE'S NAME

Sec. 2. Section 43.45, subsections 4 through 7, Code 1987, are amended to read as follows:

4. ~~Seal~~ Place the ballots cast on behalf of each of the parties in separate envelopes~~, and on the outside of such envelope write or print the names of said party's candidates for all offices and opposite each name enter the number of votes cast for such candidate in said precinct~~. Seal each envelope and place the signature of all board members of the precinct across the seal of the envelope so that it cannot be opened without breaking the seal.

5. ~~Seal all the envelopes of all political parties in one large envelope and on the outside thereof, or on a paper attached thereto,~~ On the outside of each envelope enter the number of ~~votes~~ ballots cast by each party in ~~said~~ the precinct and contained in the envelope.

6. Seal the ~~precinct election register and the~~ tally sheets and certificates of the precinct election officials in an envelope~~, or other secure container,~~ on the outside of which are written or printed ~~in perpendicular columns~~ the names of the several political parties with the names of the candidates for the different offices under their party name, and opposite each candidate's name enter the number of votes cast for such candidate in said precinct.

7. Enter ~~at the bottom of each party column~~ on ~~said~~ the envelope the total ~~vote cast by said party in said~~ number of voters of each party who cast ballots in the precinct.

Sec. 3. Section 44.4, subsection 3, Code 1987, is amended to read as follows:

3. Those filed with the city clerk, at least ~~thirty~~ forty-two days prior to the municipal election.

Sec. 4. Section 44.9, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. In the office of the proper city clerk, at least forty-two days before the regularly scheduled city election.

Sec. 5. Section 44.9, subsection 3, Code 1987, is amended to read as follows:

3. In the office of the proper school board secretary ~~or city clerk~~, at least thirty-five days before the day of a regularly scheduled school ~~or city~~ election.

Sec. 6. Section 45.3, subsection 1, Code 1987, is amended by striking the subsection.

Sec. 7. Section 48.5, subsection 2, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. e. The requester shall be able to determine who voted by absentee ballot within each of the two preceding primary elections or each of the two preceding general elections.

Sec. 8. Section 48.5, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. After each general and primary election the county commissioner of registration shall update the telephone numbers of qualified electors in the registration records using the telephone numbers provided in the declaration of eligibility under section 49.77.

Sec. 9. Section 48.7, subsection 1, Code 1987, is amended by adding the following unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a change of name, telephone number, or address is submitted under this subsection, the commissioner shall not change the party affiliation in the elector's prior registration other than that indicated by the elector.

Sec. 10. Section 48.7, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. A qualified elector of any precinct in the county of the elector's current residence may record a change of name, telephone number, or address on election day at the polling place for the precinct in which the elector currently resides~~, if the elector's name or former name appears on the election register of a polling place in that county or that polling place for the election being held that day~~. ~~The~~ If the qualified elector is submitting a change of name, telephone number, or address from within the precinct, the precinct election officials shall furnish ~~such a~~ the qualified elector a registration form of the type prescribed for use by electors registering under section 48.3. The elector shall complete the form and submit it to the precinct election officials, who shall return it to the commissioner with the election supplies. If the qualified elector is submitting a change of address from ~~an election register in~~ another precinct within the county, the qualified elector may vote in the ordinary manner if the precinct election officials have verified the qualified elector's registration in the county by communicating with the commissioner's office or by reviewing a county registration list provided by the commissioner. The commissioner may provide county registration lists to some or all the precincts in the county. If the qualified elector's registration in the county is not verified by a precinct election official, the elector shall cast a ~~challenged~~ special ballot as provided in section 49.81~~, but is not required to certify that the elector has not moved~~. If the name, telephone number, or address provided by the qualified elector on the special ballot envelope is different from the information on the elector's last previous registration, the commissioner shall change the registration records accordingly.

PARAGRAPH DIVIDED. If the qualified elector's name or former name appears on the election register in the polling place for the election being held that day, the elector may record a change of name, telephone number, or address and cast a ballot in the usual manner if the qualified elector currently resides in that precinct. If the qualified elector's former address and new address are in different counties, the registration form completed by the qualified elector shall be forwarded to the commissioner of the elector's current county of residence by the commissioner conducting the election.

Sec. 11. NEW SECTION. 48.20 REGISTRATION IN STATE OFFICES.

The registration forms provided in section 48.3 shall be available in the offices maintained by the state agencies listed in this section. The officers and employees of those agencies shall offer to each person doing business in that office the opportunity to register, unless the officer or employee is reasonably certain that a person doing business in the office has already been offered a registration form within the previous twelve-month period. If the person does execute the form, the form shall be sent to the appropriate commissioner of registration. This section applies to the Iowa civil rights commission and the state departments of human services, human rights, cultural affairs, employment services, revenue and finance, personnel, agriculture and land stewardship, and transportation, and the offices of the clerks of court of the district courts. This section does not prevent the officers or employees of any other state agency from offering voter registration forms to persons in those offices.

Sec. 12. Section 49.12, unnumbered paragraph 1, Code 1987, is amended to read as follows:

There shall be appointed in each election precinct an election board which shall ordinarily consist of five precinct election officials. However, in precincts using only one voting machine at any one time, and in precincts voting by paper ballot where no more than ~~one hundred votes were cast~~ three hundred fifty persons cast ballots in the last preceding similar election, the board shall consist of three precinct election officials; and in precincts using more than two voting machines one additional precinct election official may be appointed for each such additional machine. At the commissioner's discretion, additional precinct election officials may be appointed to work at any election. Double election boards may be appointed for any precinct as provided by chapter 51. Not more than a simple majority of the members of the election board in any precinct, or of the two combined boards in any precinct for which a double election board is appointed, shall be members of the same political party or organization if one

or more qualified electors of another party or organization are qualified and willing to serve on the board.

Sec. 13. Section 49.31, subsection 3, Code 1987, is amended to read as follows:

3. The ballots for any city elections, school elections, special election, or any other election at which any office is to be filled on a nonpartisan basis and the statutes governing the office to be filled are silent as to the arrangement of names on the ballot, shall contain the names of all nominees or candidates arranged in alphabetical order by surname under the heading of the office to be filled. When a city election, school election, special election, or any other election at which an office is to be filled on a nonpartisan basis, is held in more than one precinct, the candidates' names shall be rotated on the ballot from precinct to precinct in the manner prescribed by subsection 2 unless there are no more candidates for an office than the number of persons to be elected to that office.

Sec. 14. Section 49.31, subsection 4, Code 1987, is amended to read as follows:

4. If electors in any precinct are entitled to vote for more than one nominee or candidate for a particular office, the heading for that office on the precinct ballot shall be immediately followed by a notation of the maximum number of nominees or candidates for that office for whom each elector may vote. Provision shall be made on the ballot to allow the elector to write in the name of any person for whom the elector desires to vote for any office or nomination on the ballot.

Sec. 15. Section 49.53, Code 1987, is amended to read as follows:

49.53 PUBLICATION OF BALLOT AND NOTICE.

The commissioner shall not less than four nor more than twenty days prior to the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing on the published sample ballot to be less than five-thirty-sixths of an inch high in candidates' names or in summaries of public measures. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall be published in at least one newspaper, as defined in section 618.3, which is published in the county or other political subdivision in which the election is to occur or, if no newspaper is published there, in at least one newspaper of substantial circulation in the county or political subdivision. For the general election or the primary election the foregoing notice shall be published in at least two newspapers published in the county ~~representing, if possible, the two political parties whose candidates for president of the United States or for governor, as the case may be; received the largest and next largest number of votes in the county at the last preceding general election~~. However, if there is only one newspaper published in the county, publication in one newspaper shall be sufficient.

Sec. 16. Section 49.77, subsection 1, Code 1987, is amended to read as follows:

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the ..... precinct,

ward or township, city of , county of , Iowa.
I am a qualified elector. I have not voted and will not vote in any other precinct in said election.
(For primary election only:) I am affiliated with the party.
I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

Signature of Voter

Address

Telephone

Approved:

Board Member

Sec. 17. Section 49.77, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 5. The request for the telephone number in the declaration of eligibility in subsection 1 is not mandatory and the failure by the elector to provide the telephone number does not affect the declaration's validity.

Sec. 18. Section 53.40, unnumbered paragraph 1, Code 1987, is amended to read as follows:
Request in writing for a ballot for the primary election and for the general election may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which the ballot is to be cast, at any time prior to either of the elections~~, the request stating for which election the request is made~~. Unless the request specifies otherwise, a request for the primary election shall also be considered a request for the general election. In the case of the general election request may be made not more than seventy days before the election, for and on behalf of a voter in the armed forces of the United States by a spouse, parent, parent-in-law, adult brother, adult sister, or adult child of the voter, residing in the county of the voter's residence. However, a request made by other than the voter may be required to be made on forms prescribed by the state commissioner.

Sec. 19. Section 49.81, subsections 2 and 3, Code 1987, are amended to read as follows:
2. Each person who casts a ~~challenged~~ special ballot under this section shall receive a printed statement in substantially the following form: "Your qualifications as an elector have been challenged for the following reasons:
1.
2.
3.
Your right to vote will be reviewed by the special precinct counting board on
You have the right and are encouraged to make a written statement and submit additional written evidence to this board supporting your qualifications as an elector. This written statement and evidence may be given to an election official of this precinct on election day or mailed or delivered to the county commissioner of elections, but must be received prior to noon on at If your ballot is not counted you will receive notification of this fact."
3. Any elector may present written statements or documents, supporting or opposing the counting of any ~~challenged~~ special ballot, to the precinct election officials on election day, until the hour for closing the polls. Any statements or documents so presented shall be delivered to the commissioner when the election supplies are returned.

Sec. 20. Section 49.81, subsection 4, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

4. The individual envelopes used for each paper ballot cast pursuant to subsection 1 shall have printed on them the format of the face of the registration form under section 48.3 and the following:

I believe I am a qualified elector of this precinct. I registered to vote in county on or about at My name at that time was I have not moved to a different county since that time. I am a United States citizen, at least eighteen years of age.

(signature of elector) (date)

The following information is to be provided by the precinct election official:
Reason for challenge:

(signature of precinct election official)

Sec. 21. Section 50.12, Code 1987, is amended to read as follows:

50.12 RETURN AND PRESERVATION OF BALLOTS.

Immediately after making such proclamation, and before separating, the board members of each precinct in which votes have been received by paper ballot shall ~~fold in two folds, and string closely upon a single piece of flexible wire,~~ enclose in an envelope or other container all ballots which have been counted by them, except those endorsed "Rejected as double", "Defective", or "Objected to", ~~unite the ends of such wire in a firm knot, seal the knot in such a manner that it cannot be untied without breaking the seal, enclose the ballots so strung in an envelope,~~ and securely seal such envelope. The signatures of all board members of the precinct shall be placed across the seal or the opening of the container so that it cannot be opened without breaking the seal. The precinct election officials shall return all the ballots to the commissioner, who shall carefully preserve them for six months.

Sec. 22. Section 50.20, Code 1987, is amended to read as follows:

50.20 NOTICE OF NUMBER OF ~~CHALLENGED~~ SPECIAL BALLOTS.

The commissioner shall compile a list of the number of ~~challenged~~ special ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session. Any elector may present written statements or documents, supporting or opposing the counting of any ~~challenged~~ special ballot, at the commissioner's office until the reconvening of the special precinct board.

Sec. 23. Section 50.21, Code 1987, is amended to read as follows:

50.21 SPECIAL PRECINCT BOARD RECONVENED.

The commissioner shall reconvene the election board of the special precinct established by section 53.20 ~~at~~ not earlier than noon on the ~~third~~ second day following each election which is required by law to be canvassed on the Monday following the election. If the ~~third~~ second day following such an election is a legal holiday the special precinct election board ~~shall~~ may be convened at noon on the ~~second~~ day following the election, and if the canvass of the election is required at any time earlier than the Monday following the election, the special precinct election board shall be reconvened at noon on the day following the election.

PARAGRAPH DIVIDED. If no ~~challenged~~ special ballots were cast in the county pursuant to section 49.81 at any election, the special precinct election board need not be so reconvened. If the number of ~~challenged~~ special ballots so cast at any election is not sufficient to require reconvening of the entire election board of the special precinct, the commissioner may reconvene only the number of members required~~, but in so doing shall observe the requirements of sections 49.12 and 49.13~~. If the number of special ballots cast at any election exceeds the

number of absentee ballots cast, the size of the special precinct election board may be increased at the commissioner's discretion. The commissioner shall observe the requirements of sections 49.12 and 49.13 in making adjustments to the size of the special precinct election board.

Sec. 24. Section 50.22, Code 1987, is amended to read as follows:

50.22 SPECIAL PRECINCT BOARD TO DETERMINE CHALLENGES.

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the ~~challenged~~ special ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel. The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the ~~challenged~~ special ballot, the evidence concerning the challenge, the registration and the returned receipts of registration. If a ~~challenged~~ special ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the ~~challenged~~ special ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The ~~challenged~~ special ballots which are accepted shall be counted in the manner prescribed by section 53.24. The commissioner shall make public the number of ~~challenged~~ special ballots rejected and not counted, at the time of the canvass of the election.

Sec. 25. Section 53.2, Code 1987, is amended to read as follows:

53.2 APPLICATION FOR BALLOT.

Any qualified elector, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, make written application to the commissioner for an absentee ballot. The state commissioner shall prescribe a form for absentee ballot applications. However, if an elector submits an application that includes all of the information required in this section, the prescribed form is not required.

This section does not require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

Each application shall contain the name and signature of the qualified elector, the address at which the elector is qualified to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the qualified elector. If insufficient information has been provided, the commissioner shall, by the best means available, obtain the additional necessary information.

If the application is for a primary election ballot and the request is for a ballot of a party different from that recorded on the qualified elector's voter registration record, the requested ballot shall be mailed or given to the applicant together with a "Change or Declaration of Party Affiliation" form as prescribed in section 43.42, to be completed by the qualified elector at the time of voting. Upon receipt of the properly completed form, the commissioner shall approve the change or declaration and enter a notation of the change on the registration records.

If ~~a request~~ an application for an absentee ballot is received from an eligible elector who is not a qualified elector the commissioner shall send a registration form under section 48.3 and an absentee ballot to the eligible elector. If the application is received so late that it is unlikely that the registration form can be returned in time to be effective on election day, the commissioner shall enclose with the absentee ballot a notice to that effect, informing the voter of the registration time limits in sections 48.3 and 48.11. The commissioner shall record

on the elector's application that the elector is not currently registered to vote. If the registration form is properly returned by the time provided by section 48.3, the commissioner shall ~~send the absentee ballot to the qualified elector~~ record on the elector's application the date of receipt of the registration form and enter a notation of the registration on the registration records.

A qualified elector who has not moved from the county in which the elector is registered to vote may submit a change of name, telephone number, or address on the form prescribed in section 48.3 when casting an absentee ballot. Upon receipt of a properly completed form, the commissioner shall enter a notation of the change on the registration records.

Sec. 26. Section 53.17, subsection 2, Code 1987, is amended to read as follows:

2. The sealed carrier envelope may be mailed~~, postage paid,~~ to the commissioner. The carrier envelope shall indicate that greater postage than ordinary first class mail may be required. The commissioner shall pay any insufficient postage due on a carrier envelope bearing ordinary first class postage and accept the ballot. In order for the ballot to be counted, the carrier envelope must be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than the time established for the canvass by the board of supervisors for that election. The commissioner shall contact the post office serving the commissioner's office at the latest practicable hour prior to the canvass by the board of supervisors for that election, and shall arrange for absentee ballots received in that post office but not yet delivered to the commissioner's office to be brought to the commissioner's office prior to the canvass for that election by the board of supervisors.

Sec. 27. Section 53.22, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The commissioner shall mail an absentee ballot to a qualified elector who has applied for an absentee ballot and who is a patient or resident of a hospital or health care facility outside the county in which the elector is qualified to vote.

NEW SUBSECTION. 5. If the qualified elector becomes a patient or resident of a hospital or health care facility outside the county where the elector is registered to vote within three days before the date of any election, the elector may designate a person to deliver and return the absentee ballot. The designee may be any person the elector chooses except that no candidate for any office to be voted upon for the election for which the ballot is requested may deliver a ballot under this subsection. The request for an absentee ballot may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a qualified elector of that county, the ballot shall be delivered by mail or by the person designated by the elector. An application form shall be included with the absentee ballot and shall be signed by the voter and returned with the ballot.

Sec. 28. Section 53.22, subsection 2, Code 1987, is amended to read as follows:

2. Any qualified elector who becomes a patient or resident of a hospital or health care facility in the county where the elector is qualified to vote within three days prior to the date of any election may request an absentee ballot during that period or on election day. As an alternative to the application procedure prescribed by section 53.2, the qualified elector may make the request directly to the officers who are delivering and returning absentee ballots under this section. Alternatively, the request may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a qualified elector of that county, these officers shall deliver the appropriate absentee ballot to the qualified elector in the manner prescribed by this section.

Sec. 29. NEW SECTION. 53.45 SPECIAL ABSENTEE BALLOT.

1. As provided in this section, the commissioner shall provide special absentee ballots to be used for state general elections. A special absentee ballot shall only be provided to a

qualified elector who completes an application stating both of the following to the best of the qualified elector's belief:

a. The qualified elector will be residing or stationed or working outside the continental United States.

b. The qualified elector will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot shall not be filed earlier than ninety days prior to the general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the general election ballot. The qualified elector may use the special absentee ballot to write in the name of any eligible candidate for each office and may vote on any measure.

2. With any special absentee ballot issued under this section, the commissioner shall include a listing of any candidates who have filed before the time of the application for offices that will appear on the ballot at that general election and a list of any measures that have been referred to the ballot before the time of the application.

3. Write-in votes on special absentee ballots shall be counted in the same manner provided by law for the counting of other write-in votes. The commissioner shall process and canvass the special absentee ballots provided under this section in the same manner as other absentee ballots.

4. Notwithstanding the provisions of section 53.49, a qualified elector who requests a special absentee ballot under this section may also make application for an absentee ballot under section 53.2 or an armed forces absentee ballot under section 53.40. If the regular absentee or armed forces absentee ballot is properly voted and returned, the special absentee ballot is void and the commissioner shall reject it in whole when special absentee ballots are canvassed.

Sec. 30. Section 53.49, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph.

Sec. 31. Section 69.12, subsection 1, paragraphs a and b, Code 1987, are amended to read as follows:

a. A vacancy shall be filled at the next pending election if it occurs:

(1) Sixty or more days prior to the election, if it is a general or primary election.

(2) Fifty-two or more days prior to the election if it is a regularly scheduled or special city election.

~~(2)~~ (3) Forty-five or more days prior to the election, if it is a regularly scheduled school ~~or city~~ election.

~~(3)~~ (4) Forty or more days prior to the election, if it is a special election.

b. Nomination papers on behalf of candidates for a vacant office to be filled pursuant to paragraph "a" of this subsection shall be filed, in the form and manner prescribed by applicable law, by five o'clock p.m. on:

(1) The fifty-fifth day prior to a general or primary election.

(2) The forty-seventh day prior to a regularly scheduled or special city election.

~~(2)~~ (3) The fortieth day prior to a regularly scheduled school ~~or city~~ election.

~~(3)~~ (4) The twenty-fifth day prior to a special election.

Sec. 32. Section 277.4, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Nomination papers for all candidates for election to office in each school district shall be filed with the secretary of the school board not more than sixty-five days, nor less than forty days prior to the election. Nomination petitions shall be filed not later than five o'clock p.m. on the last day for filing. If the school board secretary is not readily available during normal office hours, the secretary may designate a full-time employee of the school district who is ordinarily available to accept nomination papers under this section. Each candidate shall be nominated by a petition signed by not less than ten eligible electors of the district. ~~To each such petition shall be attached the affidavit of an eligible elector of the district that all of the~~

~~signers thereof are electors of such district and that the signatures thereto are genuine. The candidate being nominated by the petition may sign the affidavit only if the candidate personally circulated the petition. If the affiant also signed the nomination petition, that signature shall not be counted toward the total required by this section.~~ The petition shall include the affidavit of the candidate being nominated, stating the candidate's name, place of residence, that such person is a candidate and is eligible for the office the candidate seeks, and that if elected the candidate will qualify for the office.

Sec. 33. Section 376.4, unnumbered paragraph 4, Code 1987, is amended by striking the paragraph.

Sec. 34. Section 618.14, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The governing body of any municipality or other political subdivision of the state ~~is authorized to make publication~~ may publish, as straight matter or display, of any matter of general public importance, ~~not otherwise authorized or required by law, by publication~~ in one or more newspapers, as defined in section 618.3 published in and having general circulation in such municipality or political subdivision, at the legal or appropriate commercial rate, according to the character of the matter published.

Sec. 35. Section 721.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Permits persons to use the property owned by the state or a subdivision or agency of the state to operate a political phone bank for any of the following purposes:

a. To poll voters on their preferences for candidates or ballot measures at an election; however, this paragraph does not apply to authorized research at an educational institution.

b. To solicit funds for a political candidate or organization.

c. To urge support for a candidate or ballot measure to voters.

Sec. 36. Section 53.3, Code 1987, is repealed.

Approved June 8, 1987

CHAPTER 222

BENEFIT RATIO UNEMPLOYMENT COMPENSATION CONTRIBUTION ARRAY SYSTEM

S.F. 507

AN ACT relating to the adoption of a benefit ratio unemployment compensation contribution array system and providing for the Act's applicability and providing for the future repeals of certain portions of this Act.

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

Section 1. Section 96.3, subsection 4, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 2. Section 96.3, subsection 5, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 3. Section 96.4, subsection 7, Code 1987, is amended by striking the subsection.

Sec. 4. Section 96.7, Code 1987, is amended to read as follows:

96.7 EMPLOYER CONTRIBUTIONS AND REIMBURSEMENTS.

1. PAYMENT.

~~a. On and after July 1, 1936, contributions shall~~ Contributions accrue and are payable, in accordance with rules adopted by the division, on all taxable wages paid by an employer for insured work.

~~b. Such contributions shall become due and be paid to the division of job service for the fund at such times and in such manner as the commissioner by regulation prescribes.~~

~~c. In the payment of any contribution the fractional part of a cent shall be disregarded unless it amounts to one-half cent or more in which case it shall be increased to one cent.~~

~~d. Contributions required from an employer shall not be deducted in whole or in part from the wages paid to individuals in the employer's employ.~~

~~2. RATE OF CONTRIBUTION BY EMPLOYERS. Each employer shall pay contributions equal to the following percentages of wages payable by the employer with respect to employment:~~

~~a. One and eight-tenths percent with respect to employment for the six months' period beginning July 1, 1936, provided that if the total of such contributions at such one and eight-tenths percent rate equals less than nine-tenths of one percent of the annual payroll of any employer for the calendar year 1936, such employer shall pay, at such time as the division of job service shall prescribe, an additional lump-sum contribution with respect to employment for such six months' period beginning July 1, 1936, equal to the difference between nine-tenths of one percent of the employer's annual payroll for the calendar year 1936 and the total of the employer's contributions at such one and eight-tenths percent rate for such six months' period beginning July 1, 1936, and provided further that in no event shall employers' contributions at such one and eight-tenths percent rate exceed nine-tenths of one percent of the employer's annual payroll for the calendar year 1936;~~

~~b. One and eight-tenths percent with respect to employment in the calendar year 1937;~~

~~c. Two and seven-tenths percent with respect to employment during the calendar years 1938, 1939, 1940; and~~

~~d. Two and seven-tenths percent of wages paid by the employer during the calendar year 1941, and during each calendar year thereafter, with respect to employment occurring after December 31, 1940, except as may be otherwise prescribed in subsection 3 of this section.~~

~~3~~ 2. ~~FUTURE~~ CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.

a. (1) The division ~~of job service~~ shall maintain a separate account for each employer and shall credit each employer's account with all contributions which the employer has paid or which have been paid on the employer's behalf.

(2) The amount of regular benefits plus fifty percent of the amount of extended benefits, ~~as determined under section 96.29,~~ paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

PARAGRAPH DIVIDED. ~~Provided, that in any case in which~~ However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, ~~then~~ benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both ~~contributing~~ contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5, ~~and subparagraph (3) of this paragraph~~.

PARAGRAPH DIVIDED. An employer's account shall not be charged with ~~benefit payments made~~ benefits paid to ~~any~~ an individual who ~~has~~ left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, but shall be charged to the account of the next succeeding employer with whom the individual requalified for benefits as determined respectively under section 96.5, subsection 1, paragraph "g" and section 96.5, subsection 2, paragraph "a". However, the succeeding employer's account shall first be charged with ~~benefit payments~~ benefits paid to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of ~~benefit payments~~ benefits paid to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation ~~trust~~ fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with ~~benefit payments~~ the benefits paid.

PARAGRAPH DIVIDED. ~~Provided further, that an~~ An employer's account shall not be charged with ~~benefit payments made~~ benefits paid to an individual who ~~has been discharged for misconduct in connection with the individual's employment, and shall not be charged with benefit payments made to an individual after the individual has~~ failed without good cause, either to apply for available, suitable work or to accept suitable work ~~or to return to customary self-employment~~, but shall be charged to the account of the next succeeding employer with whom the individual ~~requalifies~~ requalified for benefits as determined ~~respectively~~ under section 96.5, ~~subsections 2 and~~ subsection 3.

~~However, with respect to a succeeding employer who employs an individual who has been discharged for misconduct by a previous employer, the succeeding employer's account shall first be charged with benefit payments to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefit payments to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation trust fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with benefit payments.~~

The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

(3) The amount of regular benefits ~~so~~ charged ~~in any calendar quarter~~ against the account of ~~any~~ an employer for a calendar quarter of the base period shall not exceed the amount of ~~such~~ the individual s wage credits based on employment with ~~that~~ the employer during that quarter. The amount of extended benefits ~~so~~ charged ~~in any calendar quarter~~ against the

account of ~~any~~ an employer for a calendar quarter of the base period shall not exceed an additional fifty percent of the amount of ~~such~~ the individual's wage credits based on employment with ~~that~~ the employer during that quarter ~~except that all~~. However, the amount of extended benefits ~~shall be so~~ charged ~~to~~ against the account of a ~~government~~ governmental entity which is either a reimbursable or ~~contributing~~ contributory employer, for a calendar quarter of the base period shall not exceed an additional one hundred percent of the amount of the individual's wage credits based on employment with the governmental entity during that quarter.

(4) The ~~commissioner~~ division shall ~~by general rule prescribe~~ adopt rules prescribing the manner in which benefits shall be charged against the accounts of several employers for ~~whom~~ which an individual performed employment during the same calendar quarter.

(5) ~~Nothing in this~~ This chapter shall not be construed to grant ~~any~~ an employer or ~~the individuals~~ an individual in the employer's service, prior ~~claims~~ claim or ~~rights~~ right to the ~~amounts~~ amount paid by the employer into the unemployment compensation fund either on the employer's own behalf or on behalf of ~~such individuals~~ the individual.

(6) ~~As soon as practicable after the close of each calendar quarter, and in any event within~~ Within forty days after the close of ~~such~~ each calendar quarter, the division shall notify each employer of the amount ~~that has been~~ of benefits charged to the employer's account ~~for benefits paid~~ during ~~such~~ that quarter. ~~This statement to the employer~~ The notification shall show the name of each ~~claimant~~ individual to whom ~~such benefit payments~~ benefits were ~~made~~ paid, the ~~claimant's~~ individual's social security number, and the amount of benefits paid to ~~such claimant~~ the individual. ~~Any~~ An employer ~~who~~ which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to ~~such claimants~~ an individual, may within thirty days after the ~~receipt of such statement~~ date of mailing of the notification appeal to the ~~commissioner~~ division for a hearing to determine the eligibility of the ~~claimant~~ individual to receive ~~such~~ benefits. The ~~commissioner~~ appeal shall ~~refer the same~~ be referred to a hearing officer for hearing and ~~both~~ the employer and the ~~claimant~~ individual shall receive notice of the time and place of ~~such~~ the hearing.

~~(7) Any employer may at any time make voluntary payments to the employer's account in excess of the other requirements of this chapter, and all such payments shall be considered on any computation date as contributions required under the provisions of this chapter if they are paid by the employer not later than the next December 15 after such computation date. Voluntary contributions shall not exceed the maximum voluntary contribution. For the purposes of this subparagraph "maximum voluntary contribution" shall equal an amount sufficient to lower the rate of contribution of an employer to the lower rate of contribution assigned in the next lower percentage of excess rank. Provided that an employer shall not contribute an amount sufficient to reduce the rate of contribution of the employer to a zero contribution rate.~~

b. ~~In any case in which the~~ If an enterprise or business, or a clearly segregable and identifiable part of an enterprise or business, for which contributions have been paid ~~has been~~ is sold or ~~otherwise~~ transferred to a subsequent employing unit, or ~~in any case in which~~ if one or more employing units have been reorganized or merged into a single employing unit, and the successor employer, having qualified as an employer as defined in section 96.19, subsection 5, paragraph "b", continues to operate ~~such~~ the enterprise or business, ~~such~~ the successor employer shall assume the position of the predecessor employer or employers with respect to ~~such~~ the predecessors' payrolls, contributions, accounts, and contribution rates to the same extent as if ~~there had been~~ no change had taken place in the ownership or control of ~~such~~ the enterprise or business. However, the successor employer shall not assume the position of the predecessor employer or employers with respect to the predecessor employer's or employers' payrolls, contributions, accounts, and contribution rates which are attributable to that part of the enterprise or business transferred, unless the successor employer applies to the division within sixty days from the date of the partial transfer, and the succession is approved by the predecessor employer or employers and the division.

~~In any case in which a clearly segregable and identifiable part of an enterprise or business for which contributions have been paid has been sold or otherwise transferred to a subsequent employing unit, and such successor employing unit having qualified as an "employer" as defined under section 96.19, subsection 5, paragraph "b", continues to operate such enterprise or business, such successor shall assume the position of the predecessor employer with respect to such predecessor's payrolls, contributions, accounts and contribution rates which are attributable to the part of the enterprise or business transferred to the same extent as if there has been no change in the ownership or control of such enterprise or business.~~

The contribution rate to be assigned to the ~~acquiring~~ successor employer for the period beginning not earlier than the date of the ~~transfer~~ succession and ending not later than the beginning of the next following ~~effective date of contribution rates~~ rate year, shall be the contribution rate ~~applicable to~~ of the ~~transferring~~ predecessor employer with respect to the period immediately preceding the date of the ~~transfer~~ succession, provided ~~that~~ the ~~acquiring~~ successor employer was not, prior to the ~~transfer~~ succession, a subject employer, and only one ~~transferring~~ predecessor employer, or only ~~transferring~~ predecessor employers ~~having~~ with identical rates, are involved; ~~or a newly computed rate based on the experience of the transferring employer attributable to the part of the business transferred to the acquiring employer combined with the experience of the acquiring employer as of the last computation date~~. If the predecessor employers' rates are not identical and the successor employer is not a subject employer prior to the succession, the division shall assign the successor employer a rate for the remainder of the rate year by combining the experience of the predecessor employers. If the successor employer is a subject employer prior to the succession, the successor employer may elect to retain the employer's own rate for the remainder of the rate year, or the successor employer may apply to the division to have the employer's rate redetermined by combining the employer's experience with the experience of the predecessor employer or employers. However, if the successor employer is a subject employer prior to the succession and has had a partial transfer of the experience of the predecessor employer or employers approved, then the division shall recompute the successor employer's rate for the remainder of the rate year.

~~The contribution rate to be assigned to the acquiring employer for the next following regular rate year, is a contribution rate based on the experience of the acquiring employer and only so much of the experience of the transferring employer as is attributable to the part of the business transferred.~~

~~Provided, however, that application for such transfer of partial record is made within sixty days from the date of transfer and meets the approval of the predecessor and the commissioner, and provided further that such partial record shall include sufficient information for the proper administration of this chapter with respect to payment of unemployment benefits and computation of future rates based on benefit experience.~~

~~In determining each employer's rate of contribution for the calendar year 1945, and for each year thereafter, such employer shall be given full credit for the payrolls, contributions, accounts and contribution rates of the employer's predecessor employer or employers to the same extent as if there had been no change in the organization or the ownership of the business. Provided, that in any case in which such sale, transfer, merger or reorganization has taken place in any year after the predecessor employer's rate of contribution (hereafter called rate) has been determined for such year the employer's rate for the remainder of such year, shall, upon the employer's application to the division be determined in the following manner:~~

~~(1) If the successor employer has no rate or if the successor employer has a rate and it is the same rate as that of the successor employer's predecessor employer or employers, their rates being the same rate, the successor employer's rate shall be that of the predecessor employer or employers.~~

~~(2) If the rate or rates of the predecessor employers are not the same rate, and that of the successor employer, if the successor employer has a rate, is not the same rate as that of the~~

~~predecessor employer then the rate of the successor employer shall be redetermined under the combined experience of the predecessor employer or employers and the successor employers.~~

~~e. No reduced rate of contribution shall be granted to a contributing employer until there shall have been twelve consecutive calendar quarters immediately preceding the first computation date throughout which the employer's account has been chargeable with benefit payments. Provided, that with respect to the calendar year commencing January 1, 1972, and each calendar year thereafter through December 31, 1981, except as provided in paragraph "d" of this subsection, a contributing employer who has not been subject to this chapter for a sufficient period of time to meet the twelve-quarter requirement shall qualify for a computed rate of contribution if there shall have been a lesser period throughout which the employer's account has been chargeable, but in no event less than eight consecutive calendar quarters immediately preceding the computation date; provided further, that with respect to the calendar years commencing January 1, 1972, and ending December 31, 1977, except as provided in paragraph "d" of this subsection, each contributing employer newly subject to this chapter shall pay contributions at the rate of one and five-tenths percent and beginning January 1, 1978, and ending December 31, 1981, at the rate specified in the ninth percentage of excess rank but not less than one and eight-tenths percent until the end of the calendar year in which the employer shall have had eight consecutive calendar quarters immediately preceding the computation date throughout which the employer's account has been chargeable with benefit payments.~~

c. (1) ~~Beginning January 1, 1982, a contributing~~ A nonconstruction contributory employer newly subject to this chapter ~~and not previously qualified for a computed rate~~ shall pay contributions at the rate specified in the ~~ninth percentage of excess~~ twelfth benefit ratio rank but not less than one ~~and eight-tenths~~ percent until the end of the calendar year in which the employer's account has been chargeable with ~~benefit payments~~ benefits for twenty consecutive calendar quarters immediately preceding the computation date~~; however, the employer shall pay contributions at a computed rate if the employer's percentage of excess is a negative number, the employer's account has been chargeable with benefit payments for eight consecutive calendar quarters immediately preceding the computation date, and the employer's account has been charged with benefit payments of more than twenty-six times the maximum weekly benefit amount for an individual with four or more dependents during the four consecutive calendar quarters immediately preceding the computation date~~.

(2) A construction contributory employer, as defined under rules adopted by the division, which is newly subject to this chapter shall pay contributions at the rate specified in the twenty-first benefit ratio rank until the end of the calendar year in which the employer's account has been chargeable with benefits for twelve consecutive calendar quarters immediately preceding the computation date.

(3) Thereafter, the employer's contribution rate shall be determined in accordance with paragraph "d" ~~of this subsection~~, except that the employer's average annual taxable payroll and benefit ratio may be computed, as determined by the division, for less than five periods of four consecutive calendar quarters immediately preceding the computation date.

d. The division ~~of job service~~ shall determine the contribution rate table to be in effect for the rate year following the ~~rate~~ computation date, by determining the ratio of the current reserve fund ratio to the highest benefit cost ~~rate~~ ratio on the ~~rate~~ computation date. On or before the fifth day of September the division shall make available to employers the contribution rate table to be in effect for the next rate year.

(1) The current reserve fund ratio ~~shall be~~ is computed by dividing the total ~~trust~~ funds available for payment of benefits, on the ~~rate~~ computation date, by the total wages paid in covered employment excluding reimbursable employment wages during the first four calendar quarters of the five calendar quarters immediately preceding the ~~rate~~ computation date.

(2) The highest benefit cost ~~rate shall be~~ ratio is the highest of the resulting ratios computed by dividing the total ~~benefit payments~~ benefits paid, excluding reimbursable ~~benefit payments~~ benefits paid, during each consecutive twelve-month period, during the ten-year period

ending on the ~~rate~~ computation date, by the total wages, excluding reimbursable employment wages, paid in the four calendar quarters ending nearest and prior to the last day of such twelve-month period.

If the current reserve fund ratio, divided by the highest benefit cost ~~rate~~ ratio:

Equals or exceeds	But is less than	The contribution rate table in effect shall be
~~0.0~~ —	~~0.5~~ 0.3	1
~~0.5~~ 0.3	~~0.75~~ 0.5	2
~~0.75~~ 0.5	~~1.0~~ 0.7	3
~~1.0~~ 0.7	~~1.5~~ 0.85	4
~~1.5~~ 0.85	~~1.9~~ 1.0	5
~~1.9~~ 1.0	~~2.3~~ 1.15	6
~~2.3~~ 1.15	~~2.7~~ 1.30	7
~~2.7~~ 1.30	~~3.0~~ —	8
~~3.0~~		~~9~~

~~The term "percentage of excess" means a number computed to six decimal places on July 1 of each year obtained by dividing the excess of all contributions attributable to an employer over the sum of all benefits charged to an employer by the employer's average annual payroll. An employer's percentage of excess is a positive number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date exceeds the total benefits charged to such account for the same period. An employer's percentage of excess is a negative number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date is less than the total benefits charged to such account for the same period.~~

"Benefit ratio" means a number computed to six decimal places on July 1 of each year obtained by dividing the average of all benefits charged to an employer during the five periods of four consecutive calendar quarters immediately preceding the computation date by the employer's average annual taxable payroll.

Each employer qualified for an experience rating shall be assigned a contribution rate for each rate year that corresponds to the employer's ~~percentage of excess~~ benefit ratio rank in the contribution rate table effective for the rate year from the following contribution rate tables. Each employer's ~~percentage of excess~~ benefit ratio rank shall be computed by listing all the employers by ~~decreasing percentages of excess~~ increasing benefit ratios, from the ~~highest positive percentage of excess~~ lowest benefit ratio to the highest ~~negative percentage of excess~~ benefit ratio and grouping the employers so listed into twenty-one separate ranks containing as nearly as possible four ~~point~~ and seventy-six hundredths percent of the total taxable wages, excluding reimbursable employment wages, paid in covered employment during the ~~first~~ four completed calendar quarters immediately preceding the ~~rate~~ computation date. If an employer's taxable wages qualify the employer for two separate ~~percentage of excess~~ benefit ratio ranks the employer shall be afforded the ~~percentage of excess~~ benefit ratio rank assigned the lower contribution rate. Employers with identical ~~percentages of excess~~ benefit ratios shall be assigned to the same ~~percentage of excess~~ benefit ratio rank.

Notwithstanding any other provision of this chapter which assigns an employer a contribution rate which corresponds to the employer's benefit ratio rank in the contribution rate table, an employer qualified for an experience rating shall contribute at the rate specified in the twenty-first benefit ratio rank for the next calendar year if the following two conditions are met: as of the computation date the total benefits paid by the employer during the five periods of four consecutive calendar quarters immediately preceding the computation date exceed the contributions paid by the employer for that same period; and for the previous computation date the total benefits paid by the employer during the five periods of four consecutive calendar quarters immediately preceding that previous computation date exceeded the total contributions paid by the employer for that same period.

~~Percentage of Excess~~ Benefit Ratio Rank	Approximate Cumulative Taxable Payroll Limit	Contribution Rate Tables 1	2	3	4	5	6	7	8	9
~~1~~	~~4.8%~~	~~.5~~	~~.2~~	~~0~~	~~0~~	~~0~~	~~0~~	~~0~~	~~0~~	~~0~~
~~2~~	~~9.5%~~	~~.9~~	~~.6~~	~~.5~~	~~.3~~	~~0~~	~~0~~	~~0~~	~~0~~	~~0~~
~~3~~	~~14.3%~~	~~1.0~~	~~.7~~	~~.6~~	~~.5~~	~~.4~~	~~0~~	~~0~~	~~0~~	~~0~~
~~4~~	~~19.0%~~	~~1.1~~	~~.8~~	~~.7~~	~~.6~~	~~.5~~	~~.3~~	~~0~~	~~0~~	~~0~~
~~5~~	~~23.8%~~	~~1.2~~	~~.9~~	~~.8~~	~~.8~~	~~.6~~	~~.4~~	~~.2~~	~~0~~	~~0~~
~~6~~	~~28.6%~~	~~1.5~~	~~1.2~~	~~1.0~~	~~.9~~	~~.7~~	~~.5~~	~~.2~~	~~.1~~	~~0~~
~~7~~	~~33.3%~~	~~1.9~~	~~1.5~~	~~1.2~~	~~1.0~~	~~.8~~	~~.6~~	~~.3~~	~~.2~~	~~.1~~
~~8~~	~~38.1%~~	~~2.1~~	~~1.7~~	~~1.4~~	~~1.1~~	~~.9~~	~~.7~~	~~.4~~	~~.2~~	~~.1~~
~~9~~	~~42.8%~~	~~2.3~~	~~2.1~~	~~1.6~~	~~1.2~~	~~1.0~~	~~.8~~	~~.5~~	~~.3~~	~~.2~~
~~10~~	~~47.6%~~	~~2.7~~	~~2.4~~	~~1.8~~	~~1.3~~	~~1.1~~	~~.9~~	~~.6~~	~~.4~~	~~.2~~
~~11~~	~~52.4%~~	~~3.3~~	~~2.9~~	~~2.1~~	~~1.5~~	~~1.2~~	~~1.0~~	~~.7~~	~~.5~~	~~.2~~
~~12~~	~~57.1%~~	~~3.8~~	~~3.4~~	~~2.5~~	~~1.7~~	~~1.3~~	~~1.1~~	~~.8~~	~~.6~~	~~.2~~
~~13~~	~~61.9%~~	~~4.3~~	~~4.0~~	~~2.8~~	~~2.0~~	~~1.5~~	~~1.3~~	~~.9~~	~~.7~~	~~.3~~
~~14~~	~~66.6%~~	~~4.9~~	~~4.6~~	~~3.1~~	~~2.4~~	~~1.7~~	~~1.5~~	~~1.1~~	~~.9~~	~~.5~~
~~15~~	~~71.4%~~	~~5.3~~	~~5.0~~	~~3.5~~	~~2.9~~	~~1.9~~	~~1.7~~	~~1.3~~	~~1.0~~	~~.5~~
~~16~~	~~76.2%~~	~~5.8~~	~~5.5~~	~~3.9~~	~~3.4~~	~~2.3~~	~~1.9~~	~~1.7~~	~~1.0~~	~~.7~~
~~17~~	~~80.9%~~	~~6.6~~	~~6.3~~	~~4.4~~	~~4.0~~	~~3.0~~	~~2.5~~	~~2.0~~	~~1.5~~	~~.8~~
~~18~~	~~85.7%~~	~~7.0~~	~~6.7~~	~~5.0~~	~~4.5~~	~~3.7~~	~~3.1~~	~~2.5~~	~~2.0~~	~~1.0~~
~~19~~	~~90.4%~~	~~7.0~~	~~6.8~~	~~5.5~~	~~5.0~~	~~4.4~~	~~3.8~~	~~3.2~~	~~2.5~~	~~1.8~~
~~20~~	~~95.2%~~	~~7.0~~	~~7.0~~	~~6.0~~	~~5.5~~	~~5.0~~	~~4.5~~	~~4.0~~	~~3.0~~	~~2.5~~
~~21~~	~~100.0%~~	~~7.0~~	~~7.0~~	~~6.0~~	~~6.0~~	~~5.5~~	~~5.0~~	~~4.5~~	~~4.0~~	~~4.0~~
1	4.8%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
2	9.5%	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
3	14.3%	0.4	0.2	0.1	0.1	0.0	0.0	0.0	0.0	
4	19.0%	0.7	0.4	0.3	0.2	0.1	0.0	0.0	0.0	
5	23.8%	1.0	0.6	0.5	0.3	0.2	0.1	0.0	0.0	
6	28.6%	1.3	0.8	0.7	0.4	0.3	0.2	0.1	0.0	
7	33.3%	1.6	1.1	0.9	0.6	0.4	0.3	0.2	0.1	
8	38.1%	1.9	1.4	1.1	0.8	0.5	0.4	0.3	0.2	
9	42.8%	2.2	1.7	1.3	1.0	0.6	0.5	0.4	0.3	
10	47.6%	2.5	2.0	1.5	1.2	0.7	0.6	0.5	0.4	
11	52.4%	2.8	2.4	1.8	1.4	0.8	0.7	0.6	0.5	
12	57.1%	3.1	2.8	2.1	1.6	0.9	0.8	0.7	0.6	
13	61.9%	3.6	3.2	2.4	1.8	1.1	0.9	0.8	0.7	
14	66.6%	4.1	3.6	2.9	2.2	1.4	1.0	0.9	0.8	
15	71.4%	4.7	4.2	3.4	2.6	1.8	1.1	1.0	0.9	
16	76.2%	5.4	4.8	4.2	3.3	2.5	1.6	1.1	1.0	
17	80.9%	6.1	5.4	5.4	4.3	3.5	2.4	1.6	1.1	
18	85.7%	7.0	6.7	6.3	5.4	5.4	3.9	2.5	1.3	
19	90.4%	8.0	8.0	7.3	6.6	6.0	5.4	3.9	2.3	
20	95.2%	8.5	8.5	8.5	7.8	7.2	6.4	5.4	3.8	
21	100.0%	9.0	9.0	9.0	9.0	8.4	7.4	6.4	5.4	

~~Notwithstanding any other provision of this chapter relating to limiting contribution rates to those specified in the contribution rate table, an employer which employs individuals for construction as defined by the division of job service pursuant to rules, that has not qualified for an experience rating shall pay the maximum contribution rate assigned to any employer under this chapter, including the additional contributions required under this lettered paragraph of an employer with a negative balance in the employer's account, until such time as the employer~~

~~has qualified for an experience rating. However, the employer shall not qualify for an experience rating until there have been twelve consecutive calendar quarters immediately preceding the rate computation date throughout which the employer's account has been chargeable with benefit payments.~~

~~On or before the fifth day of September immediately preceding the next following rate period the division shall make available to employers the table which will apply to the contribution rates in the following rate year.~~

~~During any rate year an employer assigned a contribution rate under this lettered paragraph is not required to contribute to the unemployment compensation fund if the employer's percentage of excess is seven and five-tenths percent or greater for the rate year and the employer has not been charged with more than a total of one hundred dollars in benefit payments for any time within the twenty-four calendar quarters immediately preceding the computation date for the rate year. However, notwithstanding the voluntary contribution provisions of section 96.7, subsection 3, paragraph "a", subparagraph (7), if the employer's account has not been charged with more than a total of one hundred dollars in benefit payments during the twenty-four calendar quarters immediately preceding the computation date and the employer's percentage of excess is less than seven and five-tenths percent, the employer shall not be required to contribute to the unemployment compensation fund for the rate year if the employer makes a voluntary contribution which raises the employer's percentage of excess to seven and five-tenths percent or greater and which equals or exceeds the amount of any benefit charge, of no more than one hundred dollars within the preceding twenty-four calendar quarters, to the employer's account. If an employer is not required to contribute for a rate year to the fund under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is not required to contribute under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph. However, the employer's experience rate shall be limited for each of the next three consecutive rate years. For the first rate year, the employer's rate shall be limited to the rate in the percentage of excess rank which is no more than three percentage of excess ranks higher numerically than the rank containing the one and eight-tenths percent rate or the next lower rate. For each of the next two rate years, the employer's rate shall be limited to the rate in the percentage of excess rank which is no more than three percentage of excess ranks higher numerically than the rank in which the employer was placed for the immediate past rate year.~~

~~Notwithstanding any other provision of this chapter relating to limiting contribution rates to those specified in the contribution rate table, if an employer qualified for an experience rating has a negative balance in the employer's account on the rate computation date and had a negative balance on the previous rate computation date, the employer shall contribute an additional one percent of taxable wages above the contribution rate assigned the employer by the effective rate contribution table. For each subsequent and consecutive rate computation date on which the employer still has a negative balance in the employer's account, the employer shall contribute an additional one percent of taxable wages. Beginning with the initial surcharge of one percent each subsequent and consecutive surcharge of one percent of taxable wages shall be cumulative, except that the cumulative surcharge shall not exceed an amount sufficient to make the employer's combined contribution rate equal to nine percent of taxable wages.~~

e. ~~Based upon the formula above provided in this section the~~ The division shall fix the ~~rate of~~ contribution rate for each employer. ~~The division shall~~ and notify the employer of the rate ~~so fixed~~. An employer may appeal to the division for a revision of the contribution rate ~~of contribution so fixed~~ within thirty days from the date of the notice to ~~such~~ the employer. ~~The~~ After providing an opportunity for a hearing, the division ~~after such hearing~~ may affirm, set aside, or modify its former determination ~~or modify it~~ and may grant the employer a new contribution rate ~~of contribution~~. The division shall notify the employer of ~~this determination~~ its decision by ~~certified~~ regular mail. Judicial review of action of the division may be sought ~~in accordance with the terms of the Iowa administrative procedure Act~~ pursuant to chapter 17A.

If an employer's account has been charged with benefits as the result of a decision allowing benefits and the decision is reversed, the employer may appeal, within thirty days from the date of the next contribution rate notice, for a recomputation of the rate. If a base period employer's account has been charged with benefits paid to an employee at a time when the employee was employed by the base period employer in the same employment as in the base period, the employer may appeal, within thirty days from the date of the first notice of the employer's contribution rate which is based on the charges, for a recomputation of the rate. ~~The division shall remove the benefit charges from the rate computation, recompute the contribution rate, and notify the employer of the recomputed contribution rate.~~

f. If an employer has not filed a contribution ~~or~~ and payroll quarterly report, as required ~~under~~ pursuant to section 96.11, subsection 7, for a calendar quarter which precedes the computation date and upon which the employer's rate of contribution is computed, the employer's average annual taxable payroll shall be computed by ~~adding~~ considering the delinquent quarterly reports as containing zero taxable wages ~~in the appropriate quarterly reports on file and dividing that sum by the number of years and quarters of years for which quarterly reports are on file~~.

If a delinquent quarterly report is received by ~~November 15 immediately~~ September 30 following the computation date the contribution rate ~~of contribution~~ shall be recomputed by using the taxable wages in all the appropriate quarterly reports on file to determine the average annual taxable payroll.

If a delinquent quarterly report is received after ~~November 15~~ September 30 following the computation date the contribution rate ~~of contribution~~ shall not be recomputed, unless the rate is appealed in writing to the division under paragraph "e" ~~of this subsection~~ and the delinquent quarterly report ~~received after November 15~~ is also submitted not later than thirty days after the division notifies the employer of the rate under paragraph "e" ~~of this subsection~~.

4 3. DETERMINATION AND ASSESSMENT OF CONTRIBUTIONS.

a. As soon as practicable and in any event within two years after an employer has filed reports, as required ~~by the division of job service~~ pursuant to section 96.11, subsection 7, the division shall examine ~~such~~ the reports and determine the correct amount of contributions due, and the amount so determined by the division shall be the contributions payable. If the contributions found due ~~shall be~~ are greater than the amount ~~theretofore~~ paid, the division shall send a notice by certified mail to the employer with respect to the additional contributions, ~~together with any~~ and interest ~~and penalty, shall be sent by certified mail~~ assessed. A lien shall attach as provided in section 96.14, subsection 3, if the assessment is not paid or appealed within thirty days of the date of the notice of assessment.

b. If the division discovers from the examination of the reports required pursuant to section 96.11, subsection 7 or ~~otherwise~~ in some other manner that wages, or any portion of wages, payable for employment, ~~or any part thereof,~~ have not been listed in the reports, or that ~~no~~ reports were not filed when due, or that reports have been filed showing contributions due but ~~no~~ contributions in fact have not been paid, ~~it may~~ the division shall at any time within five years after the time ~~such~~ the reports were due, determine the correct amount of contributions payable, together with interest and any applicable penalty as provided in this chapter. The division shall send a notice by certified mail to the employer of the amount ~~so determined shall be~~ assessed and a lien shall attach as provided in paragraph "a" ~~of this subsection~~.

c. The certificate of the division to the effect that contributions have not been paid, that reports have not been filed, or that information has not been furnished, as required under the provisions of this chapter, ~~shall be~~ is prima-facie evidence ~~thereof~~ of the failure to pay contributions, file reports, or furnish information.

~~d~~ 4. EMPLOYER LIABILITY DETERMINATION. The division shall initially determine all questions relating to the liability of an employing unit or employer, including the amount of contribution, the contribution rate ~~of contribution~~, and successorship. A copy of the initial determination shall be sent by regular mail to the last address, according to the records of the division, of each affected employing unit or employer.

The affected employing unit or employer may appeal in writing to the division from the initial determination. An appeal shall not be entertained for any reason by the division unless the appeal is filed with the division within thirty days from the date on which the initial determination is mailed. If an appeal is not so filed, the initial determination shall with the expiration of the appeal period become final and conclusive in all respects and for all purposes.

A hearing on an appeal shall be conducted according to ~~the regulations and~~ rules ~~promulgated~~ adopted by the division. A copy of the decision of the hearing officer shall be sent by regular mail to the last address, according to the records of the division, of each affected employing unit or employer.

The division's decision on the appeal shall be final and conclusive as to the liability of the employing unit or employer unless the employing unit or employer files an appeal for judicial review within thirty days after the date of mailing of the decision as provided in subsection ~~6 of this section~~ 5.

~~5. REVISION OF CONTRIBUTIONS. An employer may appeal to the division of job service for revision of the contributions and interest assessed against such employer at any time within thirty days from the date of the notice of the assessment of such contributions and interest. The division shall grant a hearing thereon and if, upon such hearing, it shall determine that the amount of contributions payable with interest thereon is incorrect, it shall revise the same according to the law and the facts and adjust the computation of the contributions and interest accordingly. The division shall notify the employer by certified mail of its findings.~~

~~6~~ 5. JUDICIAL REVIEW. Notwithstanding ~~the terms of the Iowa administrative procedure Act~~ chapter 17A, petitions for judicial review may be filed in the district court of the county in which ~~such~~ the employer resides, or in which ~~such~~ the employer's principal place of business is located, or in the case of a nonresident not maintaining a place of business in this state either in ~~any~~ a county in which the wages payable for employment were earned or paid or in Polk county, within thirty days after the date of the notice to ~~such~~ the employer ~~notifying such employer of the employer's rate of contribution, or~~ of the ~~division of job service's~~ division's final determination as provided for in subsection ~~3 of this section or subsection 5 of this section~~ 2, 3, or 4.

The petitioner shall file with the clerk of ~~said~~ the district court a bond for the use of the respondent, with sureties approved by the clerk, ~~in~~ with any penalty to be fixed and approved by the clerk ~~of said court. In no case shall the~~ The bond shall not be less than fifty dollars and shall be conditioned ~~that~~ on the ~~petitioner shall perform~~ petitioner's performance of the orders of the court. In all other respects, the judicial review shall be in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A.

~~An appeal may be taken by the employer or the division to the supreme court of this state, irrespective of the amount involved.~~

~~7~~ 6. JEOPARDY ASSESSMENTS. If the division ~~of job service~~ believes that the ~~assessment or~~ collection of contributions payable or benefits reimbursable will be jeopardized by delay, the division may immediately make an assessment of the estimated amount of contributions due or benefits reimbursable, together with ~~all~~ interest and ~~penalty thereon as provided by this chapter~~ applicable penalty, and demand payment ~~thereof~~ from the employer. If ~~such~~ the payment is not made, ~~a distress warrant may be issued or~~ the division may immediately

file a lien ~~filed~~ against ~~such~~ the employer ~~immediately~~ which may be followed by the issuance of a distress warrant.

The division shall be permitted to accept a bond from the employer to satisfy collection until the amount of contributions ~~legally~~ due ~~shall be~~ is determined. ~~Such~~ The bond ~~to~~ shall be in an amount deemed necessary, but not more than double the amount of the contributions involved, ~~and~~ with securities satisfactory to the division.

§ 7. FINANCING BENEFITS PAID TO EMPLOYEES OF ~~THE STATE OR POLITICAL SUBDIVISIONS OF THE STATE AND THEIR INSTRUMENTALITIES~~ GOVERNMENTAL ENTITIES.

a. A ~~government~~ governmental entity which is an employer under ~~the provisions of~~ this chapter shall ~~make benefit payments~~ pay benefits in a manner provided for a ~~government~~ reimbursable employer unless the ~~employer~~ governmental entity elects to ~~pay unemployment compensation benefits~~ make contributions as a ~~contributing~~ contributory employer. ~~Government entities may establish a group account as provided in this section. Any~~ The election ~~under this subsection to be a government contributing employer~~ shall be effective for a minimum of one calendar year and may be changed if an election is made to ~~be~~ become a ~~government~~ reimbursable employer prior to December 1 for a minimum of the following calendar year.

However, if on the effective date of the election the governmental entity has a negative balance in its contributory account, the governmental entity shall pay to the fund within a time period determined by the division the amount of the negative balance and shall immediately become liable to reimburse the unemployment compensation fund for benefits paid in lieu of contributions. Regular or extended benefits paid after the effective date of the election, including those based on wages paid while the governmental entity was a contributory employer, shall be billed to the governmental entity as a reimbursable employer.

~~b. For the purposes of this subsection "government contributing employer" means a government entity electing to contribute for a minimum period of one calendar year at a contribution rate determined by the division of job service in the following manner:~~

~~(1) For the calendar year beginning January 1, 1978, the contribution rate shall be one percent.~~

~~(2) For the calendar year beginning January 1, 1979, the contribution rate shall be one percent, provided that the division may reduce the contribution rate by fifteen hundredths of one percent or increase the contribution rate by not more than one percent. A rate adjustment shall be made only in an amount necessary to raise sufficient funds from contributing employers to finance an amount equal to the benefits for the previous calendar year and the amount by which the benefits of the preceding calendar year exceeded the employers' contributions.~~

~~(3) For the calendar year beginning January 1, 1980 the contribution rate shall be computed by the division immediately preceding the rate computation date by using the potential benefit charges of all government contributing employers for calendar year 1978 divided by the total of all taxable wages of government contributing employers for calendar year 1978.~~

~~(4)~~ b. ~~For the calendar year beginning January 1, 1981 and each subsequent year, each government contributing~~ A governmental entity electing to make contributions as a contributory employer, with at least eight consecutive calendar quarters immediately preceding the ~~rate~~ computation date throughout which the employer's account has been chargeable with ~~benefit payments~~ benefits, shall be assigned a contribution rate under ~~the provisions of~~ this ~~subparagraph~~ paragraph. Contribution rates shall be assigned by listing all ~~such government contributing~~ governmental contributory employers by decreasing percentages of excess from the highest positive percentage of excess to the highest negative percentage of excess. The employers so listed shall be grouped into seven separate percentage of excess ranks each containing as nearly as possible one-seventh of the total taxable wages of ~~government~~ governmental entities eligible to be assigned a rate under this ~~subparagraph~~ paragraph.

As used in this subsection, "percentage of excess" means a number computed to six decimal places on July 1 of each year obtained by dividing the excess of all contributions attributable to an employer over the sum of all benefits charged to an employer by the employer's average

annual payroll. An employer's percentage of excess is a positive number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date exceeds the total benefits charged to such account for the same period. An employer's percentage of excess is a negative number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date is less than the total benefits charged to such account for the same period.

As used in this subsection, "average annual taxable payroll" means the average of the total amount of taxable wages paid by an employer for insured work during the three periods of four consecutive calendar quarters immediately preceding the computation date. However, for an employer which qualifies on any computation date for a computed rate on the basis of less than twelve consecutive calendar quarters of chargeability immediately preceding the computation date, "average annual taxable payroll" means the average of the employer's total amount of taxable wages for the two periods of four consecutive calendar quarters immediately preceding the computation date.

PARAGRAPH DIVIDED. The division shall annually calculate a base rate for each calendar year. The base rate is equal to the sum of the ~~benefit payments~~ benefits charged to ~~government contributing~~ governmental contributory employers in the ~~preceding~~ calendar year ~~at the time of~~ immediately preceding the ~~rate~~ computation date plus or minus the difference between the total benefits ~~less~~ and contributions ~~made~~ paid by ~~government contributing~~ governmental contributory employers ~~since January 1, 1980 which sum is divided by the total taxable wages of government contributing employers for~~ during the ~~preceding~~ calendar year immediately preceding the computation date, rounded to the next highest one-tenth of a ~~percentage point~~ one percent. ~~If total contributions since January 1, 1980 exceed total benefit payments for government contributing employers, the difference shall be subtracted from the benefit payments of the preceding year. If benefits since January 1, 1980 exceed total contributions for government contributing employers the difference shall be added to the benefit payment of the preceding year.~~ Excess contributions ~~for~~ from the years 1978 and 1979 ~~will~~ shall be used to offset ~~benefit payments~~ benefits paid in any calendar year where total ~~benefit payments~~ benefits exceed total contributions of ~~government contributing~~ governmental contributory employers. The contribution rate as a percentage of taxable wages of the employer shall be assigned as follows:

If the percentage of excess rank is:	The contribution rate shall be:	Approximate cumulative taxable payroll:
1	Base Rate - 0.9	14.3
2	Base Rate - 0.6	28.6
3	Base Rate - 0.3	42.9
4	Base Rate	57.2
5	Base Rate + 0.3	71.5
6	Base Rate + 0.6	85.8
7	Base Rate + 0.9	100.0

PARAGRAPH DIVIDED. If a ~~government contributing~~ governmental contributory employer is grouped into two separate percentage of excess ranks, the employer shall be assigned the lower contribution rate of the two percentage of excess ranks. Notwithstanding the provisions of this subparagraph, a ~~government contributing~~ governmental contributory employer shall not be assigned a contribution rate less than one-tenth of one percent of taxable wages unless the employer has a positive percentage of excess greater than five percent. ~~For the purposes of this subsection percentage of excess has the meaning provided in subsection 3, paragraph "d" of this section.~~

~~For the calendar year beginning January 1, 1981, government~~ Governmental entities electing to be ~~government contributing~~ contributory employers which are not ~~otherwise~~ eligible to be assigned a contribution rate under this ~~subparagraph~~ paragraph shall be assigned the base rate ~~for the calendar year~~ as a contribution rate for the calendar year.

~~A government entity electing to contribute at a fixed contribution rate in lieu to making payments as a government reimbursable employer may elect to finance benefits as a government reimbursable employer however the government entity shall be obligated to pay within a time period determined by the division of job service to the fund the amount by which benefit payments for the government entity exceed contributions by the government entity on the effective date of the election.~~

c. For the purposes of this subsection, "~~government~~ governmental reimbursable employer" means an employer ~~paying~~ which makes payments to the division for the unemployment compensation fund in an amount equal to the ~~sum of the~~ regular and extended benefits ~~attributable to~~ paid, which are based on wages paid for service in the employ of the employer ~~and prior to January 1, 1979, plus one-half of the extended benefits paid for service in the employ of the employer, and beginning January 1, 1979, plus all of the extended benefits paid for service in the employ of the employer~~. Benefits paid to an eligible individual shall be charged against the base period employers in the inverse chronological order in which the employment of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter. At the end of each calendar quarter, the division shall bill each governmental reimbursable employer for benefits paid during that quarter. Payments by a governmental reimbursable employer shall be made in accordance with ~~the provisions of~~ subsection ~~9~~ 8, paragraph "b" ~~of this section~~, subparagraphs (2) through (5).

d. A state agency, board, commission, or department, except a state board of ~~regents~~ regents' institution ~~or the state fair board~~, shall, after approval of the billing for a governmental reimbursable employer as provided in subsection ~~9~~ 8, paragraph "b" ~~of this section~~, submit the billing to the director of revenue and finance. The director of revenue and finance shall pay the approved ~~billings~~ billing out of any funds in the state treasury not otherwise appropriated. A state agency, board, commission, or department shall reimburse the director of revenue and finance out of any revolving, special, trust, or federal fund from which all or a portion of the billing can be paid, for payments made by the director of revenue and finance on behalf of the agency, board, commission, or department.

~~9~~ 8. FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT ORGANIZATIONS. ~~Benefits paid to employees of nonprofit organizations or of any state-owned hospital or institution of higher education shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection and section 96.19, a nonprofit organization is an organization described in the U.S. Internal Revenue Code, 26 U.S.C. 501(c)(3), which is exempt from income tax under 26 U.S.C. 501(a) of such Code.~~

a. ~~Any state-owned hospital or institution of higher education, which, pursuant to section 96.19, subsection 5, paragraph "h", or any~~ A nonprofit organization which, ~~pursuant to section 96.19, subsection 5, paragraph "i",~~ is, or becomes, subject to this chapter ~~on or after January 1, 1972~~, shall pay contributions under ~~the provisions of~~ subsections 1, and 2, ~~and 3 of this section,~~ unless ~~it~~ the nonprofit organization elects, in accordance with this paragraph, to ~~pay to the division of job service for~~ reimburse the unemployment compensation fund for benefits paid in an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, ~~that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment~~ which ~~begin~~ are based on wages paid for service in the employ of the nonprofit organization during the effective period of ~~such~~ the election.

(1) ~~Any~~ A nonprofit organization ~~or any state-owned hospital or institution of higher education which is, or becomes, subject to this chapter on January 1, 1972,~~ may elect to become ~~liable for payments in lieu of contributions~~ a reimbursable employer for a period of not less than two calendar years ~~commencing January 1, 1972, provided it files~~ by filing with the division a written notice of its election ~~within the thirty-day period immediately following such date or within a like period immediately following the effective date of this Act, whichever occurs later~~ not later than thirty days prior to the beginning of the calendar year for which the election is to be effective.

~~(2) Any nonprofit organization or any state-owned hospital or institution of higher education, which becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years following the date on which such subjectivity begins by filing a written notice of its election with the division not later than thirty days immediately following the date of the determination of such subjectivity.~~

~~(3)~~ ~~Any~~ (2) A nonprofit organization ~~or any state-owned hospital or institution of higher education,~~ which makes an election in accordance with ~~subparagraphs~~ subparagraph (1) ~~or (2) of this paragraph~~ shall continue to be ~~liable for payments in lieu of contributions~~ a reimbursable employer until ~~it~~ the nonprofit organization files with the division a written notice terminating its election not later than thirty days prior to the beginning of the ~~taxable~~ calendar year for which ~~such~~ the termination ~~shall first~~ is to be effective.

~~(4) Any nonprofit organization or any state-owned hospital or institution of higher education, which has been paying contributions under this chapter for a period on or after January 1, 1972, may change to a reimbursable basis by filing with the division not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.~~

~~(5)~~ (3) The division may for good cause extend the period within which a notice of election, or ~~a notice of~~ termination, of election must be filed and may permit an election or termination of election to be retroactive ~~but not any earlier than with respect to benefits paid after December 31, 1969~~.

~~(6)~~ (4) The division, in accordance with ~~such regulations as it may prescribe~~ rules, shall notify each nonprofit organization of any determination ~~which it may make~~ made by the division of ~~its~~ the status of the nonprofit organization as an employer and of the effective date of any election ~~which it makes and of any~~ or termination of ~~such~~ election. ~~Such determinations shall be~~ A determination is subject to ~~reconsideration,~~ appeal and review in accordance with ~~the provisions of~~ subsections ~~5~~ 4 and ~~6 of this section~~ 5.

b. ~~Payments~~ Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:

(1) At the end of each calendar quarter, ~~or at the end of any other period as determined by the division,~~ the division shall bill each nonprofit organization which has elected to ~~make payments~~ reimburse the unemployment compensation fund for benefits paid in ~~lieu of contributions for~~ an amount equal to the full amount of regular benefits ~~plus~~ and one-half of the amount of extended benefits paid during ~~such~~ the quarter ~~or other prescribed period that is attributable to~~ which are based on wages paid for service in the employ of ~~such~~ the organization. ~~Unless federal funds are otherwise provided, at the end of each calendar quarter or other period determined by the division, the division shall also bill each governmental entity the amount of regular plus extended benefits owed as a governmental reimbursable employer for benefits paid during the quarter or period for such organization electing governmental reimbursable status including any benefits paid for a government entity for claims filed while the government entity was a contributing employer prior to an election to become a government reimbursable employer which were paid during the quarter or period.~~ Benefits paid to an individual shall be charged against the base period employers in the inverse chronological order in which the employment

of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter.

(2) ~~Payment of any bill rendered shall be made~~ The nonprofit organization shall pay the bill not later than thirty days after ~~such~~ the bill was mailed or otherwise delivered to the last known address of the nonprofit organization ~~or was otherwise delivered to it~~, unless ~~there~~ the nonprofit organization has ~~been~~ filed an application for ~~review and~~ redetermination in accordance with subparagraph (4) ~~of this paragraph~~.

(3) ~~Payments~~ Reimbursements made by ~~any~~ a nonprofit organization ~~under the provisions of this subsection~~ shall not be deducted ~~or deductible~~, in whole or in part, from the ~~remuneration~~ wages of individuals in the employ of the nonprofit organization.

(4) The amount due specified in ~~any~~ a bill from the division ~~shall be~~ is conclusive ~~on the organization~~ unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to ~~its~~ the last known address ~~or otherwise delivered to it~~ of the nonprofit organization, the nonprofit organization files an application for redetermination ~~by~~ with the division setting forth the grounds for ~~such~~ the application. The division shall promptly review ~~and reconsider~~ the amount due specified in the bill and shall ~~thereafter~~ issue a redetermination ~~in any case in which such application for redetermination has been filed~~. ~~Any such~~ The redetermination ~~shall be~~ is conclusive on the nonprofit organization unless, not later than ~~sixty~~ thirty days after the redetermination was mailed or otherwise delivered to ~~its~~ the last known address ~~or otherwise delivered to it~~ of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to subsection ~~6 of this section~~ 5.

(5) The provisions for collection of contributions under section 96.14 ~~shall be~~ are applicable to ~~payments~~ reimbursements for benefits paid in lieu of contributions.

~~10~~ 9. ~~PROVISION OF~~ BOND OR OTHER SECURITY DEPOSITS. A nonprofit organization which elects, on or after July 1, 1975, to become ~~liable for payments in lieu of contributions~~ a reimbursable employer shall be required within thirty days after the effective date of the election to either execute and file with the division ~~of job service~~ a surety bond approved by the division or ~~the nonprofit organization may elect instead to~~ deposit with the division money or securities. ~~The amount of the bond or deposit shall be determined in accordance with this subsection.~~

a. The amount of the bond or deposit ~~required by this subsection~~ shall be equal to two and seven-tenths percent of the nonprofit organization's total taxable wages paid for employment ~~for~~ during the four calendar quarters immediately preceding the effective date of the election, or the renewal date ~~in the case~~ of a bond, ~~or the biennial anniversary of the effective date of election in the case of~~ or a deposit of money or securities, whichever date ~~shall be~~ is most recent and applicable. If the nonprofit organization did not pay wages in each of ~~such~~ the four calendar quarters, the amount of the bond or deposit shall be ~~as~~ determined by the division.

b. ~~Any~~ A bond ~~deposited~~ filed under this subsection shall be in force for a period of not less than two ~~taxable~~ years and shall be renewed with the approval of the division, at such times as the division may prescribe, but not less frequently than at two-year intervals ~~as long as the organization continues to be liable for payments in lieu of contributions~~. The division shall require adjustments to be made in a previously filed bond as it deems appropriate. If the bond is to be increased or decreased, the adjusted bond shall be filed by the nonprofit organization within thirty days of the date notice of the required adjustment was mailed or otherwise delivered ~~to it~~. Failure by ~~any~~ a nonprofit organization covered by ~~such~~ a bond to ~~pay the full amount of payments in lieu of contributions~~ fully reimburse the unemployment compensation fund for benefits paid when due, ~~together with any applicable interest and penalties provided for in section 96.14~~ shall render the surety liable ~~on said bond~~ for the due and unpaid reimbursements and any interest and penalty due as provided in section 96.14 to the extent of the bond, ~~as though the surety was such organization~~.

c. ~~Any deposit of money~~ Money or securities deposited in accordance with this subsection shall be retained by the division in an escrow account until the nonprofit organization's liability under the election is terminated, at which time ~~it~~ the money or securities shall be returned to the nonprofit organization, less any deductions ~~as hereinafter provided~~ made by the division. The division may ~~deduct~~ make deductions from the money deposited ~~under this paragraph by a nonprofit organization~~ or sell the securities ~~it has so~~ deposited ~~to the extent~~ if necessary to satisfy any due and unpaid ~~payments in lieu of contributions~~ reimbursements and any ~~applicable~~ interest and ~~penalties~~ penalty due as provided ~~for~~ in section 96.14. ~~The division shall require the organization within thirty days following any deduction from a money deposit or sale of deposited securities under the provisions of this paragraph to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account.~~ The division may, at any time, review the adequacy of the deposit made by ~~any~~ a nonprofit organization. If~~, as a result of such review, it~~ the division determines that an adjustment is necessary, ~~it~~ the division shall require the organization to make an additional deposit within thirty days of written notice of ~~its~~ the determination or shall return to ~~it such~~ the nonprofit organization the portion of the deposit ~~as it~~ no longer ~~considers~~ considered necessary~~, whichever action is appropriate~~. Disposition of income from securities held in escrow or any cash remaining from the sale of securities shall be governed by the applicable provisions of the Code.

~~11. AUTHORITY TO TERMINATE ELECTIONS.~~

d. If ~~any~~ a nonprofit organization fails to file a bond or make a deposit, or to file a bond ~~in an increased amount or to increase or make whole the amount of a previously made deposit~~ or make a deposit to meet an adjustment, the division ~~of job service~~ may terminate ~~such~~ the nonprofit organization's election to ~~make payments~~ reimburse the unemployment compensation fund for benefits paid in lieu of making contributions ~~and such~~. The termination shall continue for not less than ~~the four-consecutive-calendar-quarter period~~ four consecutive calendar quarters beginning with the quarter in which ~~such~~ the termination becomes effective~~; provided, that~~. However, the division may extend for good cause the applicable filing, deposit, or adjustment period by not more than thirty days.

~~12. ALLOCATION OF BENEFIT COST. Each employer that is liable for payments in lieu of contributions shall pay to the division of job service for the fund the amount of regular benefits and unless a government entity plus the amount of one-half of extended benefits paid during each quarter that are attributable to service in the employ of such employer. A government entity shall make benefit payments in the amounts provided for a government reimbursable employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payment shall be payable each quarter by the base period employers in inverse chronological order in which the employment of such individual occurred. Provided, that the amount of any such employer's liability in any calendar quarter shall not exceed the amount of such individual's wage credits and unless a government entity plus one-half the amount of extended benefits based on employment with such employer during such quarter of the base period. A government entity's liability in any calendar quarter shall not exceed the amount of the individual's wage credits plus that amount of extended benefits a government entity is required to pay as a government reimbursable employer.~~

~~13~~ 10. GROUP ACCOUNTS. Two or more ~~employers that~~ nonprofit organizations or two or more governmental entities which have become ~~liable for payments in lieu of contributions,~~ reimbursable employers in accordance with ~~the provisions of~~ subsection 8 ~~and~~ 7 or subsection ~~9~~ 8, paragraph "a", ~~of this section~~ may file a joint application to the division ~~of job service~~ for the establishment of a group account for the purpose of sharing the cost of benefits paid ~~that~~ which are attributable to service in the employ of ~~such~~ the employers. ~~Each such~~ The

application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon ~~its~~ approval of the application, the division shall establish a group account for ~~such~~ the employers effective as of the beginning of the calendar quarter in which ~~it~~ the division receives the application and shall notify the group's ~~representative~~ agent of the effective date of the account. ~~Such~~ The account shall remain in effect for not less than one year ~~and thereafter~~ until terminated at the discretion of the division or upon application by the group. Upon establishment of the account, each employer member of the group shall be liable for ~~payments~~ benefit reimbursements in lieu of contributions with respect to each calendar quarter in ~~the~~ an amount ~~that~~ which bears the same ratio to the total benefits paid in ~~such~~ the quarter ~~that~~ which are attributable to service performed in the employ of all members of the group, as the total wages paid for service performed in ~~employment by such~~ the employ of the member in ~~such~~ the quarter bear to the total wages paid ~~during such quarter~~ for service performed in the employ of all members of the group in the quarter. The division shall ~~prescribe such regulations as it deems necessary~~ adopt rules with respect to applications for establishment, maintenance, and termination of group accounts ~~that are authorized by this subsection~~, for addition of new members to, and withdrawal of active members from, ~~such~~ group accounts, and for the determination of the amounts ~~that~~ which are payable ~~under this subsection~~ by members of the group and the time and manner of ~~such~~ the payments.

~~14. NONPROFIT ORGANIZATION ELECTION.~~

~~a. Notwithstanding any provisions in subsection 9 of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section and, pursuant to subsection 9 of this section, elects, before April 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization.~~

~~b. A nonprofit organization or group not required to be covered employment prior to January 1, 1978, that paid contributions as an employer prior to October 20, 1976, and which elects within thirty days after January 1, 1978, to make payments in lieu of contributions shall not be required to make any such payment for regular or extended benefits paid after its election until the total amount of benefits equal the amount of the positive balance in the experience rating account of such organization.~~

~~15~~ 11. TEMPORARY EMERGENCY ~~TAX~~ SURCHARGE. If on the first day of the third month in any calendar quarter, the division ~~of job service~~ has an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, or is projected to have an outstanding balance of accruing federal interest for that calendar quarter, the ~~commissioner~~ division shall collect a uniform temporary emergency surcharge for that calendar quarter, retroactive to the beginning of that calendar quarter. The surcharge shall be a percentage of employer contribution rates and shall be set at a uniform percentage, for all employers subject to the surcharge, necessary to pay the interest accrued on the moneys advanced to the division by the federal government, and to pay any additional federal interest which will accrue for the remainder of that calendar quarter. The surcharge shall apply to all employers except ~~government~~ governmental entities, nonprofit organizations, and employers assigned a zero contribution rate. The ~~commissioner~~ division shall ~~prescribe~~ adopt rules prescribing the manner in which the surcharge will be collected. Interest shall accrue on all unpaid surcharges under this subsection at the same rate as on regular contributions and shall be collectible in the same manner. The surcharge shall not affect the computation of regular contributions under this chapter.

A special fund to be known as the temporary emergency surcharge fund is created in the state treasury. The special fund is separate and distinct from the unemployment compensation ~~trust~~ fund. All contributions collected from the temporary emergency surcharge shall be

deposited in the special fund. The special fund shall be used only to pay interest accruing on advance moneys received from the federal government for the payment of unemployment compensation benefits. Interest earned upon moneys in the special fund shall be deposited in and credited to the special fund.

If the division determines on June 1 that no outstanding balance of interest due has accrued on advanced moneys received from the federal government for the payment of unemployment compensation benefits, and that no outstanding balance is projected to accrue for the remainder of the calendar year, the division shall notify the treasurer of state of its determination. The treasurer of state shall immediately transfer all moneys, including accrued interest, in the temporary emergency surcharge fund to the unemployment compensation fund for the payment of benefits.

~~16. ADVANCE PAYMENT. If on March 1, 1983, the total unemployment compensation trust funds available for the payment of benefits are less than ten times the average total weekly benefits paid during four consecutive weeks of January and February, 1983, the division of job service may require an advance payment of all or a portion of the actual or projected employer contributions due for the calendar quarter ending March 31, 1983, payable on March 31, 1983.~~

12. ADMINISTRATIVE CONTRIBUTION SURCHARGE — FUND.

a. An employer other than a governmental entity or a nonprofit organization, subject to this chapter, shall pay an administrative contribution surcharge equal in amount to one-tenth of one percent of federal taxable wages, as defined in section 96.19, subsection 20, paragraph "b". The division shall recompute the amount as a percentage of taxable wages, as defined in section 96.19, subsection 20, and shall add the percentage surcharge to the employer's contribution rate determined under this section. The division shall adopt rules prescribing the manner in which the surcharge will be collected. Interest shall accrue on all unpaid surcharges under this subsection at the same rate as on regular contributions and shall be collectible in the same manner.

b. A special fund to be known as the administrative contribution surcharge fund is created in the state treasury. The fund is separate and distinct from the unemployment compensation fund. All contributions collected from the administrative contribution surcharge shall be deposited in the fund. Interest earned upon moneys in the fund shall be deposited in and credited to the fund.

c. Moneys in the fund shall be used by the division only upon appropriation by the general assembly and only for personnel and nonpersonnel costs of rural and satellite job service offices in population centers of less than twenty thousand. After the end of a state fiscal year the treasurer of state shall promptly transfer all moneys in the fund which have not been appropriated or which have been appropriated but remain unencumbered or unobligated to the unemployment compensation fund.

d. This subsection is repealed July 1, 1990, and the repeal is applicable to contribution rates for calendar year 1991 and subsequent calendar years.

Sec. 5. Section 96.9, subsection 2, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Interest paid upon the ~~trust fund~~ moneys deposited with the secretary of the treasury of the United States ~~under the provisions of this subsection 2 of this section for any calendar year~~ shall be ~~allocated and~~ credited to ~~and become a part of each employer's reserve account, said allocation to be made in the following manner: For the calendar year 1950 and each calendar year thereafter, the division shall add and credit to each employer's reserve account, the percentage of the total interest paid upon the aggregate of the reserve accounts of all of the employers in the state in said year that each such employer's individual reserve account bears to said aggregate reserve account~~ the unemployment compensation fund. ~~Said interest shall be credited and applied in the same manner as a voluntary contribution made by each such employer.~~

Sec. 6. Section 96.19, subsections 1, 20, and 38, Code 1987, are amended to read as follows:

1. ~~"ANNUAL PAYROLL". The term~~ "Average annual taxable payroll" ~~as used in subsection 3 "d" of section 96.7 means the total amount of taxable wages paid by an employer for insured work during the period of four consecutive calendar quarters ending on June 30 of each year, and the term "average annual payroll" as used in said subsection~~ means the average of the ~~"annual payrolls" of~~ total amount of taxable wages paid by an employer for insured work during the ~~last three~~ five periods of four consecutive calendar quarters immediately preceding the computation date. ~~Except that for an employer who qualifies on any computation date for a computed rate on the basis of less than twelve consecutive calendar quarters of chargeability immediately preceding the computation date, the term average annual payroll shall be the average of the annual payrolls for the last two periods of four consecutive calendar quarters immediately preceding the computation date.~~

20. ~~"TAXABLE WAGES". For the purposes of section 96.7, subsections 1 and 2 and for the period beginning January 1, 1972 and ending December 31, 1977, taxable wages shall not include that part of remuneration which, after remuneration equal to four thousand two hundred dollars has been paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, except that for the calendar years 1976 and 1977 the remuneration figure shall be six thousand dollars.~~

~~For the purposes of this subsection, the term "employment" includes service constituting employment under any unemployment compensation law of another state provided such other state will consider service performed in Iowa in determining the contribution base.~~

~~For the calendar year beginning January 1, 1978, and each subsequent calendar year, taxable~~ "Taxable wages" means an amount of wages upon which an employer ~~shall be~~ is required to contribute based upon ~~remuneration~~ wages which ~~has~~ have been paid ~~in~~ during a calendar year to an individual by an employer or the employer's predecessor, in this state or another state which extends a like comity to this state, with respect to employment ~~during any calendar year shall be equal to~~, upon which the employer is required to contribute, which equals the greater of the following:

a. Sixty-six and two-thirds percent of the statewide average ~~annual~~ weekly wage ~~paid to employees in insured work~~ which was used during the previous calendar year to determine maximum weekly benefit amounts, multiplied by fifty-two and rounded to the next highest multiple of one hundred dollars ~~based upon the calculation made during the previous calendar year used to determine the maximum weekly benefit amount, or~~.

b. That portion of ~~remuneration~~ wages subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund.

~~However, the amount of taxable wages otherwise determined under this subsection shall be increased by six hundred dollars for calendar year 1984, by eleven hundred dollars for calendar year 1985, and by sixteen hundred dollars for calendar year 1986 and subsequent calendar years.~~

38. "~~Government~~ Governmental entity"~~,~~ means a state, a state instrumentality, a political subdivision or an instrumentality of a political subdivision ~~instrumentality~~, or a combination of one or more of the preceding.

Sec. 7. Section 96.19, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 42. "Statewide average weekly wage" means the amount computed by the division at least once a year on the basis of the aggregate amount of wages reported by employers in the preceding twelve-month period ending on December 31 and divided by the product of fifty-two times the average mid-month employment reported by employers for the same twelve-month period. In determining the aggregate amount of wages paid statewide,

the division shall disregard any limitation on the amount of wages subject to contributions under this chapter.

NEW SUBSECTION. 43. "Nonprofit organization" means an organization described in the federal Internal Revenue Code, 26 U.S.C. § 501(c)(3), which is exempt from income taxation under 26 U.S.C. § 501(a).

NEW SUBSECTION. 44. "Division" means the division of job service of the department of employment services created in section 84A.1.

Sec. 8. REPEALS.

1. Section 96.7B, Code 1987, is repealed.
2. 1983 Iowa Acts, chapter 190, section 26, is repealed.

Sec. 9. APPLICABILITY.

1. This Act takes effect July 1, 1987 and is applicable to contribution rates for calendar year 1988 and subsequent calendar years.
2. Notwithstanding any other provision of chapter 96 or this Act relating to the applicable contribution rate table for calendar year 1988, the applicable contribution rate table for calendar year 1988 is rate table three, as amended in this Act.
3. Section 3 of this Act applies to benefit claims effectively filed for and after the first full week in calendar year 1988.

Sec. 10. FUTURE REPEAL. Sections 1, 2, 4, and 5, section 6 except for the amendment to section 96.19, subsection 20, and sections 7 and 9 of this Act are repealed effective July 1, 1988, and the repeals are applicable to contribution rates for calendar year 1989 and subsequent calendar years. The Code sections amended by sections 1, 2, 4, and 5, section 6 except for the amendment to section 96.19, subsection 20, and section 7 of this Act revert on July 1, 1988, applicable to contribution rates for calendar year 1989 and subsequent calendar years, to their content before amendment by this Act, and the Code sections as they existed before amendment by this Act are reenacted in that form.

Approved June 8, 1987

CHAPTER 223

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

H.F. 661

AN ACT creating an Iowa life and health insurance guaranty association, protecting persons, within limits, against the failure of certain life, health, and annuity contracts because of impairment or insolvency, specifying the powers and duties of the association, and providing administrative procedures and methods for the operation and financing of the association, including but not limited to the assessment of member insurers and the provision of a partial premium tax liability credit.

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

Section 1. NEW SECTION. 508C.1 TITLE.

This chapter shall be cited as the "Iowa Life and Health Insurance Guaranty Association Act".

Sec. 2. NEW SECTION. 508C.2 PURPOSE.

1. The purpose of this chapter is to protect, subject to certain limitations, the persons specified in section 508C.3, subsection 1, against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts specified in section 508C.3, subsection 2, because of the impairment or insolvency of the member insurer which issued the policies or contracts.

2. To provide this protection, an association of insurers is created to enable the guaranty of payments of benefits and of continuation of coverages as limited in this chapter. Members of the association are subject to assessment to provide funds to carry out the purpose of this chapter.

Sec. 3. NEW SECTION. 508C.3 SCOPE.

1. This chapter shall provide coverage under the policies and contracts specified in subsection 2 to all of the following:

a. Except for nonresident certificate holders under group policies or contracts, persons who are the beneficiaries, assignees, or payees of the persons covered under paragraph "b".

b. Persons who are owners of the policies or contracts specified in subsection 2, or are insureds or annuitants under the policies or contracts, and who are either of the following:

(1) Residents of this state.

(2) Nonresidents of this state if all of the following conditions are met:

(a) The state in which the person resides has an association similar to the association created in this chapter.

(b) The person is not eligible for coverage by an association described in subparagraph part (a).

(c) The insurer which issued the policy or contract never held a license or certificate of authority in the state in which the person resides.

(d) The insurer is domiciled in this state.

2. This chapter shall provide coverage to the persons specified in subsection 1 under direct life insurance policies, health insurance policies, annuity contracts, supplemental contracts, and certificates under group policies or contracts issued by member insurers.

3. This chapter does not apply to:

a. Any portion of a life, health, or annuity benefit payment liability arising on or after the date of insolvency to the extent that it is based upon a rate of interest which exceeds the lesser of the following:

(1) The minimum rate of interest guaranteed under the policy or contract.

(2) The rate of interest calculated as prescribed in the standard valuation law of this state for determining the minimum standard for the valuation of life insurance policies issued during the year of insolvency which have an interest-guaranteed duration of ten or fewer years.

b. That portion or part of a policy or contract under which the risk is borne by the policyholder.

c. A policy or contract or part of a policy or contract assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

d. With respect to annuities, a benefit payment liability under a policy or contract which is not subject to standard nonforfeiture law, not annuitized, and does not provide annuity purchase rates contractually guaranteed for ten or more years.

e. A policy or contract issued by a company which is licensed under chapters 509A, 510, 512, 512A, 514, 514B, 518, 518A, or 520.

f. Except for a policy issued pursuant to section 515.48, subsection 5, paragraph "a", a policy or contract issued by a company which is licensed under chapter 515.

g. An insurer which was placed under an order of liquidation, rehabilitation, or conservation by a court prior to the effective date of this Act is not an impaired insurer or an insolvent insurer for the purposes of this chapter.

Sec. 4. NEW SECTION. 508C.4 CONSTRUCTION.

This chapter shall be liberally construed to effect its purpose as provided under section 508C.2.

Sec. 5. NEW SECTION. 508C.5 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Account" means any of the three accounts created under section 508C.6.

2. "Association" means the Iowa life and health insurance guaranty association created in section 508C.6.

3. "Commissioner" means the commissioner of insurance.

4. "Contractual obligation" means an obligation under a covered policy.

5. "Covered policy" means a policy or contract within the scope of this chapter as provided under section 508C.3.

6. "Impaired insurer" means a member insurer domiciled in this state which, after the effective date of this Act, is either of the following:

a. Deemed by the commissioner to be potentially unable to fulfill its contractual obligations but is not an insolvent insurer.

b. Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

7. "Insolvent insurer" means a member insurer which after the effective date of this Act becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction.

8. "Member insurer" means a person licensed or who holds a certificate of authority to transact in this state any kind of insurance to which this chapter applies under section 508C.3, including a person whose license or certificate of authority has been suspended, revoked, not renewed, or voluntarily withdrawn.

9. "Person" means an individual, corporation, partnership, association, or voluntary organization.

10. "Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return insurance premiums and annuity considerations and dividends paid or credited to policyholders on the direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers, or amounts received and held by a member insurer in an account or fund unless and until the amounts are applied by the member insurer to the purchase of an annuity or other benefit for a specific person.

11. "Resident" means a person who resides in this state, or if a corporation has its principal place of business in this state, at the time a member insurer is determined to be an impaired or insolvent insurer, and to whom contractual obligations are owed.

12. "Supplemental contract" means an agreement entered into for the distribution of policy or contract proceeds.

Sec. 6. NEW SECTION. 508C.6 CREATION OF THE ASSOCIATION.

1. A nonprofit legal entity is created to be known as the Iowa life and health insurance guaranty association. All member insurers shall be and shall remain members of the association as a condition of their authority to transact insurance business in this state. The association shall perform its functions under the plan of operation established and approved under section 508C.10 and shall exercise its powers through the board of directors established in section 508C.7. For purposes of administration and assessment, the association shall maintain all of the following accounts:

a. A health insurance account.

b. A life insurance account.

c. An annuity account.

2. The association is subject to the immediate supervision of the commissioner and the applicable provisions of the insurance laws of this state.

Sec. 7. NEW SECTION. 508C.7 BOARD OF DIRECTORS.

1. The board of directors of the association shall consist of not less than five nor more than nine member insurers serving terms as established in the plan of operation. The members of the board shall be selected by member insurers, subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer is entitled to one vote in person or by proxy. If the board of directors is not selected within sixty days after notice of the organizational meeting, the commissioner may appoint the initial members.

2. In approving selections or in appointing members to the board, the commissioner shall consider, among other factors, whether all member insurers are fairly represented.

3. At the option of the association, members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors. However, members of the board shall not otherwise be compensated by the association for their services.

Sec. 8. NEW SECTION. 508C.8 POWERS AND DUTIES OF THE ASSOCIATION.

1. If a domestic insurer is an impaired insurer, the association, subject to conditions imposed by the association and approved by the impaired insurer and the commissioner, may:

a. Guarantee, assume, reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurer.

b. Provide moneys, pledges, notes, guarantees, or other means as proper to effectuate paragraph "a" and assure payment of the contractual obligations of the impaired insurer pending action under paragraph "a".

c. Loan money to the impaired insurer and guarantee borrowings by the impaired insurer, provided the association has concluded, based on reasonable assumptions, that there is a likelihood of repayment of the loan and a probability that unless a loan is made the association would incur substantial liabilities under subsection 2.

2. If a domestic, foreign, or alien insurer is an insolvent insurer, subject to the approval of the commissioner the association shall:

a. Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of the insolvent insurer.

b. Assure payment of the contractual obligations of the insolvent insurer.

c. Provide moneys, pledges, notes, guarantees, or other means as reasonably necessary to discharge the duties described in this subsection.

3. a. In carrying out its duties under subsection 2, permanent policy liens or contract liens may be imposed in connection with a guarantee, assumption, or reinsurance agreement, if the court does both of the following:

(1) Finds either that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to the public interest to justify the imposition of policy or contract liens.

(2) Approves the specific policy liens or contract liens to be used.

b. Before being obligated under subsection 2, the association may request the imposition of a temporary moratorium, not exceeding three years, or liens on payments of cash values, termination values, and policy loans in addition to any contractual provisions for deferral of cash values, termination values, or policy loans. The temporary moratoriums and liens may be imposed by the court as a condition of the association's liability with respect to the insolvent insurer.

c. The obligations of the association under subsection 2 regarding a covered policy shall be reduced to the extent that the person entitled to the obligations has received payment of all or any part of the contractual benefits payable under the covered policy from any other source.

d. The association may offer modifications to the owners of policies or contracts or classes of policies or contracts issued by the insolvent insurer, if the association finds that under the policies or contracts the benefits provided, provisions pertaining to renewal, or the premiums charged or which may be charged are not reasonable. If the owner of a policy or contract to be modified fails or refuses to accept the modification as approved by the court, the association may terminate the policy or contract as of a date not less than one hundred eighty days after the modification is sent to the owner. The association shall have no liability under the policy or contract for any claim incurred or continuing beyond the termination date.

4. If the association fails to act within a reasonable period of time as provided in subsection 2, the commissioner shall have the powers and duties of the association under this chapter with respect to insolvent insurers.

5. Upon request the association may give assistance and advice to the commissioner concerning the rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired or insolvent insurer.

6. The association has standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter. Standing shall extend to all matters germane to the powers and duties of the association including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

7. a. A person receiving benefits under this chapter is deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received under this chapter, whether the benefits are payments of contractual obligations or a continuation of coverage. The association may require an assignment to the association of the rights by a payee, policyholder or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this chapter upon the person. The association shall be subrogated to these rights against the assets of the insolvent insurer.

b. The subrogation rights of the association under this subsection have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

c. In addition to the rights pursuant to subsection 3, paragraphs "a" and "b", the association shall have all common law rights of subrogation and any other equitable or legal remedy which would have been available to the insolvent insurer or holder of a policy or contract.

8. The contractual obligations of the insolvent insurer, for which the association becomes or may become liable, are as great as but not greater than the contractual obligations of the

insolvent insurer would have been in the absence of an insolvency, unless the obligations are reduced as permitted in this chapter. However, with respect to any one life, the aggregate liability of the association shall not exceed one hundred thousand dollars in cash and termination values, or three hundred thousand dollars for all benefits, including cash and termination values, death benefits, annuity payments, accident and health benefits, and all other amounts payable under all policies or contracts of the insolvent insurer.

9. The association has no obligation for either of the following:

a. To continue coverage, or to pay a claim for benefits to any person under an individual accident, health, or disability policy accruing more than three years following the date the member insurer is adjudicated to be insolvent.

b. To issue a group conversion policy of any nature to a person or to continue a group coverage in force for more than sixty days following the date the member insurer was adjudicated to be insolvent.

10. The association may do any of the following:

a. Enter into contracts as necessary or proper to carry out this chapter.

b. Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 508C.9.

c. Borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the association held by domestic insurers and not in default qualify as investments eligible for deposit under section 511.8, subsection 16.

d. Employ or retain persons as necessary to handle the financial transactions of the association, and to perform other functions as necessary or proper under this chapter.

e. Negotiate and contract with a liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association.

f. Take legal action as necessary to avoid payment of improper claims.

g. For the purposes of this chapter and to the extent approved by the commissioner, exercise the powers of a domestic life or health insurer. However, the association shall not issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

h. Join an organization of one or more other state associations of similar purposes to further the purposes and administer the powers and duties of the association.

Sec. 9. NEW SECTION. 508C.9 ASSESSMENTS.

1. For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account established pursuant to section 508C.6, at the time and for the amounts the board finds necessary. An assessment is due not less than thirty days after prior written notice has been sent to the member insurers and accrues interest at ten percent per annum commencing on the due date.

2. There are two classes of assessments as follows:

a. Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses and examinations conducted under section 508C.12, subsection 5, not related to a particular impaired or insolvent insurer.

b. Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 508C.8 with regard to an impaired domestic insurer or an insolvent domestic, foreign, or alien insurer.

3. a. The amount of a class A assessment shall be determined by the board and to the extent that class A assessments do not exceed one hundred dollars per company in any one calendar year may be made on a per capita basis. The assessment shall be credited against future insolvency assessments. The amount of a class B assessment shall be allocated for assessment purposes among the accounts as the liabilities and expenses of the association, either experienced

or reasonably expected, are attributable to those accounts, all as determined by the association and on as equitable a basis as is reasonably practical.

b. Class A assessments in excess of one hundred dollars per company per calendar year and class B assessments against member insurers for each account shall be in the proportion that the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts related to that account for the three calendar years preceding the year of impairment or insolvency, bear to the aggregate premiums received on business in this state by all assessed member insurers on policies related to that account for the three calendar years preceding the assessment.

c. Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this chapter. Classification of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

4. The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. If an assessment against a member insurer is abated or deferred, in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

5. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the insurer's premiums received in this state during the calendar year preceding the assessment on the policies related to that account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon as permitted by this chapter.

6. By an equitable method as established in the plan of operation, the board may refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account, including assets accruing from net realized gains and income from investments, exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

7. In determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this chapter, it is proper for a member insurer to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

8. The association shall issue to each insurer paying a class B assessment under this chapter, a certificate of contribution in a form prescribed by the commissioner for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form, for the amount and for a period of time as the commissioner may approve.

Sec. 10. NEW SECTION. 508C.10 PLAN OF OPERATION.

1. a. The association shall submit to the commissioner a plan of operation and any amendments to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments to the plan are effective upon the commissioner's written approval.

b. If the association fails to submit a suitable plan of operation within one hundred eighty days following the effective date of this Act or if at any time the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt rules pursuant to chapter 17A as necessary or advisable to effectuate this chapter. The rules shall

continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

2. All member insurers shall comply with the plan of operation.

3. In addition to other requirements established in this chapter the plan of operation shall establish all of the following:

a. Procedures for handling the assets of the association.

b. The amount and method of reimbursing members of the board of directors under section 508C.7.

c. Regular places and times for meetings of the board of directors.

d. Procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.

e. Procedures for selecting the board of directors and submitting the selections to the commissioner.

f. Any additional procedures for assessments under section 508C.9.

g. Additional provisions necessary or proper for the execution of the powers and duties of the association.

4. The plan of operation may provide that any powers and duties of the association, except those under section 508C.8, subsection 10, paragraph "c" and section 508C.9 are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner. The delegation shall be made only to a corporation, association, or organization which extends protection at least as favorable and effective as that provided by this chapter.

Sec. 11. NEW SECTION. 508C.11 DUTIES AND POWERS OF THE COMMISSIONER.

1. The commissioner shall:

a. Upon request of the board of directors, provide the association with a statement of the premiums for each member insurer.

b. When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer constitutes notice to its shareholders, if any. The failure of the insurer to promptly comply with the demand shall not excuse the association from the performance of its powers and duties under this chapter.

c. In a liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.

2. After notice and hearing, the commissioner may suspend or revoke the certificate of authority to transact insurance in this state of a member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy an administrative penalty on any member insurer which fails to pay an assessment when due. The administrative penalty shall not exceed five percent of the unpaid assessment per month. However, an administrative penalty shall not be less than one hundred dollars per month.

3. An action of the board of directors or the association may be appealed to the commissioner by a member insurer if the appeal is taken within thirty days of the action being appealed. A final action or order of the commissioner is subject to judicial review pursuant to chapter 17A in a court of competent jurisdiction.

4. The liquidator, rehabilitator, or conservator of an impaired insurer may notify all interested persons of the effect of this chapter.

Sec. 12. NEW SECTION. 508C.12 PREVENTION OF INSOLVENCIES.

1. To aid in the detection and prevention of insurer insolvencies or impairments the commissioner shall:

a. Notify the commissioners or insurance departments of other states or territories of the United States and the District of Columbia when any of the following actions against a member insurer is taken:

(1) A license is revoked.

(2) A license is suspended.

(3) A formal order is made that a company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors.

Notice shall be mailed to the commissioners or departments within thirty days following the earlier of when the action was taken or the date on which the action occurs. This subparagraph does not supersede section 507C.9, subsection 5.

b. Report to the board of directors when the commissioner has taken any of the actions set forth in paragraph "a" or has received a report from any other commissioner indicating that any such action has been taken in another state. Reports to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

c. Report to the board of directors when there is reasonable cause to believe from an examination, whether completed or in process, of a member company that the company may be an impaired or insolvent insurer.

d. Furnish to the board of directors the national association of insurance commissioners' early warning tests. The board may use the information in carrying out its duties and responsibilities under this section. The report and the information contained in the report shall be kept confidential by the board of directors until such time as it is made public by the commissioner or other lawful authority.

2. The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the commissioner's duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

3. The board of directors may upon majority vote make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of a member insurer or germane to the solvency of a company seeking to transact insurance business in this state. These reports and recommendations are not public records pursuant to chapter 22.

4. Upon majority vote, the board of directors shall notify the commissioner of any information indicating that a member insurer may be an impaired or insolvent insurer.

5. Upon majority vote, the board of directors may request that the commissioner order an examination of a member insurer which the board in good faith believes may be an impaired or insolvent insurer. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by persons designated by the commissioner. The cost of the examination shall be paid by the association and the examination report shall be treated as are other examination reports. The examination report shall not be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection 1. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it is not a public record pursuant to chapter 22 until the release of the examination report to the public.

6. Upon majority vote, the board of directors may make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

7. At the conclusion of an insurer insolvency in which the association was obligated to pay covered claims, the board of directors shall prepare a report to the commissioner containing

information as the board may have in its possession bearing on the history and causes of the insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer, and may adopt by reference any report prepared by other associations.

Sec. 13. NEW SECTION. 508C.13 MISCELLANEOUS PROVISIONS.

1. This chapter does not reduce the liability for unpaid assessments of the insureds on an impaired or insolvent insurer operating under a plan with assessment liability other than the plan of this chapter.

2. Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section 508C.8. Records of the negotiations or meetings shall be made public pursuant to chapter 22 only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment of insolvency of the insurer, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under section 508C.15.

3. For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled pursuant to its subrogation rights under section 508C.8, subsection 7. Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. As used in this subsection, "assets attributable to covered policies" means that proportion of the assets which the reserves that should have been established for the policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

4. a. Prior to the termination of a liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, similar associations of other states, the shareholders and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. When considering the contributions, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

b. A distribution to stockholders, if any, of an impaired or insolvent insurer shall not be made until the total amount of valid claims of the association and of similar associations of other states for funds expended in carrying out its powers and duties under section 508C.8 with respect to the insurer have been fully recovered by the association and the similar associations.

5. a. Subject to the limitations of paragraphs "b," "c," and "d," if an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under the order may recover, on behalf of the insurer, from any affiliate that controlled it, the amount of distributions other than stock dividends paid by the insurer on its capital stock made at any time during the five years preceding the petition for liquidation or rehabilitation.

b. Stock dividends are not recoverable if the insurer shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

c. A person who was an affiliate that controlled the insurer at the time the distributions were paid is liable up to the amount of distributions received. A person who was an affiliate that controlled the insurer at the time the distributions were declared is liable up to the amount of distributions that would have been received if they had been paid immediately. If two persons are liable with respect to the same distributions, they are jointly and severally liable.

d. The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

e. If a person liable under paragraph "c" is insolvent, all its affiliates that controlled it at the time the dividend was paid are jointly and severally liable for a resulting deficiency in the amount recovered from the insolvent affiliate.

Sec. 14. NEW SECTION. 508C.14 EXAMINATION OF THE ASSOCIATION — ANNUAL REPORT.

The association is subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner by May 1 of each year, a financial report for the preceding calendar year and a report of its activities during the preceding calendar year. The financial report shall be in a form approved by the commissioner.

Sec. 15. NEW SECTION. 508C.15 TAX EXEMPTIONS.

The association is exempt from payment of all fees and all taxes levied by this state or any of its subdivisions except taxes levied on the association's real property.

Sec. 16. NEW SECTION. 508C.16 IMMUNITY.

A member insurer and its agents and employees, the association and its agents and employees, members of the board of directors, and the commissioner and the commissioner's representatives are not liable for any action taken by them or omission by them while acting within the scope of their employment and in the performance of their powers and duties under this chapter.

Sec. 17. NEW SECTION. 508C.17 STAY OF PROCEEDINGS — REOPENING DEFAULT JUDGMENTS.

Proceedings in which the insolvent insurer is a party in a court in this state shall be stayed sixty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on matters germane to its powers or duties. The association may apply to have a judgment under a decision, order, verdict, or finding based on default, set aside by the same court that entered the judgment, and shall be permitted to defend against the suit on the merits.

Sec. 18. NEW SECTION. 508C.18 PROHIBITED ADVERTISEMENTS.

A person, including an insurer, agent or affiliate of an insurer shall not make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio station or television station, or in any other way, an advertisement, announcement, or statement which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. However, this section does not apply to the association or any other entity which does not sell or solicit insurance.

Sec. 19. NEW SECTION. 508C.19 CREDITS FOR ASSESSMENTS PAID.

1. An insurer may offset an assessment made pursuant to section 508C.9 against its premium tax liability pursuant to chapter 432 to the extent of twenty percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid. If an insurer ceases doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

2. Sums acquired by refund from the association which have been written off by contributing insurers and offset against premium taxes as provided in subsection 1 and are not then needed for purposes of this chapter shall be paid by the association to the commissioner. The commissioner shall remit the moneys to the treasurer of state to deposit in the state general fund.

Sec. 20. Section 22.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 24. Information or reports collected or submitted pursuant to section 508C.12, subsections 3 and 5, and section 508C.13, subsection 2, except to the extent that release is permitted under those sections.

Approved June 9, 1987

CHAPTER 224

EDUCATION

H.F. 499

AN ACT relating to education including salary increases, efficiencies, and education enhancement, relating to the establishment of an educational excellence program consisting of three phases relating to the recruitment of quality teachers, the retention of quality teachers, and the enhancement of the quality and effectiveness of teachers; activities of the state board of education relating to the accreditation process; collective bargaining; certification of school district employees; provision of certain services to school districts and other area education agencies by area education agencies; provision of pilot projects for modified block scheduling by school districts and for year around schools; elimination of prohibition of employment of spouses of school board directors; weighting of school administrators; establishing sabbatical programs for teachers; increasing the enrichment amount; providing for appeals of certain decisions of school districts; retirement incentives; studying the role of teachers; duration of a superintendent's contract; open enrollment of pupils in contiguous school districts; postsecondary enrollment options for certain high school students; redrawing boundary lines of area education agencies; plans for a governance structure for merged area schools; date of the organizational meeting of school corporations; sharing interscholastic activity programs; adoption of student achievement goals; provision for intercollegiate athletic activities at merged area schools; procedure for opting out of whole grade sharing; calculation of enrollment of school districts; weighting for non-English-speaking students; and provide effective dates.

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

DIVISION I
EDUCATIONAL EXCELLENCE PROGRAM

Section 1. NEW SECTION. 294A.1 EDUCATIONAL EXCELLENCE PROGRAM.

The purpose of this chapter is to promote excellence in education. In order to maintain and advance the educational excellence in the state of Iowa, this chapter establishes the Iowa educational excellence program. The program shall consist of three major phases addressing the following:

1. Phase I — The recruitment of quality teachers.
2. Phase II — The retention of quality teachers.
3. Phase III — The enhancement of the quality and effectiveness of teachers through the utilization of performance pay.

Sec. 2. NEW SECTION. 294A.2 DEFINITIONS.

For the purposes of this chapter:

1. "Teacher" means an individual holding a teaching certificate issued under chapter 260, letter of authorization, or a statement of professional recognition issued by the board of educational examiners who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board

of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

2. "Teacher's regular compensation" means the annual salary specified in a teacher's contract pursuant to the salary schedule adopted by the board of directors or negotiated under chapter 20. It does not include pay earned by a teacher for performance of additional noninstructional duties and does not include the costs of the employer's share of fringe benefits.

3. "Certified enrollment in a school district" for the school years beginning July 1, 1987, July 1, 1988, and July 1, 1989, means that district's basic enrollment for the budget year beginning July 1, 1987 as defined in section 442.4. For each school year thereafter, certified enrollment in a school district means that district's basic enrollment for the budget year.

4. "Enrollment served" for the fiscal years beginning July 1, 1987, July 1, 1988, and July 1, 1989, means that area education agency's enrollment served for the budget year beginning July 1, 1987. For each school year thereafter, enrollment served means that area education agency's enrollment served for the budget year. Enrollment served shall be determined under section 442.27, subsection 12.

5. "Specialized training requirements" means requirements prescribed by a board of directors to meet specific needs of the school district identified by the board of directors that provide for the acquisition of clearly defined skills through formal or informal education that are beyond the requirements necessary for initial certification under chapter 260.

6. "General training requirements" means requirements prescribed by a board of directors that provide for the acquisition of additional semester hours of graduate credit from an institution of higher education approved by the board of educational examiners or the completion of staff development activities approved by the department of education for renewal of certificates issued under chapter 260.

Sec. 3. NEW SECTION. 294A.3 EDUCATIONAL EXCELLENCE FUND.

An educational excellence fund is established in the office of treasurer of state to be administered by the department of education. Moneys appropriated by the general assembly for deposit in the fund shall be paid to school districts and area education agencies pursuant to the requirements of this chapter and shall be expended only to pay for increases in the regular compensation of teachers and other salary increases for teachers, to pay the costs of the employer's share of federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, payments on the salary increases, and to pay costs associated with providing specialized or general training. Moneys received by school districts and area education agencies shall not be used for pay earned by a teacher for performance of additional noninstructional duties.

If moneys are appropriated by the general assembly to the fund for distribution under this chapter the moneys shall be allocated by the department so that the allocations of moneys for phases I and II are made prior to the allocation of moneys for phase III.

DIVISION II
PHASE I

Sec. 4. NEW SECTION. 294A.4 GOAL.

The goal of phase I is to provide for establishment of pay plans incorporating sufficient annual compensation to attract quality teachers to Iowa's public school system. This is accomplished by increasing the minimum salary. A beginning salary which is competitive with salaries paid to other professionals will provide incentive for top quality individuals to enter the teaching profession.

Sec. 5. NEW SECTION. 294A.5 MINIMUM SALARY SUPPLEMENT.

For the school year beginning July 1, 1987 and succeeding school years, the minimum annual salary paid to a full-time teacher as regular compensation shall be eighteen thousand dollars.

For the school year beginning July 1, 1987 for phase I, each school district and area education agency shall certify to the department of education by the third Friday in September the names of all teachers employed by the district or area education agency whose regular compensation is less than eighteen thousand dollars per year for that year and the amounts needed as minimum salary supplements. The minimum salary supplement for each eligible teacher is the total of the difference between eighteen thousand dollars and the teacher's regular compensation plus the amount required to pay the employer's share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, payments on the additional salary moneys.

The board of directors shall report the salaries of teachers employed on less than a full-time equivalent basis, and the amount of minimum salary supplement shall be prorated.

Sec. 6. NEW SECTION. 294A.6 PAYMENTS.

For the school year beginning July 1, 1987, the department of education shall notify the department of revenue and finance of the total minimum salary supplement to be paid to each school district and area education agency under phase I and the department of revenue and finance shall make the payments. For school years after the school year beginning July 1, 1987, if a school district or area education agency reduces the number of its full-time equivalent teachers below the number employed during the school year beginning July 1, 1987, the department of revenue and finance shall reduce the total minimum salary supplement payable to that school district or area education agency so that the amount paid is equal to the ratio of the number of full-time equivalent teachers employed in the school district or area education agency for that school year divided by the number of full-time equivalent teachers employed in the school district or area education agency for the school year beginning July 1, 1987 and multiplying that fraction by the total minimum salary supplement paid to that school district or area education agency for the school year beginning July 1, 1987.

DIVISION III
PHASE II

Sec. 7. NEW SECTION. 294A.8 GOAL.

The goal of phase II is to keep Iowa's best educators in the profession and assist in their development by providing general salary increases.

Sec. 8. NEW SECTION. 294A.9 PHASE II PROGRAM.

Phase II is established to improve the salaries of teachers. For each fiscal year, the department of education shall allocate to each school district for the purpose of implementing phase II an amount equal to seventy-five dollars and ninety-three cents multiplied by the district's certified enrollment and to each area education agency for the purpose of implementing phase II an amount equal to three dollars and fifty-five cents multiplied by the enrollment served in the area education agency, if the general assembly has appropriated sufficient moneys to the fund so that pursuant to section 294A.3, thirty-eight million five hundred thousand dollars will be allocated by the department to school districts and area education agencies for phase II. If, because of the amount of the appropriation made by the general assembly to the fund, less than thirty-eight million five hundred thousand dollars is allocated for phase II, the department of education shall adjust the amount for each student in certified enrollment and each student in enrollment served based upon the amount allocated for phase II.

The department of education shall certify the amounts of the allocations for each school district and area education agency to the department of revenue and finance and the department of revenue and finance shall make the payments to school districts and area education agencies.

If a school district has discontinued grades under section 282.7, subsection 1, or students attend school in another school district, under an agreement with the board of the other school

district, the board of directors of the district of residence shall transmit the phase II moneys allocated to the district for those students based upon the full-time equivalent attendance of those students to the board of the school district of attendance of the students.

If a school district uses teachers under a contract between the district and the area education agency in which the district is located, the school district shall transmit to the employing area education agency a portion of its phase II allocation based upon the portion that the salaries of teachers employed by the area education agency and assigned to the school district for a school year bears to the total teacher salaries paid in the district for that school year, including the salaries of the teachers employed by the area education agency.

If the school district or area education agency is organized under chapter 20 for collective bargaining purposes, the board of directors and certified bargaining representative for the certificated employees shall mutually agree upon a formula for distributing the phase II allocation among the teachers. For the school year beginning July 1, 1987 only, the parties shall follow the procedures specified in chapter 20 except that if the parties reach an impasse, neither impasse procedures agreed to by the parties nor sections 20.20 through 20.22 shall apply and the phase II allocation shall be divided as provided in section 294A.10. Negotiations under this section are subject to the scope of negotiations specified in section 20.9. If a board of directors and certified bargaining representative for certificated employees have not reached mutual agreement by July 15, 1987 for the distribution of the phase II payment, section 294A.10 will apply.

If the school district or area education agency is not organized for collective bargaining purposes, the board of directors shall determine the method of distribution.

Sec. 9. NEW SECTION. 294A.10 FAILURE TO AGREE ON DISTRIBUTION.

For the school year beginning July 1, 1987 only, if the board of directors and certified bargaining representative for the certificated employees have not reached agreement under section 294A.9, the board of directors shall divide the payment among the teachers employed by the district or area education agency as follows:

1. All full-time teachers whose regular compensation is equal to or more than the minimum salary for phase I will receive an equal amount from the phase II allocation.

2. A teacher who will receive a minimum salary supplement under section 294A.5 will receive moneys equal to the difference between the amount from the phase II allocation and the minimum salary supplement paid to that teacher.

3. The amount from the phase II allocation will be prorated for a teacher employed on less than a full-time basis.

4. An amount from the phase II allocation includes the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, payments on the additional salary.

Sec. 10. NEW SECTION. 294A.11 REPORTS.

By August 15, 1987, each school district and area education agency shall file a report with the department of education, on forms provided by the department of education, specifying the method used to distribute the phase II allocation.

Reports filed by area education agencies shall include a description of the method used to distribute phase II allocations to teachers employed by the area education agency working under contract in a school district.

DIVISION IV
PHASE III

Sec. 11. NEW SECTION. 294A.12 GOAL.

The goal of phase III is to enhance the quality, effectiveness, and performance of Iowa's teachers by promoting teacher excellence. This will be accomplished through the development

of performance-based pay plans and supplemental pay plans requiring additional instructional work assignments which may include specialized training or differential training, or both.

It is the intent of the general assembly that school districts and area education agencies incorporate into their planning for performance-based pay plans and supplemental pay plans, implementation of recommendations from recently issued national and state reports relating to the requirements of the educational system for meeting future educational needs, especially as they relate to the preparation, working conditions, and responsibilities of teachers, including but not limited to assistance to new teachers, development of teachers as instructional leaders in their schools and school districts, using teachers for evaluation and diagnosis of other teachers' techniques, and the implementation of sabbatical leaves.

Sec. 12. NEW SECTION. 294A.13 PHASE III PROGRAM.

For the school year beginning July 1, 1987 and succeeding school years, each school district and area education agency that meet the requirements of this section are eligible to receive moneys for the implementation under phase III of a performance-based pay plan or supplemental pay plan, or a combination of the two.

Sec. 13. NEW SECTION. 294A.14 PHASE III PAYMENTS.

For each fiscal year, the department shall allocate the remainder of the moneys appropriated by the general assembly to the fund for phase III, subject to section 294A.16B. If fifty million dollars is allocated for phase III, the payments for an approved plan for a school district shall be equal to the product of a district's certified enrollment and ninety-eight dollars and sixty-three cents, and for an area education agency shall be equal to the product of an area education agency's enrollment served and four dollars and sixty cents. If the moneys allocated for phase III are either greater than or less than fifty million dollars, the department of education shall adjust the amount for each student in certified enrollment and each student in enrollment served based upon the amount allocated for phase III.

If a school district has discontinued grades under section 282.7, subsection 1, or students attend school in another school district, under an agreement with the board of the other school district, the board of directors of the district of residence shall transmit the phase III moneys allocated to the district for those students based upon the full-time equivalent attendance of those students to the board of the school district of attendance of the students.

A plan shall be developed using the procedure specified under section 294A.15. The plan shall provide for the establishment of a performance-based pay plan, a supplemental pay plan, or a combination of the two pay plans and shall include a budget for the cost of implementing the plan. In addition to the costs of providing additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, payments on the additional salary, the budget may include costs associated with providing specialized or general training. Moneys received under phase III shall not be used to employ additional employees of a school district, except that phase III moneys may be used to employ substitute teachers, part-time teachers, and other employees needed to implement plans that provide innovative staffing patterns or that require that a teacher employed on a full-time basis be absent from the classroom for specified periods for fulfilling other instructional duties. However, all teachers employed are eligible to receive additional salary under an approved plan.

For the purpose of this section, a performance-based pay plan shall provide for salary increases for teachers who demonstrate superior performance in completing assigned duties. The plan shall include the method used to determine superior performance of a teacher. For school districts, the plan may include assessments of specific teaching behavior, assessments of student performance, assessments of other characteristics associated with effective teaching, or a combination of these criteria.

For school districts, a performance-based pay plan may provide for additional salary for individual teachers or for additional salary for all teachers assigned to an attendance center. For area education agencies, a performance-based pay plan may provide for additional salary for individual teachers or for additional salary for all teachers assigned to a specific discipline within an area education agency. If the plan provides additional salary for all teachers assigned to an attendance center, or specific discipline, the receipt of additional salary by those teachers shall be determined on the basis of whether that attendance center or specific discipline, meets specific objectives adopted for that attendance center, or specific discipline. For school districts, the objectives may include, but are not limited to, decreasing the dropout rate, increasing the attendance rate, or accelerating the achievement growth of students enrolled in that attendance center.

If a performance-based pay plan provides additional salary for individual teachers:

1. The plan may provide for salary moneys in addition to the existing salary schedule of the school district or area education agency and may require the participation by the teacher in specialized training requirements.

2. The plan may provide for salary moneys by replacing the existing salary schedule or as an option to the existing salary schedule and may include specialized training requirements, general training requirements, and experience requirements.

A supplemental pay plan may provide for supplementing the costs of vocational agriculture programs as provided in section 294A.16A.

For the purpose of this section, a supplemental pay plan in a school district shall provide for the payment of additional salary to teachers who participate in either additional instructional work assignments or specialized training during the regular school day or during an extended school day, school week, or school year. A supplemental pay plan in an area education agency shall provide for the payment of additional salary to teachers who participate in either additional work assignments or improvement of instruction activities with school districts during the regular school day or during an extended school day, school week, or school year.

For school districts, additional instructional work assignments may include but are not limited to general curriculum planning and development, vertical articulation of curriculum, horizontal curriculum coordination, development of educational measurement practices for the school district, development of plans for assisting beginning teachers during their first year of teaching, attendance at summer staff development programs, development of staff development programs for other teachers to be presented during the school year, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

For area education agencies, additional instructional work assignments may include but are not limited to providing assistance and support to school districts in general curriculum planning and development, providing assistance to school districts in vertical articulation of curriculum and horizontal curriculum coordination, development of educational measurement practices for school districts in the area education agency, development of plans for assisting beginning teachers during their first year of teaching, attendance or instruction at summer staff development programs, development of staff development programs for school district teachers to be presented during the school year, and other plans determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the area education agency.

Sec. 14. NEW SECTION. 294A.15 DEVELOPMENT OF PLAN.

The board of directors of a school district desiring to receive moneys under phase III shall appoint a committee consisting of representatives of school administrators, teachers, parents, and other individuals interested in the public schools of the school district to develop a proposal

for distribution of phase III moneys to be submitted to the board of directors. The board of directors of an area education agency desiring to receive moneys under phase III shall appoint a committee of similar membership to develop a proposal. If the school district or area education agency is organized under chapter 20 for collective bargaining purposes, the board shall provide that one of the teacher members of the committee is an individual selected by the certified bargaining representative for certificated employees of the district or area education agency. The proposal developed by the committee shall be submitted to the board of directors of the school district or area education agency for consideration by the board in developing a plan. For the school year beginning July 1, 1987, if the school district or area education agency is organized for collective bargaining purposes under chapter 20, the portions of the proposed plan that are within the scope of negotiations specified in section 20.9 require the mutual agreement by January 1, 1988 of both the board of directors of the school district or area education agency and the certified bargaining representative for the certificated employees. In succeeding years, if the school district or area education agency is organized for collective bargaining purposes, the portions of the proposed plan that are within the scope of the negotiations specified in section 20.9 are subject to chapter 20.

Nothing in this chapter shall be construed to expand or restrict the scope of negotiations in section 20.9.

Sec. 15. NEW SECTION. 294A.16 SUBMISSION OF PLAN.

A plan adopted by the board of directors of a school district or area education agency shall be submitted to the department of education not later than July 1 of a school year for that school year. Amendments to multiple year plans may be submitted annually.

If a school district uses teachers under a contract between the district and the area education agency in which the district is located, the school district shall make provision for those teachers under phase III.

The department of education shall review each plan and its budget and notify the department of management of the names of school districts and area education agencies with approved plans.

However, for the school year beginning July 1, 1987, a board of directors may submit a proposed plan and budget not later than January 1, 1988, and the department of education shall notify the school districts and area education agencies not later than February 15, 1988 that their plans have been approved by the department. Final approval of budgets for approved phase III plans shall be determined by the department of education after the certification required in section 294A.16B but not later than February 15, 1988. The department of education shall notify the department of revenue and finance of the amounts of payments to be made to each school district and area education agency that has an approved plan. Moneys allocated to a school district or area education agency for the school year beginning July 1, 1987 for an approved phase III plan that are not expended for that school year shall not revert to the general fund of the state but may be expended by that school district or area education agency during the school year beginning July 1, 1988. For school years thereafter, moneys allocated to a school district or area education agency for an approved phase III plan for a school year but not expended during that school year shall revert to the general fund of the state as provided in section 8.33.

Sec. 16. NEW SECTION. 294A.16A VOCATIONAL AGRICULTURE.

A supplemental pay plan that provides for supplementing the costs of vocational agriculture programs may provide for increasing teacher salary costs for twelve month contracts for vocational agriculture teachers.

Sec. 17. NEW SECTION. 294A.16B DETERMINATION OF PHASE III ALLOCATION.

On February 1, 1988, the governor shall certify to the department of education the amount of money available for allocation under phase III. If pursuant to any provision of law, the governor certifies an amount lower than the allocation that would otherwise be made under this

chapter, the department of education shall, if necessary, adjust the amount for each student in certified enrollment and each student in enrollment served which are included in approved plans pursuant to section 294A.14 and shall review the budgets of the approved plans.

Sec. 18. NEW SECTION. 294A.17 REPORT.

Each school district and area education agency receiving moneys for phase III during a school year shall file a report with the department of education by July 1 of the next following school year. The report shall describe the plan, its implementation, and the expenditures made under the plan including the salary increases paid to each eligible employee. The report may include any proposed amendments to the plan for the next following school year.

Sec. 19. NEW SECTION. 294A.18 REVERSION OF MONEYS.

Any portion of moneys appropriated to the educational excellence trust fund and allocated to phase III under section 294A.3 for a fiscal year not expended by school districts and area education agencies during that fiscal year revert to the general fund of the state as provided in section 8.33.

DIVISION V
GENERAL PROVISIONS

Sec. 20. NEW SECTION. 294A.19 RULES.

The state board of education shall adopt rules under chapter 17A for the administration of this chapter.

Sec. 21. NEW SECTION. 294A.20 PAYMENTS.

Payments for each phase of the educational excellence program shall be made by the department of revenue and finance on a quarterly basis, and the payments shall be separate from state aid payments made pursuant to sections 442.25 and 442.26. For the school year beginning July 1, 1987, the first quarterly payment shall be made not later than October 15, 1987 taking into consideration the relative budget and cash position of the state resources. The payments to a school district or area education agency may be combined and a separate accounting of the amount paid for each program shall be included.

Any payments made to school districts or area education agencies under this chapter are miscellaneous income for purposes of chapter 442.

Sec. 22. NEW SECTION. 294A.21 MULTIPLE SALARY PAYMENTS.

The salary increases that may be granted to a teacher under phase III are in addition to any salary increases granted to a teacher under phase I or phase II.

Sec. 23. NEW SECTION. 294A.21B COLLECTIVE BARGAINING.

For the school year beginning July 1, 1987 only, section 20.17, subsection 3, relating to the exemption from chapter 21 and presentation of initial bargaining positions of the public employer and certified bargaining representative for certificated employees, does not apply to collective bargaining for moneys received under phases II and III, and an agreement between the board of directors and the certified bargaining representative for certificated employees need not be ratified by the employees or board.

DIVISION VI
EFFICIENCY INCENTIVES

Sec. 24. Section 256.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Develop plans for the approval of teacher preparation programs that incorporate the results of recently completed research and national studies on teaching for the twenty-first century and develop plans for providing assistance to newly graduated teachers, including options for internships and reduced teaching loads. The plans shall be submitted to the general assembly not later than October 1, 1988.

Sec. 25. Section 256.7, subsection 7, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Develop plans for the restructuring of school districts, area education agencies, and merged area schools, with specific emphasis on combining the area education agencies and merged area schools. The plans shall be reported to the general assembly not later than October 1, 1987.

In addition, the state board shall develop plans for redrawing the boundary lines of area education agencies so that the total number of area education agencies is no fewer than four and no greater than twelve. The state board shall also study the governance structure of the merged area schools, including but not limited to governance at the state level with a director of area school education serving under a state board. The plans relating to the area education agencies and merged area schools shall be submitted to the general assembly not later than January 8, 1990.

PARAGRAPH DIVIDED. The focus of the plans shall be to assure more productive and efficient use of limited resources, equity of geographical access to facilities, equity of educational opportunity within the state, and improved student achievement.

Sec. 26. Section 256.11, subsections 10, 11, and 12, Code 1987, are amended by striking the subsections and inserting in lieu thereof the following:

10. The state board shall establish an accreditation process for school districts and nonpublic schools seeking accreditation pursuant to this subsection and subsections 11 and 12. As required in section 256.17, by July 1, 1989, all school districts shall meet standards for accreditation. For the school year commencing July 1, 1989 and school years thereafter, the department of education shall use a two-phase process for the continued accreditation of schools and school districts.

Phase I consists of annual monitoring by the department of education of all accredited schools and school districts for compliance with accreditation standards adopted by the state board of education as provided by section 256.17. The phase I monitoring requires that accredited school districts and schools annually complete accreditation compliance forms adopted by the state board and file them with the department of education. In addition, employees of the department of education shall complete at least one onsite visit each year to each accredited school and school district to review the educational programs and the information included in the compliance forms.

Phase II requires the use of an accreditation committee, appointed by the director of the department of education, to conduct an onsite visit to an accredited school or school district if any of the following conditions exist:

a. When the annual monitoring of phase I indicates that a school or school district may be deficient or fails to be in compliance with accreditation standards.

b. In response to a petition filed with the director requesting such a committee visitation that is signed by at least twenty percent of the number of registered voters voting in the preceding school election.

c. In response to a petition filed with the director requesting such a committee visitation that is signed by twenty percent or more of the parents or guardians who have children enrolled in the school or school district.

d. At the direction of the state board of education.

The number and composition of the membership of an accreditation committee shall be determined by the director and may vary due to the specific nature or reason for the visit. In all situations, however, the chairperson and a majority of the committee membership shall be from the instructional and administrative program specialty staff of the department of education. Other members may include instructional and administrative staff from school districts, area education agencies, institutions of higher education, local board members and the general public. An accreditation committee visit to a nonpublic school requires membership on the committee from nonpublic school instructional or administrative staff or board members. A

member of a committee shall not have a direct interest in the nonpublic school or school district being visited.

Rules adopted by the state board may include provisions for coordination of the accreditation process under this section with activities of accreditation associations.

Prior to a visit to a school district or nonpublic school, members of the accreditation committee shall have access to all annual accreditation report information filed with the department by that nonpublic school or school district.

After visiting the school district or nonpublic school, the accreditation committee shall determine whether the accreditation standards have been met and shall make a report to the director, together with a recommendation whether the school district or nonpublic school shall remain accredited. The accreditation committee shall report strengths and weaknesses, if any, for each standard and shall advise the school or school district of available resources and technical assistance to further enhance strengths and improve areas of weakness. A school district or nonpublic school may respond to the accreditation committee's report.

11. The director shall review the accreditation committee's report, and the response of the school district or nonpublic school, and provide a report and recommendation to the state board along with copies of the accreditation committee's report, the response to the report, and other pertinent information. The state board shall determine whether the school district or nonpublic school shall remain accredited. If the state board determines that a school district or nonpublic school should not remain accredited, the director, in cooperation with the board of directors of the school district, or authorities in charge of the nonpublic school, shall establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the standards, and shall establish a deadline date for completion of the procedures. The plan is subject to approval of the state board.

12. During the period of time specified in the plan for its implementation by a school district or nonpublic school, the school or school district remains accredited. The accreditation committee shall revisit the school district or nonpublic school and shall determine whether the deficiencies in the standards have been corrected and shall make a report and recommendation to the director and the state board. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected. If the deficiencies have not been corrected, the state board shall merge the territory of the school district with one or more contiguous school districts. Division of assets and liabilities of the school district shall be as provided in sections 275.29 through 275.31. Until the merger is completed, the school district shall pay tuition for its resident students to an accredited school district under section 282.24.

Sec. 27. Section 256.13, Code 1987, is amended to read as follows:

256.13 NONRESIDENT PUPILS.

The boards of directors of two or more school districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the district of their residence. The boards may also provide by agreement that the districts will combine their enrollments for one or more grades. Courses and grades made available to students in this manner shall be considered as complying with any standards or laws requiring the offering of such courses and grades. The boards of directors of districts entering into such agreements may provide for sharing the costs and expenses of the courses. If the agreement provides for whole grade sharing, the costs and expenses shall be paid as provided in sections 282.10 through 282.12.

Sec. 28. Section 256.17, unnumbered paragraph 5, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 29. NEW SECTION. 256.18 MODIFIED BLOCK SCHEDULING.

1. The state board of education shall approve pilot projects, not exceeding four per year, for the purpose of sharing certificated instructional personnel between two or more districts,

when the participating districts plan to utilize a modified block schedule for offering classes in the districts and sharing the certificated instructional personnel because of the modified block schedule. One-half of the approved pilot projects each year shall be projects of school districts with less than twelve hundred combined certified enrollment. The approved pilot projects shall also be as geographically distributed throughout the state as possible.

2. The boards of directors of two or more school districts may jointly apply to the state board of education for approval of a pilot project to jointly utilize a modified block schedule. The application shall be received by January 1 of the preceding school year. The state board shall review the applications and notify school districts with approved applications not later than February 15 of the preceding school year. The state board may request that a proposal be amended and resubmitted within the specified time period, to permit the proposal to comply with the requirements pursuant to subsection 3.

3. The application, pursuant to subsection 2, shall include the following:

a. Demonstration of a projected minimum of fifteen percent annual combined instructional and support cost savings of the projected costs if the districts would not utilize a modified block schedule, through reduction of employment of certificated instructional and support personnel.

b. Demonstration among the grades participating in the project of the following: greater student-certificated instructional personnel ratio, an increased number of course offerings, and an average reduction of course preparations per certificated teacher.

c. Demonstration of the acceptance of the modified block schedule by the administration personnel, the majority of each board of directors of each school district participating in the pilot project, and the certificated instructional personnel.

d. Transition and implementation plans regarding the in-service plan pursuant to subsection 5 and the changes necessary for a permanent modified block schedule.

e. Sabbatical plan for temporarily displaced teachers, which may include, but not be limited to, in-service, postsecondary enrollment, career advancement, consultant and other teaching positions in another school district.

For purposes of this section "instructional and support cost" means the general education costs, including salaries, benefits, contract or purchase services, supplies, capital outlay, miscellaneous expenses, and fund transfers.

4. Certificated instructional personnel notified, after approval of the pilot project by the state board, that the person's position has been temporarily displaced for the period of the pilot project, shall continue to be employed by the school district in a sabbatical capacity as mutually determined by the person and the board. If the determination is made that the person may be employed as a teacher in another school district for the period of the pilot project, the person shall receive the amount of the difference between the compensation which would have been received from the school district participating in the pilot project and the compensation received from the school district not participating in the pilot project, from the school district participating in the pilot project. All other terms of the contract with the school district participating in the pilot project shall remain in effect for the school year affected by the pilot project.

5. The school districts participating in the approved pilot project shall conduct in-service training for all certificated instructional and noninstructional personnel regarding the modified block scheduling, between the date notified by the state board of education regarding approval of the pilot project and September 1. Personnel shall receive compensation for the training, based on the per diem compensation received under the contract of the employing school district. The in-service training shall not be less than ten days.

6. The school district shall submit a quarterly report to the department of education, including but not limited to, test scores, daily attendance rates, and resulting ratio between students and certificated instructional personnel. The state board of education shall provide consultation and information to the school districts with approved pilot projects by providing in-state

and out-of-state consultants familiar with modified block scheduling, research, and dissemination of information, and any other manner deemed appropriate. The state board shall encourage the appropriate school districts to review the concept of modified block scheduling and to adopt the concept for school years beginning July 1, 1989 and thereafter.

7. A school district may conduct a pilot project for only one school year.

8. This section does not preclude a school district from sharing certificated instructional personnel with one or more other school districts in order to utilize a modified block schedule for offering classes in the districts without obtaining approval from the department of education and designation as a pilot project.

Sec. 30. NEW SECTION. 256.19 PILOT PROJECTS.

For fiscal years in which moneys are appropriated by the general assembly for the purpose of section 256.18 the state board of education shall notify the department of revenue and finance of the amounts necessary for each pilot project in order to reimburse the certificated instructional personnel pursuant to section 256.18, subsection 4, for the in-service training pursuant to section 256.18, subsection 5, and for other costs related to the approved pilot projects.

Sec. 31. NEW SECTION. 256.20 YEAR AROUND SCHOOLS.

Pursuant to section 279.10, subsection 1, relating to the maintenance of school during an entire year, the board of directors of a school district may request approval from the state board of education for a pilot project for a year around three semester school year. The deadlines for approval of a pilot project under this section are the deadlines specified in section 256.18 for approval of a modified block scheduling pilot project.

The application shall describe the anticipated additional costs to the school district and the benefits to be gained from the three semester school year. Students would not be required to attend school more than two semesters each school year.

Participation in a pilot project shall not modify provisions of a master contract negotiated between a school district and a certified bargaining unit pursuant to chapter 20 unless mutually agreed upon.

If moneys are appropriated by the general assembly for funding the costs of pilot projects under this section, the state board of education shall notify the department of revenue and finance of the amounts to be paid to each school district with an approved pilot project.

Sec. 32. NEW SECTION. 256.21 SABBATICAL PROGRAM.

If the general assembly appropriates money for grants to provide sabbaticals for teachers, a sabbatical program shall be established as provided in this section. For the school years commencing July 1, 1988, July 1, 1989, and July 1, 1990, any teacher with at least seven years of teaching experience in this state may submit an application for a sabbatical to the department of education not later than November 1 of the preceding school year.

A teacher's application shall include a plan for the use of the period of the sabbatical, including, but not limited to, additional education, use of a fellowship, conducting of research, writing relating to a particular subject area, or other activities relating to an enhancement of teaching skills. The teacher's plan must be accompanied by the written approval of the superintendent of the school district and a statement by the superintendent describing the benefits of the sabbatical to the school district.

The state board of education shall adopt rules under chapter 17A relating to submission of sabbatical plans and criteria for awarding the sabbaticals, including both the benefit to the teacher and the benefit to the school district. Sabbaticals shall be awarded by the department not later than January 1 of the preceding school year.

A sabbatical grant to a teacher shall be equal to the costs to the school district of the teacher's regular compensation as defined in section 294A.2 plus the cost to the district of the fringe benefits of the teacher. The grant shall be paid to the school district, and the district shall continue to pay the teacher's regular compensation as well as the cost to the district of the substitute teacher. Teachers and boards of school districts are encouraged to seek funding

from other sources to pay the costs of sabbaticals for teachers. Grant moneys are miscellaneous income for purposes of chapter 442.

A sabbatical approved by the department may be for any period of time not exceeding one year.

A teacher granted a sabbatical under this section shall agree either to return to the school district granting the leave for a period of not less than two years or to repay to the department of education the amount of the sabbatical grant received during the leave.

Notwithstanding section 8.33, if moneys are appropriated by the general assembly for the sabbatical program for either the fiscal year beginning July 1, 1988 or July 1, 1989, the moneys shall not revert at the end of that fiscal year but shall carry over and may be expended during the next fiscal year.

This section does not preclude a school district from providing a sabbatical program for its teachers separate from the sabbatical program provided under this section.

Sec. 33. Section 260.6, Code 1987, is amended to read as follows:

260.6 CERTIFICATES REQUIRED.

The board of educational examiners shall issue certificates pursuant to sections 256.7, subsection 3, and 260.2. A person employed as an administrator, supervisor, school service person, or teacher in the public schools shall hold a certificate valid for the type of position in which the person is employed. Effective July 1, 1990, the board shall only issue an emergency temporary certificate or endorsement to an individual employed by a school district or nonpublic school after the board of that school district or authorities in charge of that nonpublic school certify to the board of educational examiners that the board or authorities attempted to employ a certificated or endorsed individual to fill the teaching vacancy and, if the vacancy is in a school district, the board also attempted to complete a sharing agreement with another school district for providing the classes or courses. An emergency temporary certificate or endorsement is valid for one year after its issuance and shall not be renewed.

Sec. 34. NEW SECTION. 260.20 NATIONAL CERTIFICATION.

The board of educational examiners shall review the certification standards for teacher's certificates adopted by the national board for professional teaching standards, a nonprofit corporation created as a result of recommendations of the task force on teaching as a profession of the Carnegie forum on education and the economy. In those cases in which the standards required by the national board for an Iowa endorsement meet or exceed the requirements contained in rules adopted under this chapter for that endorsement, the board of educational examiners shall issue certificates to holders of certificates issued by the national board who request the certificate.

Sec. 35. NEW SECTION. 261C.1 TITLE.

This chapter may be cited as the "Postsecondary Enrollment Options Act".

Sec. 36. NEW SECTION. 261C.2 POLICY.

It is the policy of this state to promote rigorous academic pursuits and to provide a wider variety of options to high school pupils by enabling eleventh and twelfth grade pupils to enroll part time in nonsectarian courses in eligible postsecondary institutions of higher learning in this state.

Sec. 37. NEW SECTION. 261C.3 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Eligible postsecondary institution" means an institution of higher learning under the control of the state board of regents, an area school established under chapter 280A, or an accredited private institution as defined in section 261.9, subsection 5.

2. "Eligible pupil" means a pupil classified by the board of directors of a school district as an eleventh or twelfth grade pupil during the period the pupil is participating in the enrollment option provided under this chapter.

Sec. 38. NEW SECTION. 261C.4 AUTHORIZATION.

An eligible pupil may make application to an eligible institution to allow the eligible pupil to enroll for academic credit in a nonsectarian course offered at that eligible institution. A comparable course must not be offered by the school district in which the pupil is enrolled. If an eligible institution accepts an eligible pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school district, and the department of education. The notice shall list the course, the clock hours the pupil will be attending the course, and the number of hours of postsecondary academic credit that the eligible pupil will receive from the eligible institution upon successful completion of the course.

Sec. 39. NEW SECTION. 261C.5 HIGH SCHOOL CREDITS.

A school district may grant high school academic credit to an eligible pupil enrolled in a course under this chapter if the eligible pupil successfully completes the course as determined by the eligible institution. The board of directors of the school district shall determine the number of high school credits that shall be granted to an eligible pupil who successfully completes a course.

The high school credits granted to an eligible pupil under this section shall count toward the graduation requirements and subject area requirements of the school district of residence of the eligible pupil. Evidence of successful completion of each course and high school credits and postsecondary academic credits received shall be included in the pupil's high school transcript.

Sec. 40. NEW SECTION. 261C.6 SCHOOL DISTRICT PAYMENTS.

Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to an eligible postsecondary institution that has enrolled its resident eligible pupils under this chapter. The amount of tuition reimbursement for each separate course shall equal the lesser of:

1. The actual and customary costs of tuition, textbooks, materials, and fees directly related to the course taken by the eligible student.

2. Two hundred dollars.

A pupil is not eligible to enroll on a full-time basis in an eligible postsecondary institution and receive payment for all courses in which a student is enrolled. If an eligible postsecondary institution is an area school established under chapter 280A, the contact hours of a pupil for which a tuition reimbursement amount is received are not contact hours eligible for general aid under chapter 286A.

Sec. 41. NEW SECTION. 261C.7 TRANSPORTATION.

The parent or guardian of an eligible pupil who has enrolled in and is attending an eligible postsecondary institution under this chapter shall furnish transportation to and from the eligible postsecondary institution for the pupil.

Sec. 42. NEW SECTION. 261C.8 PROHIBITION ON CHARGES.

An eligible postsecondary institution that enrolls an eligible pupil under this chapter shall not charge that pupil for tuition, textbooks, materials, or fees directly related to the course in which the pupil is enrolled except that the pupil may be required to purchase equipment that becomes the property of the pupil.

Sec. 43. NEW SECTION. 261C.9 PUPIL ENROLLMENT.

Payments shall not be made under section 261C.6 if the eligible pupil is enrolled on a full-time basis in the pupil's school district of residence as well as enrolling in a course or program in an eligible postsecondary institution.

Sec. 44. Section 273.1, Code 1987, is amended to read as follows:

273.1 INTENT.

It is the intent of the general assembly to provide an effective, efficient, and economical means of identifying and serving children from under five years of age through grade twelve who require special education and any other children requiring special education as defined in section 281.2; to provide for media services and other programs and services for pupils in grades kindergarten through twelve and children requiring special education as defined in section 281.2; to provide a method of financing the programs and services; and to avoid a duplication of programs and services provided by any other school corporation in the state; and to provide services to school districts under a contract with those school districts.

Sec. 45. NEW SECTION. 273.7A SERVICES TO SCHOOL DISTRICTS.

The board of an area education agency may provide services to school districts located in the area education agency under contract with the school districts. These services may include, but are not limited to, superintendency services, personnel services, business management services, specialized maintenance services, and transportation services. In addition, the board of the area education agency may provide for furnishing expensive and specialized equipment for school districts. School districts shall pay to area education agencies the cost of providing the services.

The board of an area education agency may also provide services authorized to be performed by area education agencies to other area education agencies in this state and to provide a method of payment for these services.

Sec. 46. Section 277.27, Code 1987, is amended to read as follows:

277.27 QUALIFICATION.

A school officer or member of the board shall, at the time of election or appointment, be an eligible elector of the corporation or subdistrict. Notwithstanding any contrary provision of the Code, ~~no~~ a member of the board of directors of ~~any~~ a school district~~, or director's spouse,~~ shall not receive compensation directly from the school board. ~~No director or spouse affected by this provision on July 1, 1972, whose term of office for which elected has not expired, or whose contract of employment has a fixed date of expiration and has not expired, shall be affected by this provision until the expiration of the term of office to which elected, or the expiration date of the contract for which employed.~~

Sec. 47. Section 279.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The board of directors of each school corporation shall meet and organize at ~~two o'clock p.m., or at seven thirty o'clock p.m., if so ordered by the president of the board, on the third Monday in September each year~~ the first regular meeting after a regular school election at some suitable place to be designated by the secretary. Notice of the place and hour of such meeting shall be given by the secretary to each member and each member-elect of the board.

Sec. 48. Section 279.20, Code 1987, is amended to read as follows:

279.20 SUPERINTENDENT — TERM.

The board of directors of ~~any~~ a school district ~~shall have power to~~ may employ a superintendent of schools for ~~one year. After serving at least seven months, the superintendent may be employed for~~ a term of not to exceed three years. However, the board's initial contract with a superintendent shall not exceed one year if the board is obligated to pay a former superintendent under an unexpired contract. The superintendent shall be the executive officer of the board and have such powers and duties as may be prescribed by rules adopted by the board or by law. Boards of directors may jointly exercise the powers conferred by this section.

Sec. 49. Section 279.35, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

279.35 PUBLICATION OF PROCEEDINGS.

The proceedings of each regular, adjourned, or special meeting of the board, including the schedule of bills allowed, shall be published after the adjournment of the meeting in the manner provided in this section and section 279.36, and the publication of the schedule of the bills allowed shall include a list of claims allowed, including salary claims for services performed. The schedule of bills allowed may be published on a once monthly basis in lieu of publication with the proceedings of each meeting of the board. The list of claims allowed shall include the name of the person or firm making the claim, the purpose of the claim, and the amount of the claim. However, salaries paid to individuals regularly employed by the district shall only be published annually and the publication shall include the total amount of the annual salary of each employee. The secretary shall furnish a copy of the proceedings to be published within two weeks following the adjournment of the meeting.

Sec. 50. Section 279.36, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

279.36 PUBLICATION PROCEDURES AND FEE.

The requirements of section 279.35 are satisfied by publication in at least one newspaper published in the district or, if there is none, in at least one newspaper having general circulation within the district.

For the fiscal year beginning July 1, 1987, the fee for publications required under section 279.35 shall not exceed three-fifths of the legal publication fee provided by statute for the publication of legal notices. For the fiscal year beginning July 1, 1988, the fee for the publications shall not exceed three-fourths of that legal publication fee. For the fiscal year beginning July 1, 1989, and each fiscal year thereafter, the fee for the publications shall be the legal publication fee provided by statute.

Sec. 51. NEW SECTION. 279.46 RETIREMENT INCENTIVES.

The board of directors of a school district may adopt a program for payment of a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees between fifty-nine and sixty-five years of age who notify the board of directors prior to March 1 of the fiscal year that they intend to retire not later than the next following June 30. An employee retiring under this section shall apply for a retirement allowance under chapter 97B or chapter 294. If the total estimated accumulated cost to a school district of the bonus or other incentives for employees who retire under this section does not exceed the estimated savings in salaries and benefits for employees who replace the employees who retire under the program, the board may certify for levy a tax on all taxable property in the school district to pay the costs of the program provided in this section. The levy certified under this section is in addition to any other levy authorized for that school district by law and is not subject to budget limitations otherwise provided by law. A board may amend its certified budget during a fiscal year to provide for payments required under this section. Moneys received from the levy imposed under this section are miscellaneous income for purposes of chapter 442.

Sec. 52. Section 280.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In order to provide funds for the excess costs of instruction of non-English-speaking students above the costs of instruction of pupils in a regular curriculum, students identified as non-English-speaking are assigned an additional weighting of two-tenths and that weighting shall be included in the weighted enrollment of the school district of residence.

Sec. 53. NEW SECTION. 280.13A SHARING INTERSCHOLASTIC ACTIVITIES.

If a school district does not provide an interscholastic activity for its students, the board of directors of that school district may complete an agreement with another school district

to provide for the eligibility of its students in interscholastic activities provided by that other school district. A copy of each agreement completed under this section shall be filed with the appropriate organization as organization is defined in section 280.13 not later than April 30 of the school year preceding the school year in which the agreement takes effect, unless an exception is granted by the organization for good cause. An agreement completed under this section shall be deemed approved unless denied by the governing organization within ten days after its receipt. A governing organization shall determine whether an agreement would substantially prejudice the interscholastic activities of other schools. An agreement denied by a governing board under this section may be appealed to the state board of education under chapter 290.

For the purpose of this section, substantial prejudice includes, but is not limited to, situations where shared interscholastic activities may result in an unfair domination of an interscholastic activity or substantial disruption of activity classifications and management.

It is not necessary that school districts that are parties to an agreement under this section must be engaged in sharing academic programming and receiving supplementary weighting under section 442.39.

Sec. 54. Section 280.15, Code 1987, is amended to read as follows:

280.15 JOINT EMPLOYMENT AND SHARING.

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. If students attend classes in another school district under this section under an agreement that provides for whole grade sharing, the boards of directors of districts entering into these agreements shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12.

Sec. 55. Section 280.16, Code 1987, is amended by striking the section and inserting the following:

280.16 OPEN ENROLLMENT.

For the school years commencing July 1, 1988 and July 1, 1989, a parent or guardian residing in a school district in which the high school offers fewer than forty-one curriculum units either on its own or under a sharing agreement that does not meet the criteria for section 282.11 may enroll the parent's or guardian's child in a public school in a contiguous school district in the manner provided in this section if the conditions specified in this section exist.

Not later than February 1 of the preceding school year, the parent or guardian shall send notification to the district of residence and to the department of education on forms prescribed by the department of education that the parent or guardian intends to enroll the parent's or guardian's child in a public school in a contiguous school district because the academic curriculum of the contiguous school district provides substantial educational opportunities for a pupil that are not available to that pupil in the district of residence. The notification shall list the educational opportunities that the parent or guardian believes are necessary for the child and shall describe the manner in which the contiguous district can provide those educational opportunities. The state board of education shall adopt rules under chapter 17A that define educational opportunity.

A request under this section is for a period not less than four years unless the pupil will graduate within the four-year period. However, if a parent or guardian chooses to reenroll the child in the district of residence, or to enroll the child in another school district, during the four-year period, the parent or guardian shall pay the maximum tuition fee to the district pursuant to section 282.24.

The board of directors of the district of residence shall approve or disapprove the request within thirty days of its receipt. The parent or guardian may appeal the decision of the board

under chapter 290. If the parent or guardian appeals to the state board of education, the board of the district of residence must prove to the state board that the conditions listed in the request do not exist and the request of the parent or guardian is not valid.

Following approval of the transfer, the board of the district of residence shall transmit a copy of the form to the contiguous school district. The board of the contiguous school district shall enroll the pupil in a school in the contiguous district for the following school year unless the contiguous district does not have classroom space for the pupil.

The board of directors of the district of residence shall pay to the contiguous school district the lower district cost per pupil of the two districts for that school year. Quarterly payments shall be made to the contiguous district. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the student without reimbursement to and from a point on a regular school bus route of the contiguous district.

A student who attends school in a contiguous school district is not eligible to participate in interscholastic athletic contests and athletic competitions during the first year of enrollment under this section except for an interscholastic sport in which the district of residence and the contiguous school district jointly participate.

Sec. 56. NEW SECTION. 280.18 STUDENT ACHIEVEMENT GOALS.

The board of directors of each school district shall adopt goals to improve student achievement and performance. Student achievement and performance can be measured by measuring the improvement of students' skills in reading, writing, speaking, listening, mathematics, reasoning, studying, and technological literacy.

In order to achieve the goal of improving student achievement and performance on a statewide basis, the board of directors of each school district shall adopt goals that will improve student achievement at each grade level in the skills listed in this section and other skills deemed important by the board. Not later than July 1, 1989, the board of each district shall transmit to the department of education its plans for achieving the goals it has adopted and the periodic assessment that will be used to determine whether its goals have been achieved. The committee appointed by the board under section 280.12 shall advise the board concerning the development of goals, the assessment process to be used, and the measurements to be used.

The periodic assessment used by a school district to determine whether its student achievement goals have been met shall use various measures for determination, of which standardized tests may be one. The board shall ensure that the achievement of goals for a grade level has been assessed at least once during every four-year period.

The board shall file assessment reports with the department of education and shall make copies of these reports available to the residents of the school district.

Sec. 57. Section 280A.25, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Adopt rules prohibiting an area school that does not provide intercollegiate athletics as a part of its program on July 1, 1987 from adding intercollegiate athletics to its program after that date.

Sec. 58. Section 280A.25, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Ensure that area schools that provide intercollegiate athletics as a part of their program comply with section 601A.9.

Sec. 59. Section 282.7, subsection 1, Code 1987, 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 accredited 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 accredited 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 boards of directors entering into an agreement under this section shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. The agreement shall provide for transportation and authority and liability of the affected boards.

Sec. 60. NEW SECTION. 282.10 WHOLE GRADE SHARING.

1. Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1. Whole grade sharing may either be one-way or two-way sharing.

2. One-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and does not receive a substantial number of pupils from those districts in return.

3. Two-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and receives a substantial number of pupils from those school districts in return.

4. A whole grade sharing agreement shall be signed by the boards of the districts involved in the agreement not later than February 1 of the school year preceding the school year for which the agreement is to take effect.

Sec. 61. NEW SECTION. 282.11 PROCEDURE.

Not less than thirty days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is a party to a proposed sharing agreement shall hold a public hearing at which the proposed agreement is described, and at which the parent or guardian of an affected pupil shall have an opportunity to comment on the proposed agreement. Within the thirty-day period prior to the signing of the agreement, the parent or guardian of an affected pupil may appeal the sending of that pupil to the school district specified in the agreement, to the state board of education. A parent or guardian may appeal on the basis that sending the pupil to school in the district specified in the agreement will not meet the educational program needs of the pupil, or the school in the school district to which the pupil will be sent is not appropriate because consideration was not given to geographical factors. An appeal shall specify a contiguous school district to which the parent or guardian wishes to send the affected pupil. If the parent or guardian appeals, the standard of review of the appeal is clear and convincing evidence that the parent or guardian's hardship outweighs the benefits and integrity of the sharing agreement. The state board may require the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, or may deny the appeal by the parent or guardian. If the state board requires the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, the tuition shall be equal to the tuition established in the sharing agreement. The decision of the state board is binding on the boards of directors of the school districts affected, except that the decision of the state board may be appealed by either party to the district court.

Sec. 62. NEW SECTION. 282.12 FUNDING.

1. An agreement for whole grade sharing shall establish a method for determination of costs, if any, associated with the sharing agreement.

2. For one-way sharing, the sending district shall pay no less than one-half of the district cost per pupil of the sending district.

3. For two-way sharing, the costs shall be determined by mutual agreement of the boards.

4. The number of pupils participating in a whole grade sharing agreement shall be determined on the third Friday of September and third Friday of February of each year.

Sec. 63. Section 282.24, subsection 2, Code 1987, is amended to read as follows:

2. ~~The tuition fee charged by the board of directors for pupils attending school in the district under section 282.7, subsection 1, shall not exceed the actual cost of providing the educational program for either the high school or the junior high school in that district and shall not be less than the maximum tuition rate in that district.~~ For the purpose of this section, high school means a school which commences with either grade nine or grade ten as determined by the board of directors of the district, and junior high school means the remaining grades commencing with grade seven.

Sec. 64. Section 290.1, Code 1987, is amended to read as follows:

290.1 APPEAL TO STATE BOARD.

~~Any~~ A person aggrieved by ~~any~~ a decision or order of the board of directors of ~~any~~ a school corporation in a matter of law or fact, or a decision or order of a board of directors under section 280.16 may, within thirty days after the rendition of ~~such~~ the decision or the making of ~~such~~ the order, appeal ~~therefrom~~ the decision or order to the state board of education; the basis of the proceedings shall be an affidavit filed with the state board by the party aggrieved within the time for taking the appeal, which affidavit shall set forth any error complained of in a plain and concise manner.

Sec. 65. Section 442.4, Code 1987, is amended by adding the following new unnumbered paragraph after the fourth unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An eleventh or twelfth grade pupil who is no longer a resident of a school district, but who was a resident of the district during the preceding school year may enroll in the district and shall be included in the basic enrollment of the district until the pupil graduates. Tuition for that pupil shall not be charged by the district in which the pupil is enrolled.

Sec. 66. Section 442.4, subsection 3, paragraphs a and b, Code 1987, are 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. However, for the school year beginning July 1, 1989 and each succeeding school year, the twenty-five percent portion shall be reduced to twenty percent.

b. Seventy-five percent of the adjusted enrollment computed under subsection 2, paragraph "a," of this section. However, for the school year beginning July 1, 1989 and each succeeding school year, the seventy-five percent portion shall be increased to eighty percent.

Sec. 67. Section 442.4, subsection 5, Code 1987, is amended to read as follows:

5. For the school year beginning July 1, 1984 and each succeeding school year, if an amount equal to the district cost per pupil for the budget year minus the amount included in the district cost per pupil for the budget year to compensate for the cost of special education support services for a school district for the budget year times the budget enrollment of the school district for the budget year is less than one hundred two percent times an amount equal to the district cost per pupil for the base year minus the amount included in the district cost per pupil for the base year to compensate for the cost of special education support services

for a school district for the base year times the budget enrollment for the school district for the base year, the department of management shall increase the budget enrollment for the school district for the budget year to a number which will provide that one hundred two percent amount. For each of the school years beginning July 1, 1988 and July 1, 1989, the one hundred two percent amount shall be reduced by five-tenths of one percent so that for the school year beginning July 1, 1989 and each succeeding school year, the guarantee amount for the budget year is one hundred one percent times an amount equal to the district cost per pupil for the base year minus the amount included in the district cost per pupil for the base year to compensate for the cost of special education support services for a school district for the base year times the budget enrollment for the school district for the base year.

Sec. 68. Section 442.4, subsection 6, unnumbered paragraph 1, Code 1987, is amended to read as follows:

For the school year beginning July 1, ~~1980~~ 1988, and each subsequent school year, weighted enrollment is the budget enrollment as modified by application of the special education weighting plan in section 281.9, the non-English-speaking weighting plan in section 280.4, and the supplementary weighting plan in this chapter.

Sec. 69. Section 442.14, subsection 1, Code 1987, is amended to read as follows:

1. For the budget year beginning July 1, 1980, and each succeeding school year, if a school board wishes to spend more than the amount permitted under sections 442.1 to 442.13, and the school board has not attempted by resolution to raise an additional enrichment amount for that budget year, the school board may raise an additional enrichment amount not to exceed ten percent of the state cost per pupil multiplied by the budget enrollment in the district, as provided in this section. For the budget year beginning July 1, 1988 and each succeeding school year, the additional enrichment amount that may be raised is an amount not to exceed fifteen percent of the state cost per pupil multiplied by the budget enrollment in the district. The additional five percent is to provide additional moneys for districts because of budget reductions incurred beginning July 1, 1988 under sections 442.4, subsections 3 and 5.

Sec. 70. Section 442.14, subsection 4, Code 1987, is amended to read as follows:

4. The additional enrichment amount for a district is limited to the amount which may be raised by a combination tax in the prescribed proportion which does not exceed a property tax of one dollar and ~~eight~~ sixty-two cents per thousand dollars of assessed valuation and an income surtax of ~~twenty~~ thirty percent.

Sec. 71. Section 442.15, unnumbered paragraph 3, Code 1987, is amended to read as follows:

An additional enrichment amount authorized under section 442.14 or a lesser amount than the amount so authorized may be continued as provided in this section for a period of five school years. If the amount authorized is less than the maximum of ~~ten~~ fifteen percent of the state cost per pupil and the board wishes to increase the amount, it shall re-establish its authority to do so in the manner provided in section 442.14. If the board wishes to continue any additional enrichment amount beyond the five-year period, it shall re-establish its authority to do so in the manner provided in section 442.14 within the twelve-month period prior to termination of the five-year period.

Sec. 72. Section 442.39, subsection 4, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Pupils enrolled in a school district in which one or more administrators are employed jointly under section 280.15, or in which one or more administrators are employed under section 273.7A, are assigned a weighting of one plus five-hundredths for each administrator who is jointly employed times the percent of the administrator's time in which the administrator is employed in the school district. However, the total additional weighting assigned under this subsection

for a budget year for a school district is fifteen and the total additional weighting that may be added cumulatively to the enrollment of school districts sharing an administrator is twenty-five.

Sec. 73. The legislative council is requested to appoint a task force consisting of members of the house and senate committees on education and representatives from various education interest groups and institutions providing approved teacher preparation programs to study the role of teachers in the school district, assistance to teachers to foster the development of effective schools, provision for teachers to assume a more active role in educational planning in a school district, and the requirements for teacher preparation programs for the twenty-first century based upon recent recommendations of national associations and organizations who have studied teaching as a profession.

The task force shall report its recommendations to the general assembly by February 1, 1988.

Sec. 74. The legislative council shall appoint a working committee to conduct a comprehensive study of school finance and make recommendations for a school finance program for Iowa for the 1990's and beyond. The study shall include a review of the present school finance formula, the property tax burden on taxpayers of the various school districts including the property assessment practices prescribed in sections 441.18 through 441.21, and the effect upon the formula of additional moneys provided to improve teacher salaries as well as a review of the following proposals:

1. Senate File 2298, introduced during the 1986 session of the general assembly.
2. The final report of the excellence in education study committee which met during the 1985 interim.
3. The final report of the property tax issues study committee which met during the 1986 interim.
4. The final report of the state tax reform study committee which met during the 1986 interim.

The working committee appointed by the legislative council shall be composed of members of both political parties and both houses who are members of the committees on education and the committees on ways and means and members who represent the department of education, education interest groups, and other organizations and associations interested in school finance.

The committee shall be staffed by the legislative service bureau and the legislative fiscal bureau. The committee shall begin its deliberations following the adjournment of the 1987 session of the general assembly and shall issue its report of recommendations which shall include a school aid formula to replace the formula within chapter 442, by January 1, 1989.

It is the intent of the general assembly that the general assembly meeting in 1989 shall enact a school aid formula to replace the formula contained in chapter 442 of the Code. The new formula shall take effect for the computations and procedures needed during the school year beginning July 1, 1990 in order to implement the new formula for the school year beginning July 1, 1991.

Sec. 75. For an appeal filed with the state board of education under chapter 290 between February 18, 1987 and February 20, 1987 relating to a decision of a board of directors of a school district for school district restructuring, the state board of education shall consider all of the following factors:

1. The continuity of the educational program of the district.
2. Cost effectiveness when the restructuring is compared to other alternatives.
3. The quality and physical condition of the school district facilities affected.
4. The past and present student enrollment in the affected area compared to the total past and present student enrollment in the district.
5. Restructuring recommendations of a citizens task force appointed by the board of directors.
6. Transportation changes required because of restructuring and their impact upon participation in student activities.

7. Presence or absence of violations by the board of directors of the school district of rules and guidelines adopted or promulgated by the state board.

Sec. 76. The state board of education shall study the feasibility of enacting permanent legislation that would allow school students residing in school districts to attend school in other school districts and shall report its conclusions to the general assembly not later than January 1, 1988. The state board shall consider, but not be limited to, the conditions under which such a transfer might be made, the requirements for an appeal process by either party, the method and determination of payment, transportation efficiency, and impact on the educational system of the state.

Sec. 77. Iowa Acts, 1986 Session, chapter 1245, section 1499B, is repealed.

Sec. 78. Section 279.34, Code 1987, is repealed.

Sec. 79. Chapter 294A and section 75 of this Act, being deemed of immediate importance, take effect upon their enactment. Sections 27, 54, 59, 60, and 62 of this Act do not apply to sharing agreements signed before the effective date of those sections. Sections 55 and 68 of this Act take effect for the school year beginning July 1, 1988. Section 280.16, Code 1987, remains in effect for the school year beginning July 1, 1987.

Sec. 80. Chapter 261C, Code 1989, is repealed June 30, 1990.

Sec. 81. Chapter 442, Code 1991, is replealed June 30, 1991.

Approved June 9, 1987

CHAPTER 225

GROUNDWATER QUALITY

H.F. 631

AN ACT relating to public health and safety by establishing measures to improve and protect groundwater quality and to manage substances which pose health and safety hazards, by establishing goals, policies, funding mechanisms, including taxes and fees, and administrative provisions for the measures, by establishing programs relating to the management of agricultural activities, solid waste disposal, household hazardous wastes, storage tanks, fertilizers, pesticides, landfills, and watersheds, by providing penalties, establishing effective dates, making appropriations, and by providing for other properly related matters.

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

PART ONE — GENERAL PROVISIONS

Chapter 455E
GROUNDWATER PROTECTION

Section 101. NEW SECTION. 455E.1 TITLE.

This chapter shall be known and may be cited as the "Groundwater Protection Act".

Sec. 102. NEW SECTION. 455E.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Groundwater" means any water of the state, as defined in section 455B.171, which occurs beneath the surface of the earth in a saturated geological formation of rock or soil.
2. "Department" means the department of natural resources created under section 455A.2.
3. "Director" means the director of the department.
4. "Commission" means the environmental protection commission created under section 455A.6.
5. "Contamination" means the direct or indirect introduction into groundwater of any contaminant caused in whole or in part by human activities.

6. "Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste, or other substance which does not occur naturally in groundwater or which naturally occurs at a lower concentration.

7. "Active cleanup" means removal, treatment, or isolation of a contaminant from groundwater through the directed efforts of humans.

8. "Passive cleanup" means the removal or treatment of a contaminant in groundwater through management practices or the construction of barriers, trenches, and other similar facilities for prevention of contamination, as well as the use of natural processes such as groundwater recharge, natural decay, and chemical or biological decomposition.

Sec. 103. NEW SECTION. 455E.3 FINDINGS.

The general assembly finds that:

1. Groundwater is a precious and vulnerable natural resource. The vast majority of persons in the state depend on groundwater as a drinking water source. Agriculture, commerce, and industry also depend heavily on groundwater. Historically, the majority of Iowa's groundwater has been usable for these purposes without treatment. Protection of groundwater is essential to the health, welfare, and economic prosperity of all citizens of the state.

2. Many activities of humans, including the manufacturing, storing, handling, and application to land of pesticides and fertilizers; the disposal of solid and hazardous wastes; the storing and handling of hazardous substances; and the improper construction and the abandonment of wells and septic systems have resulted in groundwater contamination throughout the state.

3. Knowledge of the health effects of contaminants varies greatly. The long-term detriment to human health from synthetic organic compounds in particular is largely unknown but is of concern.

4. Any detectable quantity of a synthetic organic compound in groundwater is unnatural and undesirable.

5. The movement of groundwater, and the movement of contaminants in groundwater, is often difficult to ascertain or control. Decontamination is difficult and expensive to accomplish. Therefore, preventing contamination of groundwater is of paramount importance.

Sec. 104. NEW SECTION. 455E.4 GROUNDWATER PROTECTION GOAL.

The intent of the state is to prevent contamination of groundwater from point and nonpoint sources of contamination to the maximum extent practical, and if necessary to restore the groundwater to a potable state, regardless of present condition, use, or characteristics.

Sec. 105. NEW SECTION. 455E.5 GROUNDWATER PROTECTION POLICIES.

1. It is the policy of the state to prevent further contamination of groundwater from any source to the maximum extent practical.

2. The discovery of any groundwater contamination shall require appropriate actions to prevent further contamination. These actions may consist of investigation and evaluation or enforcement actions if necessary to stop further contamination as required under chapter 455B.

3. All persons in the state have the right to have their lawful use of groundwater unimpaired by the activities of any person which render the water unsafe or unpotable.

4. All persons in the state have the duty to conduct their activities so as to prevent the release of contaminants into groundwater.

5. Documentation of any contaminant which presents a significant risk to human health, the environment, or the quality of life shall result in either passive or active cleanup. In both cases, the best technology available or best management practices shall be utilized. The department shall adopt rules which specify the general guidelines for determining the cleanup actions necessary to meet the goals of the state and the general procedures for determining the parties responsible by July 1, 1989. Until the rules are adopted, the absence of rules shall not be raised as a defense to an order to clean up a source of contamination.

6. Adopting health-related groundwater standards may be of benefit in the overall groundwater protection or other regulatory efforts of the state. However, the existence of such standards, or lack of them, shall not be construed or utilized in derogation of the groundwater protection goal and protection policies of the state.

7. The department shall take actions necessary to promote and assure public confidence and public awareness. In pursuing this goal, the department shall make public the results of groundwater investigations.

8. Education of the people of the state is necessary to preserve and restore groundwater quality. The content of this groundwater protection education must assign obligations, call for sacrifice, and change some current values. Educational efforts should strive to establish a conservation ethic among Iowans and should encourage each Iowan to go beyond enlightened self-interest in the protection of groundwater quality.

Sec. 106. NEW SECTION. 455E.6 LEGAL EFFECTS.

This chapter supplements other legal authority and shall not enlarge, restrict, or abrogate any remedy which any person or class of persons may have under other statutory or common law and which serves the purpose of groundwater protection. An activity that does not violate chapter 455B does not violate this chapter. In the event of a conflict between this section and another provision of this chapter, it is the intent of the general assembly that this section prevails.

Liability shall not be imposed upon an agricultural producer for the costs of active cleanup, or for any damages associated with or resulting from the detection in the groundwater of any quantity of nitrates provided that application has been in compliance with soil test results and that the applicator has properly complied with label instructions for application of the fertilizer. Compliance with the above provisions may be raised as an affirmative defense by an agricultural producer.

Liability shall not be imposed upon an agricultural producer for costs of active cleanup, or for any damages associated with or resulting from the detection in the groundwater of pesticide provided that the applicator has properly complied with label instructions for application of the pesticide and that the applicator has a valid appropriate applicator's license. Compliance with the above provisions may be raised as an affirmative defense by an agricultural producer.

Sec. 107. NEW SECTION. 455E.7 PRIMARY ADMINISTRATIVE AGENCY.

The department is designated as the agency to coordinate and administer groundwater protection programs for the state.

Sec. 108. NEW SECTION. 455E.8 POWERS AND DUTIES OF THE DIRECTOR.

In addition to other groundwater protection duties, the director, in cooperation with soil district commissioners and with other state and local agencies, shall:

1. Develop and administer a comprehensive groundwater monitoring network, including point of use, point of contamination, and problem assessment monitoring sites across the state, and the assessment of ambient groundwater quality.

2. Include in the annual report required by section 455A.4, the number and concentration of contaminants detected in groundwater. This information shall also be provided to the director of public health and the secretary of agriculture.

3. Report any data concerning the contamination of groundwater by a contaminant not regulated under the federal Safe Drinking Water Act, 42 U.S.C. § 300(f) et seq. to the United States environmental protection agency along with a request to establish a maximum contaminant level and to conduct a risk assessment for the contaminant.

4. Complete groundwater hazard mapping of the state and make the results available to state and local planning organizations by July 1, 1991.

5. Establish a system or systems within the department for collecting, evaluating, and disseminating groundwater quality data and information.

6. Develop and maintain a natural resource geographic information system and comprehensive water resource data system. The system shall be accessible to the public.

7. Develop and adopt by administrative rule, criteria for evaluating groundwater protection programs by July 1, 1988.

8. Take any action authorized by law, including the investigatory and enforcement actions authorized by chapter 455B, to implement the provisions of this chapter and the rules adopted pursuant to this chapter.

9. Disseminate data and information, relative to this chapter, to the public to the greatest extent practical.

10. Develop a program, in consultation with the department of education and the department of environmental education of the University of Northern Iowa, regarding water quality issues which shall be included in the minimum program required in grades seven and eight pursuant to section 256.11, subsection 4.

Sec. 109. NEW SECTION. 455E.9 POWERS AND DUTIES OF THE COMMISSION.

1. The commission shall adopt rules to implement this chapter.

2. When groundwater standards are proposed by the commission, all available information to develop the standards shall be considered, including federal regulations and all relevant information gathered from other sources. A public hearing shall be held in each congressional district prior to the submittal of a report on standards to the general assembly. This report on how groundwater standards may be a part of a groundwater protection program shall be submitted by the department to the general assembly for its consideration by January 1, 1989.

Sec. 110. NEW SECTION. 455E.10 JOINT DUTIES — LOCAL AUTHORITY.

1. All state agencies shall consider groundwater protection policies in the administration of their programs. Local agencies shall consider groundwater protection policies in their programs. All agencies shall cooperate with the department in disseminating public information and education materials concerning the use and protection of groundwater, in collecting groundwater management data, and in conducting research on technologies to prevent or remedy contamination of groundwater.

2. Political subdivisions are authorized and encouraged to implement groundwater protection policies within their respective jurisdictions, provided that implementation is at least as stringent but consistent with the rules of the department.

Sec. 111. NEW SECTION. 455E.11 GROUNDWATER PROTECTION FUND ESTABLISHED.

1. A groundwater protection fund is created in the state treasury. Moneys received from sources designated for purposes related to groundwater monitoring and groundwater quality standards shall be deposited in the fund. Notwithstanding section 8.33, any unexpended balances in the groundwater protection fund and in any of the accounts within the groundwater protection fund at the end of each fiscal year shall be retained in the fund and the respective accounts within the fund. The fund may be used for the purposes established for each account within the fund.

The director shall include in the departmental budget prepared pursuant to section 455A.4, subsection 1, paragraph "c", a proposal for the use of groundwater protection fund moneys, and a report of the uses of the groundwater protection fund moneys appropriated in the previous fiscal year.

The secretary of agriculture shall submit with the report prepared pursuant to section 17.3 a proposal for the use of groundwater protection fund moneys, and a report of the uses of the groundwater protection fund moneys appropriated in the previous fiscal year.

2. The following accounts are created within the groundwater protection fund:

a. A solid waste account. Moneys received from the tonnage fee imposed under section

455B.310 and from other sources designated for environmental protection purposes in relation to sanitary disposal projects shall be deposited in the solid waste account.

The department shall use the funds in the account for the following purposes:

(1) The first fifty cents per ton of funds received from the tonnage fee imposed under section 455B.310 for the fiscal year beginning July 1, 1988 and ending June 30, 1989, shall be used for the following:

(a) Six cents per ton of the amount allocated under this subparagraph is appropriated to the waste management authority within the department of natural resources.

(b) Fourteen cents per ton of the amount allocated under this subparagraph is appropriated to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

(c) Eight thousand dollars of the amount allocated under this subparagraph is appropriated to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(d) The remainder of the amount allocated under this subparagraph is appropriated to the department of natural resources for the following purposes:

(i) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

(ii) Abatement and cleanup of threats to the public health, safety, and the environment resulting from a sanitary landfill if an owner or operator of the landfill is unable to facilitate the abatement or cleanup. However, not more than ten percent of the total funds allocated under this subparagraph may be used for this purpose without legislative authorization.

(2) An additional fifty cents per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1988 and ending June 30, 1989 shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(3) The additional fifty cents per ton collected from the fee imposed under section 455B.310 for the fiscal year beginning July 1, 1988 and ending June 30, 1989 may be retained by the agency making the payments to the state provided that a separate account is established for these funds and that they are used in accordance with the requirements of section 455B.306.

(4) The first fifty cents per ton of funds received from the tonnage fee imposed under section 455B.310 for the fiscal year beginning July 1, 1989 and ending June 30, 1990, shall be used for the following:

(a) Six cents per ton of the amount allocated under this subparagraph is appropriated to the waste management authority within the department of natural resources.

(b) Fourteen cents per ton of the amount allocated under this subparagraph is appropriated to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

(c) Eight thousand dollars of the amount allocated under this subparagraph is appropriated to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(d) The remainder of the amount allocated under this subparagraph is appropriated to the department of natural resources for the following purposes:

(i) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

(ii) Abatement and cleanup of threats to the public health, safety, and the environment resulting from a sanitary landfill if an owner or operator of the landfill is unable to facilitate the abatement or cleanup. However, not more than ten percent of the total funds allocated under this subparagraph may be used for this purpose without legislative authorization.

(5) One dollar per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1989 and ending June 30, 1990 shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(6) The additional fifty cents per ton collected from the fee imposed under section 455B.310 for the fiscal year beginning July 1, 1989 and ending June 30, 1990 may be retained by the agency making the payments to the state provided that a separate account is established for these funds and that they are used in accordance with the requirements of section 455B.306.

(7) The first fifty cents per ton of funds received from the tonnage fee imposed for the fiscal year beginning July 1, 1990 and thereafter shall be used for the following:

(a) Fourteen cents per ton of the amount allocated under this subparagraph is appropriated to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

(b) Eight thousand dollars of the amount allocated under this subparagraph is appropriated to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(c) The administration and enforcement of a groundwater monitoring program and other required programs which are related to solid waste management.

(d) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

(e) Abatement and cleanup of threats to the public health, safety, and the environment resulting from a sanitary landfill if an owner or operator of the landfill is unable to facilitate the abatement or cleanup. However, not more than ten percent of the total funds allocated under this subparagraph may be used for this purpose without legislative authorization.

(8) One dollar per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1990 and thereafter shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(9) Each additional fifty cents per ton per year of funds received from the tonnage fee for the fiscal period beginning July 1, 1990 and thereafter is allocated for the following purposes:

(a) Thirty-five cents per ton per year shall be allocated to the department of natural resources for the following purposes:

(i) Twenty-five cents per ton per year shall be used to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(ii) No more than ten cents of the thirty-five cents per year may be used for the administration of a groundwater monitoring program and other required programs which are related to solid waste management, if the amount of funds generated for administrative costs in this fiscal period is less than the amount generated for the costs in the fiscal year beginning July 1, 1988.

(b) Fifteen cents per ton per year shall be allocated to local agencies for use as provided by law.

(10) Cities, counties, and private agencies subject to fees imposed under section 455B.310 may use the funds collected in accordance with the provisions of this section and the conditions of this subsection. The funds used from the account may only be used for any of the following purposes:

(a) Development and implementation of an approved comprehensive plan.

(b) Development of a closure or postclosure plan.

(c) Development of a plan for the control and treatment of leachate which may include a facility plan or detailed plans and specifications.

(d) Preparation of a financial plan, but these funds may not be used to actually contribute to any fund created to satisfy financial requirements, or to contribute to the purchase of any instrument to meet this need.

On January 1 of the year following the first year in which the funds from the account are used, and annually thereafter, the agency shall report to the department as to the amount of the funds used, the exact nature of the use of the funds, and the projects completed. The report shall include an audit report which states that the funds were, in fact, used entirely for purposes authorized under this subsection.

(11) If moneys appropriated to the portion of the solid waste account to be used for the administration of groundwater monitoring programs and other required programs that are related to solid waste management remain unused at the end of any fiscal year, the moneys remaining shall be allocated to the portion of the account used for abatement and cleanup of threats to the public health, safety, and the environment, resulting from sanitary landfills. If the balance of the moneys in the portion of the account used for abatement and cleanup exceeds three million dollars, the moneys in excess shall be used to fund the development and implementation of demonstration projects for landfill alternatives to solid waste disposal including recycling.

The agriculture management account shall be used for the following purposes:

(1) Nine thousand dollars of the account is appropriated to the Iowa department of public health for carrying out the departmental duties under section 135.11, subsections 20 and 21, and section 139.35.

(2) Of the remaining moneys in the account:

(a) Thirty-five percent is appropriated annually for the Leopold center for sustainable agriculture at Iowa State University of science and technology.

(b) Two percent is appropriated annually to the department of natural resources for the purpose of administering grants to counties and conducting oversight of county-based programs relative to the testing of private water supply wells and the proper closure of private abandoned wells. Not more than twenty-three percent of the moneys is appropriated annually to the department of natural resources for grants to counties for the purpose of conducting programs of private, rural water supply testing, not more than six percent of the moneys is appropriated annually to the state hygienic laboratory to assist in well testing, and not more than twelve percent of the moneys is appropriated annually to the department of natural resources for grants to counties for the purpose of conducting programs for properly closing abandoned, rural water supply wells.

(c) The department shall allocate a sum not to exceed seventy-nine thousand dollars of the moneys appropriated for the fiscal year beginning July 1, 1987, and ending June 30, 1988 for the preparation of a detailed report and plan for the establishment on July 1, 1988 of the center for health effects of environmental contamination. The plan for establishing the center shall be presented to the general assembly on or before January 15, 1988. The report shall include the assemblage of all existing data relating to Iowa drinking water supplies, including characteristics of source, treatment, presence of contaminants, precise location, and usage patterns to facilitate data retrieval and use in research; and detailed organizational plans, research objectives, and budget projections for the anticipated functions of the center in subsequent years. The department may allocate annually a sum not to exceed nine percent of the moneys appropriated to the center, beginning July 1, 1988.

(d) Thirteen percent of the moneys is appropriated annually to the department of agriculture and land stewardship for financial incentive programs related to agricultural drainage wells and sinkholes, for studies and administrative costs relating to sinkholes and agricultural drainage wells programs, and not more than two hundred thousand dollars of the moneys is appropriated for the demonstration projects regarding agricultural drainage wells and sinkholes. Of the thirteen percent allocated for financial incentive programs, not more than fifty thousand dollars is appropriated for the fiscal year beginning July 1, 1987 and ending June

30, 1988, to the department of natural resources for grants to county conservation boards for the development and implementation of projects regarding alternative practices in the remediation of noxious weed or other vegetation within highway rights-of-way.

(e) A household hazardous waste account. The moneys collected pursuant to section 455F.7 shall be deposited in the household hazardous waste account. Two thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section 139.35, eighty thousand dollars is appropriated to the department of natural resources for city, county, or service organization project grants relative to recycling and reclamation events, and eight thousand dollars is appropriated to the department of transportation for the period of October 1, 1987 through June 30, 1989 for the purpose of conducting the used oil collection pilot project. The remainder of the account shall be used to fund Toxic Cleanup Days programs, education programs, and other activities pursuant to chapter 455F, including the administration of the household hazardous materials permit program by the department of revenue and finance.

(f) A storage tank management account. All fees collected pursuant to section 455B.473, subsection 4, and section 455B.479, shall be deposited in the storage tank management account. Funds shall be expended for the following purposes:

(1) One thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section 139.35.

(2) Seventy percent of the moneys deposited in the account annually are appropriated to the department of natural resources for the administration of a state storage tank program pursuant to chapter 455B, division IV, part 8, and for programs which reduce the potential for harm to the environment and the public health from storage tanks.

(3) For the fiscal year beginning July 1, 1987, and ending June 30, 1988, twenty-five thousand dollars is appropriated from the account to the division of insurance for payment of costs incurred in the establishment of the plan of operations program regarding the financial responsibility of owners and operators of underground storage tanks which store petroleum.

(4) The remaining funds in the account are appropriated annually to the department of natural resources for the funding of state remedial cleanup efforts.

(g) An oil overcharge account. The oil overcharge moneys distributed by the United States department of energy, and approved for the energy related components of the groundwater protection strategy available through the energy conservation trust fund created in section 93.11, shall be deposited in the oil overcharge account as appropriated by the general assembly. The oil overcharge account shall be used for the following purposes:

(1) The following amounts are appropriated to the department of natural resources to implement its responsibilities pursuant to section 455E.8:

(a) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, eight hundred sixty thousand dollars is appropriated.

(b) For the fiscal year beginning July 1, 1988 and ending June 30, 1989, six hundred fifty thousand dollars is appropriated.

(c) For the fiscal year beginning July 1, 1989 and ending June 30, 1990, six hundred thousand dollars is appropriated.

(d) For the fiscal year beginning July 1, 1990 and ending June 30, 1991, five hundred thousand dollars is appropriated.

(e) For the fiscal year beginning July 1, 1991 and ending June 30, 1992, five hundred thousand dollars is appropriated.

(2) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, five hundred sixty thousand dollars is appropriated to the department of natural resources for assessing rural, private water supply quality.

(3) For the fiscal period beginning July 1, 1987 and ending June 30, 1989, one hundred thousand dollars is appropriated annually to the department of natural resources for the administration of a groundwater monitoring program at sanitary landfills.

(4) The following amounts are appropriated to the Iowa state water resources research institute to provide competitive grants to colleges, universities, and private institutions within the state for the development of research and education programs regarding alternative disposal methods and groundwater protection:

(a) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, one hundred twenty thousand dollars is appropriated.

(b) For the fiscal year beginning July 1, 1988 and ending June 30, 1989, one hundred thousand dollars is appropriated.

(c) For the fiscal year beginning July 1, 1989 and ending June 30, 1990, one hundred thousand dollars is appropriated.

(5) The following amounts are appropriated to the department of natural resources to develop and implement demonstration projects for landfill alternatives to solid waste disposal, including recycling programs:

(a) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, seven hundred sixty thousand dollars is appropriated.

(b) For the fiscal year beginning July 1, 1988 and ending June 30, 1989, eight hundred fifty thousand dollars is appropriated.

(6) For the fiscal period beginning July 1, 1987 and ending June 30, 1988, eight hundred thousand dollars is appropriated to the Leopold center for sustainable agriculture.

(7) Seven million five hundred thousand dollars is appropriated to the agriculture energy management fund created under chapter 467E for the fiscal period beginning July 1, 1987 and ending June 30, 1992, to develop nonregulatory programs to implement integrated farm management of farm chemicals for environmental protection, energy conservation, and farm profitability; interactive public and farmer education; and applied studies on best management practices and best appropriate technology for chemical use efficiency and reduction.

(8) The following amounts are appropriated to the department of natural resources to continue the Big Spring demonstration project in Clayton county.

(a) For the fiscal period beginning July 1, 1987 and ending June 30, 1990, seven hundred thousand dollars is appropriated annually.

(b) For the fiscal period beginning July 1, 1990 and ending June 30, 1992, five hundred thousand dollars is appropriated annually.

(9) For the fiscal period beginning July 1, 1987 and ending June 30, 1990, one hundred thousand dollars is appropriated annually to the department of agriculture and land stewardship to implement a targeted education program on best management practices and technologies for the mitigation of groundwater contamination from or closure of agricultural drainage wells, abandoned wells, and sinkholes.

Sec. 112. Section 455B.172, subsection 2, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. The department shall carry out the responsibilities of the state related to private water supplies and private sewage disposal systems for the protection of the environment and the public health and safety of the citizens of the state.

Sec. 113. Section 455B.172, Code 1987, is amended by adding the following new subsections after subsection 2 and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Each county board of health shall adopt standards for private water supplies and private sewage disposal facilities. These standards shall be at least as stringent but consistent with the standards adopted by the commission. If a county board of health has not adopted standards for private water supplies and private sewage disposal facilities, the standards adopted by the commission shall be applied and enforced within the county by the county board of health.

NEW SUBSECTION. 4. Each county board of health shall regulate the private water supply and private sewage disposal facilities located within the county board's jurisdiction, including the enforcement of standards adopted pursuant to this section.

NEW SUBSECTION. 5. The department shall maintain jurisdiction over and regulate the direct discharge to a water of the state. The department shall retain concurrent authority to enforce state standards for private water supply and private sewage disposal facilities within a county, and exercise departmental authority if the county board of health fails to fulfill board responsibilities pursuant to this section.

The commission shall make grants to counties for the purpose of conducting programs for the testing of private, rural water supply wells and for the proper closing of abandoned, rural, private water supply wells within the jurisdiction of the county. Grants shall be funded through allocation of the agriculture management account of the groundwater protection fund. Grants awarded, continued, or renewed shall be subject to the following conditions:

a. An application for a grant shall be in a form and shall contain information as prescribed by rule of the commission.

b. Nothing in this section shall be construed to prohibit the department from making grants to one or more counties to carry out the purpose of the grant on a joint, multicounty basis.

c. A grant shall be awarded on an annual basis to cover a fiscal year from July 1 to June 30 of the following calendar year.

d. The continuation or renewal of a grant shall be contingent upon the county's acceptable performance in carrying out its responsibilities, as determined by the director. The director, subject to approval by the commission, may deny the awarding of a grant or withdraw a grant awarded if, by determination of the director, the county has not carried out the responsibilities for which the grant was awarded, or cannot reasonably be expected to carry out the responsibilities for which the grant would be awarded.

Sec. 114. Section 455B.173, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Adopt, modify, or repeal rules relating to the awarding of grants to counties for the purpose of carrying out responsibilities pursuant to section 455B.172 relative to private water supplies and private sewage disposal facilities.

Sec. 115. Section 455B.311, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The director, with the approval of the commission, may make grants to cities, counties, or central planning agencies representing cities and counties or combinations of cities, counties, or central planning agencies from funds reserved under and for the purposes specified in section ~~455B.309, subsection~~ 4 455E.11, subsection 2, paragraph "a", subject to all of the following conditions:

Sec. 116. Section 455B.309, Code 1987, is repealed.

PART TWO — PESTICIDES AND FERTILIZER

Sec. 201. Section 89B.4, subsection 1, Code 1987, is amended to read as follows:

1. Except for section 89B.9, this chapter does not apply to a person engaged in farming as defined in this section; or a pesticide, as defined in section 206.2, subsection 1, used, stored, or available for sale by a ~~commercial applicator as defined in section 206.2, subsection 12, a certified applicator as defined in section 206.2, subsection 17,~~ a certified private applicator as defined in section 206.2, subsection 18,; ~~a certified commercial applicator as defined in section 206.2, subsection 19, a pesticide dealer as defined in section 206.2, subsection 24,~~ or to activities which are covered under the federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 135 et seq.; ~~provided, however, that~~ However, such persons shall comply with the requirements of the regulations for the federal Insecticide, Fungicide, and Rodenticide Act, 40 C.F.R. § 170, and the requirements of and rules adopted under chapter 206 where applicable to ~~such~~

the persons. As used in this section, "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 or the production of livestock, spraying, or harvesting. The department of agriculture and land stewardship shall cooperate with the division in an investigation of an agricultural employee's complaint filed pursuant to section 89B.9.

Sec. 202. Section 135.11, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 20. Establish, publish, and enforce rules requiring prompt reporting of methemoglobinemia, pesticide poisoning, and the reportable poisonings and illnesses established pursuant to section 139.35.

NEW SUBSECTION. 21. Collect and maintain reports of pesticide poisonings and other poisonings, illnesses, or injuries caused by selected chemical or physical agents, including methemoglobinemia and pesticide and fertilizer hypersensitivity; and compile and publish, annually, a statewide and county-by-county profile based on the reports.

Sec. 203. NEW SECTION. 139.35 REPORTABLE POISONINGS AND ILLNESSES.

1. If the results of an examination by a public, private, or hospital clinical laboratory of a specimen from a person in Iowa yield evidence of or are reactive for a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, the results shall be reported to the Iowa department of public health on forms prescribed by the department. If the laboratory is located in Iowa, the person in charge of the laboratory shall report the results. If the laboratory is not in Iowa, the health care provider submitting the specimen shall report the results.

2. The physician or other health practitioner attending a person infected with a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, shall immediately report the case to the Iowa department of public health. The Iowa department of public health shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the Iowa department of public health.

3. A person in charge of a poison control or poison information center shall report cases of reportable poisoning, including methemoglobinemia, about which they receive inquiries to the Iowa department of public health.

4. The Iowa department of public health shall adopt rules designating reportable poisonings, including methemoglobinemia, and illnesses which must be reported under this section.

5. The Iowa department of public health shall establish and maintain a central registry to collect and store data reported pursuant to this section.

Sec. 204. Section 177.2, subsection 1, Code 1987, is amended to read as follows:

1. To encourage the use of good agricultural practices in crop production, including best management practices for applying fertilizer and pesticide, and to conserve, maintain, and improve soil productivity.

Sec. 205. Section 200.4, Code 1987, is amended to read as follows:

200.4 LICENSES.

1. Any person who manufactures, mixes, blends, ~~or~~ mixes to customers order, offers for sale, sells, or distributes any fertilizer or soil conditioner ~~offered for sale, sold, or distributed~~ in Iowa must first obtain a license from the secretary of agriculture and shall pay a ten-dollar license fee for each ~~plant or~~ place of manufacture~~,~~ or distribution from which fertilizer or soil conditioner products are sold or distributed in Iowa. Such license fee shall be paid annually on July 1 of each year ~~and the manufacturer, blender or mixer shall at the same time, list the name and address of each such plant or place of manufacture, from which sale or distribution is made~~.

~~This subsection shall not apply to a manufacturer who manufactures "specialty fertilizer" only, as defined in section 200.3, subsection 5, in packages of twenty-five pounds or less.~~

2. Said licensee shall at all times produce an intimate and uniform mixture of fertilizers or soil conditioners. When two or more fertilizer materials are delivered in the same load, they shall be thoroughly and uniformly mixed unless they are in separate compartments.

Sec. 206. Section 200.8, Code 1987, is amended to read as follows:

200.8 INSPECTION FEES.

1. There shall be paid by the licensee to the secretary for all commercial fertilizers and soil conditioners sold, or distributed in this state, an inspection fee to be fixed annually by the secretary of agriculture at not more than twenty cents per ton: ~~Except sales.~~ Sales for manufacturing purposes only are hereby exempted from fees but must still be reported showing manufacturer who purchased same. Payment of said inspection fee by any licensee shall exempt all other persons, firms or corporations from the payment thereof.

On individual packages of specialty fertilizer containing twenty-five pounds or less, there shall be paid by the manufacturer in lieu of the ~~annual license fee and the~~ semiannual inspection fee as set forth in this chapter, an annual registration and inspection fee of ~~twenty-five~~ one hundred dollars for each brand and grade sold or distributed in the state. In the event that any ~~person~~ manufacturer sells specialty fertilizer in packages of twenty-five pounds or less and also in packages of more than twenty-five pounds, this annual registration and inspection fee shall apply only to that portion sold in packages of twenty-five pounds or less, and that portion sold in packages of more than twenty-five pounds shall be subject to the same inspection fee as fixed by the secretary of agriculture as provided in this chapter.

Any person other than a manufacturer who offers for sale, sells, or distributes specialty fertilizer in packages of twenty-five pounds or less or applies specialty fertilizer for compensation shall be required to pay an annual inspection fee of fifty dollars in lieu of the semiannual inspection fee as set forth in this chapter.

2. Every licensee and any person required to pay an annual registration and inspection fee under this chapter in this state shall:

a. File not later than the last day of January and July of each year, on forms furnished by secretary, a semiannual statement setting forth the number of net tons of commercial fertilizer or soil conditioners distributed in this state by grade for each county during the preceding six months' period; and upon filing such statement shall pay the inspection fee at the rate stated in subsection 1 of this section. However, in lieu of the semiannual statement by grade for each county, as hereinabove provided for, the registrant, on individual packages of ~~commercial~~ specialty fertilizer containing twenty-five pounds or less, shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of net tons of ~~commercial~~ specialty fertilizer distributed in this state by grade during the preceding twelve-month period~~, but no inspection fee shall be due thereon~~.

b. If the tonnage report is not filed or the payment of inspection fees, or both, is not made within ten days after the last day of January and July of each year as required in paragraph "a" of this subsection, a penalty amounting to ten percent of the amount due, if any, shall be assessed against the licensee. In any case, the penalty shall be no less than fifty dollars. The amount of fees due, if any, and penalty shall constitute a debt and become the basis of a judgment against the licensee.

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. 207. Section 200.8, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to the fees imposed under subsection 1, a groundwater protection fee shall be imposed upon nitrogen-based fertilizer. The fee shall be based upon

the percentage of actual nitrogen contained in the product. An eighty-two percent nitrogen solution shall be taxed at a rate of seventy-five cents per ton. Other nitrogen-based product formulations shall be taxed on the percentage of actual nitrogen contained in the formulations with the eighty-two percent nitrogen solution serving as the base. The fee shall be paid by each licensee registering to sell fertilizer to the secretary of agriculture. The fees collected shall be deposited in the agriculture management account of the groundwater protection fund. The secretary of agriculture shall adopt rules for the payment, filing, and collection of groundwater protection fees from licensees in conjunction with the collection of registration and inspection fees. The secretary shall, by rule allow an exemption to the payment of this fee for fertilizers which contain trace amounts of nitrogen.

Sec. 208. Section 200.9, Code 1987, is amended to read as follows:

200.9 FERTILIZER FUND.

Fees collected for licenses and inspection fees under sections 200.4 and 200.8, with the exception of those fees collected for deposit in the agriculture management account of the groundwater protection fund, shall be deposited in the treasury to the credit of the fertilizer fund to be used only by the department for the purpose of inspection, sampling, analysis, preparation, and publishing of reports and other expenses necessary for administration of this chapter. The secretary may assign moneys to the Iowa agricultural experiment station for research, work projects, and investigations as ~~may be~~ needed for the specific purpose of improving the regulatory functions for enforcement of this chapter.

Sec. 209. Section 206.2, subsection 12, Code 1987, is amended to read as follows:

12. ~~The term "commercial~~ "Commercial applicator" ~~shall mean~~ means any person, ~~or~~ corporation, or employee of a person or corporation who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying any pesticide or servicing any device but shall not include a farmer trading work with another, a person employed by a farmer not solely as a pesticide applicator who applies pesticide as an incidental part of the person's general duties, or a person who applies pesticide as an incidental part of a custom farming operation.

Sec. 210. Section 206.2, subsection 17, Code 1987, is amended to read as follows:

17. "Certified applicator" means any individual who is certified under this chapter as authorized to use ~~or supervise the use of~~ any pesticide ~~which is classified for restricted use~~.

Sec. 211. Section 206.2, subsection 18, Code 1987, is amended to read as follows:

18. "Certified private applicator" means a certified applicator who uses ~~or supervises the use of~~ any pesticide which is classified for restricted use ~~for purposes of producing any agricultural commodity~~ on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

Sec. 212. Section 206.2, subsection 19, Code 1987, is amended to read as follows:

19. "Certified commercial applicator" means a pesticide applicator or individual who applies or uses a ~~restricted use~~ pesticide or device ~~for the purpose of producing any agricultural commodity or~~ on any property of another for compensation.

Sec. 213. Section 206.2, subsection 24, Code 1987, is amended to read as follows:

24. The term "pesticide dealer" means any person who distributes ~~any~~ restricted use pesticides ~~which, by regulation, are restricted to application only by certified applicators;~~ pesticide for use by commercial or public pesticide applicators; or general use pesticides labeled for agricultural or lawn and garden use with the exception of dealers whose gross annual pesticide sales are less than ten thousand dollars for each business location owned or operated by the dealer.

Sec. 214. Section 206.5, Code 1987, is amended to read as follows:

206.5 CERTIFICATION REQUIREMENTS.

~~No person shall~~ A commercial or public applicator shall not apply any pesticide and a person shall not apply any restricted use pesticide without first complying with the certification requirements of this chapter and such other restrictions as determined by the secretary ~~or being under the direct supervision of a certified applicator~~.

The secretary shall adopt, by rule, requirements for the examination, re-examination and certification of applicants ~~and set a fee of not more than ten dollars for the certification program of commercial applicators and not more than five dollars for the certification program of private applicators~~.

~~The secretary may adopt rules for the training of applicators in co-operation with the co-operative extension service at Iowa State University of science and technology~~.

~~The secretary shall not require applicants for certification as private applicators to take and pass a written test, if the applicant instead shows proof that the applicant has attended an informational course of instruction approved by the secretary. The secretary shall provide for temporary certification for emergency purchases of restricted use products by requiring the purchaser to sign an affidavit, at the point of purchase, that the purchaser has read and understands the information on the label of the restricted use product being purchased.~~

Commercial and public applicators shall choose between one-year certification for which the applicator shall pay a twenty-five dollar fee or three-year certification for which the applicator shall pay a seventy-five dollar fee. Public applicators who are employed by a state agency shall be exempt from the twenty-five and seventy-five dollar certification fees and instead be subject to a five-dollar annual certification fee or a fifteen dollar fee for a three-year certification. The commercial or public applicator shall be tested prior to certification annually, if the applicator chooses a one-year certification or each three years if the applicator chooses three-year certification. A private applicator shall be tested prior to initial certification. The test shall include, but is not limited to, the area of safe handling of agricultural chemicals and the effects of these chemicals on groundwater. A person employed by a farmer not solely as a pesticide applicator who applies restricted use pesticides as an incidental part of the person's general duties or a person who applies restricted use pesticides as an incidental part of a custom farming operation is required to meet the certification requirements of a private applicator.

The secretary may adopt rules to provide for license and certification adjustments, including fees, which may be necessary to provide for an equitable transition for licenses and certifications issued prior to January 1, 1989. The rules shall also include a provision for renewal of certification through the administering of an approved exam, and a provision for a thirty-day renewal grace period.

Sec. 215. Section 206.6, subsection 3, Code 1987, is amended to read as follows:

3. EXAMINATION FOR COMMERCIAL APPLICATOR LICENSE. The secretary of agriculture shall not issue a commercial applicator license until the individual engaged in or managing the pesticide application business and employed by the business to apply pesticides is ~~qualified~~ certified by passing an examination to demonstrate to the secretary the individual's knowledge of how to apply pesticides under the classifications the individual has applied for, and the individual's knowledge of the nature and effect of pesticides the individual may apply under such classifications. The applicant successfully completing ~~this examination~~ the certification requirement shall be a licensed commercial applicator.

Sec. 216. Section 206.6, subsection 4, Code 1987, is amended to read as follows:

4. RENEWAL OF APPLICANT'S LICENSE. The secretary of agriculture shall renew any applicant's license under the classifications for which such applicant is licensed, provided that ~~a program of training of~~ all of the applicant's personnel who apply pesticides ~~has been established and maintained by the licensee~~ are certified commercial applicators. ~~Such a program may include attending training sessions such as co-operative extension short courses or industry trade association training seminars~~

Sec. 217. Section 206.6, subsection 6, paragraph b, Code 1987, is amended to read as follows:

b. Public applicators for agencies listed in this subsection shall be subject to ~~examinations~~ certification requirements as provided for in this section~~, however, the secretary shall issue a limited license without a fee to such public applicator who has qualified for such license~~. The public applicator license shall be valid only when such applicator is acting as an applicator applying ~~or supervising the application of~~ pesticides used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides only to experimental plots. ~~Individuals~~ Public agencies or municipal corporations licensed pursuant to this section shall be licensed public applicators.

Sec. 218. Section 206.7, subsection 1, Code 1987, is amended to read as follows:

1. REQUIREMENT FOR CERTIFICATION. ~~No~~ A commercial or public applicator shall not apply any ~~restricted use~~ pesticide without first complying with the certification standards ~~or being under the direct supervision of a certified applicator~~.

Sec. 219. Section 206.8, subsections 2 and 3, Code 1987, are amended to read as follows:

2. ~~Application for a license shall be accompanied by a twenty-five dollar~~ A pesticide dealer shall pay a minimum annual license fee of twenty-five dollars or an annual license fee ~~for the primary business location and an additional five dollar annual license fee for each other location or outlet within the state, and shall be on a form prescribed by the secretary and shall include the full name of the person applying for such license~~ based on one-tenth of one percent of the gross retail sales of all pesticides sold by the pesticide dealer in the previous year. The annual license fee shall be paid to the department of agriculture and land stewardship, beginning July 1, 1988, and July 1 of each year thereafter. A licensee shall pay a fee of twenty-five dollars for the period July 1, 1987 through June 30, 1988.

The initial twenty-five dollars of each annual license fee shall be retained by the department for administration of the program, and the remaining moneys collected shall be deposited in the agriculture management account of the groundwater protection fund.

3. Provisions of this section shall ~~not~~ apply to a pesticide applicator who sells pesticides as an integral part of the applicator's pesticide application service, or any federal, state, county, or municipal agency which provides pesticides only for its own programs.

Sec. 220. Section 206.8, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Application for a license required for manufacturers and distributors who are not engaged in the retail sale of pesticides shall be accompanied by a twenty-five dollar fee for each business location within the state required to be licensed, and shall be on a form prescribed by the secretary.

Sec. 221. Section 206.9, Code 1987, is amended to read as follows:

206.9 CO-OPERATIVE AGREEMENTS.

The secretary may co-operate, receive grants-in-aid and enter into agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, or trade associations to obtain assistance in the implementation of this chapter and to do all of the following:

1. Secure uniformity of regulations;.

2. Co-operate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement co-operative enforcement programs;.

~~3. Develop and administer state programs for training and certification of certified applicators consistent with federal standards;~~

~~4. Contract for training with other agencies including federal agencies for the purpose of training certified applicators;~~

~~5~~ 3. Contract for monitoring pesticides for the national plan;.

~~6~~ 4. Prepare and submit state plans to meet federal certification standards; ~~and~~,.

~~7~~ 5. Regulate certified applicators.

6. Develop, in conjunction with the Iowa cooperative extension service in agriculture and home economics, courses available to the public regarding pesticide best management practices.

Sec. 222. Section 206.12, subsection 3, Code 1987, is amended to read as follows:

3. The registrant, before selling or offering for sale any pesticide in this state, shall register each brand and grade of such pesticide with the secretary upon forms furnished by the secretary, and, ~~for the purpose of defraying expenses connected with the enforcement of this chapter,~~ the secretary shall set the registration fee annually at ~~no more than twenty~~ one-fifth of one percent of gross sales within this state with a minimum fee of two hundred fifty dollars and a maximum fee of three thousand dollars for each and every brand and grade to be offered for sale in this state. The secretary shall adopt by rule exemptions to the minimum fee. ~~The fees~~ Fifty dollars of each fee collected shall be deposited in the treasury to the credit of the pesticide fund to be used only for the purpose of enforcing the provisions of this chapter and the remainder of each fee collected shall be placed in the agriculture management account of the groundwater protection fund.

Sec. 223. Section 206.12, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Each licensee under section 206.6 or 206.8 shall file an annual report with the secretary of agriculture listing the amount and type of all pesticides sold, offered for sale, or distributed at retail for use in this state, or applied in this state during each month of the previous year. This report shall be filed at the time of payment for licensure or annually on or before July 1. The secretary, by rule, may specify the form of the report and require additional information deemed necessary to determine pesticide use within the state. The information required shall include the brand names and amounts of pesticides sold, offered for sale, or distributed at retail for use in this state for each business location owned or operated by the retailer, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

Sec. 224. Section 206.19, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Determine in cooperation with municipalities, the proper notice to be given by a commercial or public applicator to occupants of adjoining properties in urban areas prior to or after the exterior application of pesticides, establish a schedule to determine the periods of application least harmful to living beings, and adopt rules to implement these provisions. Municipalities shall cooperate with the department by reporting infractions and in implementing this subsection.

NEW SUBSECTION. 3A. Adopt rules providing guidelines for public bodies to notify adjacent property occupants regarding the application of herbicides to noxious weeds or other undesirable vegetation within highway rights-of-way.

NEW SUBSECTION. 4. Establish civil penalties for violations by commercial applicators.

Sec. 225. Section 206.21, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The secretary of agriculture, in cooperation with the advisory committee created pursuant to section 206.23, shall designate areas with a history of concerns regarding nearby pesticide applications as pesticide management areas. The secretary shall adopt rules for designating pesticide management areas.

Sec. 226. NEW SECTION. 206.24 AGRICULTURAL INITIATIVE.

A program of education and demonstration in the area of the agricultural use of fertilizers and pesticides shall be initiated by the secretary of agriculture on July 1, 1987. The secretary shall coordinate the activities of the state regarding this program.

Education and demonstration programs shall promote the widespread adoption of management practices which protect groundwater. The programs may include but are not limited to programs targeted toward the individual farm owner or operator, high school and college students, and groundwater users, in the areas of best management practices, current research

findings, and health impacts. Emphasis shall be given to programs which enable these persons to demonstrate best management practices to their peers.

Sec. 227. NEW SECTION. 206.25 PESTICIDE CONTAINERS DISPOSAL.

The department of agriculture and land stewardship, in cooperation with the environmental protection division of the department of natural resources, shall develop a program for handling used pesticide containers which reflects the state solid waste management policy hierarchy, and shall present the program developed to the general assembly by February 1, 1988.

Sec. 228. NEW SECTION. 263.14 CENTER FOR HEALTH EFFECTS OF ENVIRONMENTAL CONTAMINATION.

1. The state board of regents shall establish and maintain at Iowa City as an integral part of the State University of Iowa the center for health effects of environmental contamination, having as its object the determination of the levels of environmental contamination which can be specifically associated with human health effects.

2. a. The center shall be a cooperative effort of representatives of the following organizations:

(1) The State University of Iowa department of preventative medicine and environmental health.

(2) The State University of Iowa department of pediatrics of the college of medicine.

(3) The state hygienic laboratory.

(4) The institute of agricultural medicine.

(5) The Iowa cancer center.

(6) The department of civil and environmental engineering.

(7) Appropriate clinical and basic science departments.

(8) The college of law.

(9) The college of liberal arts and sciences.

(10) The Iowa department of public health.

(11) The department of natural resources.

(12) The department of agriculture and land stewardship.

b. The active participation of the national cancer institute, the agency for toxic substances and disease registries, the national center for disease control, the United States environmental protection agency, and the United States geological survey, shall also be sought and encouraged.

3. The center may:

a. Assemble all pertinent laboratory data on the presence and concentration of contaminants in soil, air, water, and food, and develop a data retrieval system to allow the findings to be easily accessed by exposed populations.

b. Make use of data from the existing cancer and birth defect statewide recording systems and develop similar recording systems for specific organ diseases which are suspected to be caused by exposure to environmental toxins.

c. Develop registries of persons known to be exposed to environmental hazards so that the health status of these persons may be examined over time.

d. Develop highly sensitive biomedical assays which may be used in exposed persons to determine early evidence of adverse health effects.

e. Perform epidemiologic studies to relate occurrence of a disease to contaminant exposure and to ensure that other factors known to cause the disease in question can be ruled out.

f. Foster relationships and ensure the exchange of information with other teaching institutions or laboratories in the state which are concerned with the many forms of environmental contamination.

g. Implement programs of professional education and training of medical students, physicians, nurses, scientists, and technicians in the causes and prevention of environmentally induced disease.

h. Implement public education programs to inform persons of research results and the significance of the studies.

i. Respond as requested to any branch of government for consultation in the drafting of laws and regulations to reduce contamination of the environment.

4. An advisory committee consisting of one representative of each of the organizations enumerated in subsection 2, paragraph "a", a representative of the Iowa department of public health, and a representative of the department of natural resources is established. The advisory committee shall:

a. Employ, as a state employee, a full-time director to operate the center. The director shall coordinate the efforts of the heads of each of the major divisions of laboratory analysis, epidemiology and biostatistics, biomedical assays, and exposure modeling and shall also coordinate the efforts of professional and support staff in the operation of the center.

b. Submit an annual report of the activities of the center to the legislative council of the general assembly by January 15 of each year.

5. The center shall maintain the confidentiality of any information obtained from existing registries and from participants in research programs. Specific research projects involving human subjects shall be approved by the State University of Iowa institutional review board.

6. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.

Sec. 229. NEW SECTION. 266.37 SOIL TEST INTERPRETATION.

The Iowa cooperative extension service in agriculture and home economics shall develop and publish material on the interpretation of the results of soil tests. The material shall also feature the danger to groundwater quality from the overuse of fertilizers and pesticides. The material shall be available from the service at cost and any person providing soil tests for agricultural or horticultural purposes shall provide the material to the customer with the soil test results.

Sec. 230. NEW SECTION. 266.38 LEOPOLD CENTER FOR SUSTAINABLE AGRICULTURE.

1. For the purposes of this section, "sustainable agriculture" means the appropriate use of crop and livestock systems and agricultural inputs supporting those activities which maintain economic and social viability while preserving the high productivity and quality of Iowa's land.

2. The Leopold center for sustainable agriculture is established in the Iowa agricultural and home economics experiment station at Iowa State University of science and technology. The center shall conduct and sponsor research to identify and reduce negative environmental and socio-economic impacts of agricultural practices. The center also shall research and assist in developing emerging alternative practices that are consistent with a sustainable agriculture. The center shall develop in association with the Iowa cooperative extension service in agriculture and home economics an educational framework to inform the agricultural community and the general public of its findings.

3. An advisory board is established consisting of the following members:

a. Three persons from Iowa State University of science and technology, appointed by its president.

b. Two persons from the State University of Iowa, appointed by its president.

c. Two persons from the University of Northern Iowa, appointed by its president.

d. Two representatives of private colleges and universities within the state, to be nominated by the Iowa association of independent colleges and universities, and appointed by the Iowa coordinating council for post-high school education.

e. One representative of the department of agriculture and land stewardship, appointed by the secretary of agriculture.

f. One representative of the department of natural resources, appointed by the director.

g. One man and one woman, actively engaged in agricultural production, appointed by the state soil conservation committee.

The terms of the members shall begin and end as provided in section 69.19 and any vacancy shall be filled by the original appointing authority. The terms shall be for four years and shall be staggered as determined by the president of Iowa State University of science and technology.

4. The Iowa agricultural and home economics experiment station shall employ a director for the center, who shall be appointed by the president of Iowa State University of science and technology. The director of the center shall employ the necessary research and support staff. The director and staff shall be employees of Iowa State University of science and technology. No more than five hundred thousand dollars of the funds received from the agriculture management account annually shall be expended by the center for the salaries and benefits of the employees of the center, including the salary and benefits of the director. The remainder of the funds received from the agriculture management account shall be used to sponsor research grants and projects on a competitive basis from Iowa colleges and universities and private nonprofit agencies and foundations. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

The director shall prepare an annual report.

5. The board shall provide the president of Iowa State University of science and technology with a list of three candidates from which the director shall be selected. The board shall provide an additional list of three candidates if requested by the president. The board shall advise the director in the development of a budget, on the policies and procedures of the center, in the funding of research grant proposals, and regarding program planning and review.

Sec. 231. NEW SECTION. 317.26 ALTERNATIVE REMEDIATION PRACTICES.

The director of the department of natural resources, in cooperation with the secretary of agriculture and county conservation boards or the board of supervisors, shall develop and implement projects which utilize alternative practices in the remediation of noxious weeds and other vegetation within highway rights-of-way.

Sec. 232. Section 467E.1, subsection 2, Code 1987, is amended to read as follows:

2. An agricultural energy management advisory council is established which shall consist of the secretary of agriculture and the chief administrator of each of the following organizations or the administrator's designee:

a. The energy and geological resources division of the department of natural resources.

b. The environmental protection division of the department of natural resources.

c. Iowa state university of science and technology college of agriculture.

d. Iowa state university of science and technology college of engineering.

e. Iowa state water resource research institute.

f. State university of Iowa department of preventative medicine and environmental health.

g. Division of soil conservation of the department of agriculture and land stewardship.

h. Iowa cooperative extension service in agriculture and home economics.

i. The university of northern Iowa.

j. The state hygienic laboratory.

The secretary of agriculture shall coordinate the appointment process for compliance with section 69.16A.

The secretary of agriculture shall be the chairperson of the council. The presiding officers of the senate and house shall each appoint two nonvoting members, not more than one of any one political party, to serve on the advisory council for a term of two years. The council may invite the administrators of the United States geological survey and the federal environmental protection agency to each appoint a person to meet with the council in an advisory capacity. The council shall meet quarterly or upon the call of the chairperson. The council shall review possible uses of the ~~funds~~ fund and the effectiveness of current and past expenditures

of the fund. The council shall make recommendations to the department of agriculture and land stewardship on the uses of the fund.

Sec. 233. PESTICIDE DEALER EXEMPTION. The secretary may adopt rules to provide for license and certification fee adjustments that may be necessary to provide an equitable transition from fees required prior to July 1, 1988.

Sec. 234. APPROPRIATION. For the fiscal year beginning July 1, 1987, and ending June 30, 1988, the increased fee revenues resulting to the fertilizer fund and to the pesticide fund from the increases in fees and expansion of coverage of fee requirements provided in this Act are appropriated to the department of agriculture and land stewardship for the administration and implementation of chapters 200 and 206, as amended by this Act.

PART THREE – WELLS, SINKHOLES, WATERSHEDS, AND WETLANDS

Sec. 301. NEW SECTION. 108.11 AGRICULTURAL DRAINAGE WELLS – WETLANDS – CONSERVATION EASEMENTS.

The department shall develop and implement a program for the acquisition of wetlands and conservation easements on and around wetlands that result from the closure or change in use of agricultural drainage wells upon implementation of the programs specified in section 159.29 to eliminate groundwater contamination caused by the use of agricultural drainage wells. The program shall be coordinated with the department of agriculture and land stewardship. The department may use moneys appropriated for this purpose from the agriculture management account of the groundwater protection fund in addition to other moneys available for wetland acquisition, protection, development, and management.

Sec. 302. NEW SECTION. 159.28 SINKHOLES – CONSERVATION EASEMENT PROGRAMS.

The department shall develop and implement a program for the prevention of groundwater contamination through sinkholes. The program shall provide for education of landowners and encourage responsible chemical and land management practices in areas of the state prone to the formation of sinkholes.

The program may provide financial incentives for land management practices and the acquisition of conservation easements around sinkholes. The program may also provide financial assistance for the cleanup of wastes dumped into sinkholes.

The program shall be coordinated with the groundwater protection programs of the department of natural resources and other local, state, or federal government agencies which could compensate landowners for resource protection measures. The department shall use moneys appropriated for this purpose from the agriculture management account of the groundwater protection fund.

Sec. 303. NEW SECTION. 159.29 AGRICULTURAL DRAINAGE WELLS.

1. An owner of an agricultural drainage well shall register the well with the department of natural resources by January 1, 1988.

2. An owner of an agriculture* drainage well and a landholder whose land is drained by the well or wells of another person shall develop, in consultation with the department of agriculture and land stewardship and the department of natural resources, a plan which proposes alternatives to the use of agricultural drainage wells by July 1, 1991.

a. Financial incentive moneys may be allocated from the financial incentive portion of the agriculture management account of the groundwater protection fund to implement alternatives to agricultural drainage wells.

b. An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall not be eligible for financial incentive moneys pursuant to paragraph "a" if the owner fails to register the well with the department of natural resources

*According to enrolled Act

by January 1, 1988 or if the owner fails to develop a plan for alternatives in cooperation with the department of agriculture and land stewardship and the department of natural resources.

3. The department shall:

a. On July 1, 1987 initiate a pilot demonstration and research project concerning elimination of groundwater contamination attributed to the use of agricultural chemicals and agricultural drainage wells. The project shall be established in a location in North Central Iowa determined by the department to be the most appropriate. A demonstration project shall also be established in Northeast Iowa to study techniques for the cleanup of sinkholes.

The agricultural drainage well pilot project shall be designed to identify the environmental, economic, and social problems presented by continued use or closure of agricultural drainage wells and to monitor possible contamination caused by agriculture land management practices and agricultural chemical use relative to agricultural drainage wells.

b. Develop alternative management practices based upon the findings from the demonstration projects to reduce the infiltration of synthetic organic compounds into the groundwater through agricultural drainage wells and sinkholes.

c. Examine alternatives and the costs of implementation of alternatives to the use of agricultural drainage wells, and examine the legal, technical, and hydrological constraints for integrating alternative drainage systems into existing drainage districts.

4. Financial incentive moneys expended through the use of the financial incentive portion of the agriculture management account may be provided by the department to landowners in the project areas for employing reduced chemical farming practices and land management techniques.

5. The secretary may appoint interagency committees and groups as needed to coordinate the involvement of agencies participating in department sponsored projects. The interagency committees and groups may accept grants and funds from public and private organizations.

6. The department shall publish a report on the status and findings of the pilot demonstration projects on or before July 1, 1989, and each subsequent year of the projects. The department of agriculture and land stewardship shall develop a priority system for the elimination of chemical contamination from agricultural drainage wells and sinkholes. The priority system shall incorporate available information regarding the significance of contamination, the number of registered wells in the area, and the information derived from the report prepared pursuant to this subsection. The highest priority shall be given to agricultural drainage wells for which the above criteria are best met, and the costs of necessary action are at the minimum level.

7. Beginning July 1, 1990, the department shall initiate an ongoing program to meet the goal of eliminating chemical contamination caused by the use of agricultural drainage wells by January 1, 1995 based upon the findings of the report published pursuant to subsection 6.

8. Notwithstanding the prohibitions of section 455B.267, subsection 4, an owner of an agricultural drainage well may make emergency repairs necessitated by damage to the drainage well to minimize surface runoff into the agricultural drainage well, upon the approval of the county board of supervisors or the board's designee of the county in which the agricultural drainage well is located. The approval shall be based upon the following conditions:

a. The well has been registered in accordance with both state and federal law.

b. The applicant will institute management practices including alternative crops, reduced application of chemicals, or other actions which will reduce the level of chemical contamination of the water which drains into the well.

c. The owner submits a written statement that approved emergency repairs are necessary and do not constitute a basis to avoid the eventual closure of the well if closure is later determined to be required. If a county board of supervisors or the board's designee approves the emergency repair of an agricultural drainage well, the county board of supervisors or the board's designee shall notify the department of the approval within thirty days of the approval.

Sec. 304. Section 455B.187, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A landowner or the landowner's agent shall not drill for or construct a new water well without first obtaining a permit for this activity from the department. The department shall not issue a permit to any person for this activity unless the person first registers with the department all wells, including abandoned wells, on the property. The department may delegate the authority to issue a permit to a county board of supervisors or the board's designee. In the event of such delegation, the department shall retain concurrent authority. The commission shall adopt rules pursuant to chapter 17A to implement this paragraph.

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section, a county board of supervisors or the board's designee may grant an exemption from the permit requirements to a landowner or the landowner's agent if an emergency drilling is necessary to meet an immediate need for water. The exemption shall be effective immediately upon approval of the county board of supervisors or the board's designee. The board of supervisors or the board's designee shall notify the director within thirty days of the granting of an exemption.

NEW UNNUMBERED PARAGRAPH. In the case of property owned by a state agency, a person shall not drill for or construct a new water well without first registering with the department the existence of any abandoned wells on the property. The department shall develop a prioritized closure program and time frame for the completion of the program, and shall adopt rules to implement the program.

Sec. 305. NEW SECTION. 455B.190 ABANDONED WELLS PROPERLY PLUGGED.

All abandoned wells, as defined in section 455B.171, shall be properly plugged in accordance with the schedule established by the department. The department shall develop a prioritized closure program and a time frame for the completion of the program and shall adopt rules to implement the program. A person who fails to properly plug an abandoned well on property the person owns, in accordance with the program established by the department, is subject to a civil penalty of up to one hundred dollars per day that the well remains unplugged or improperly plugged. The moneys collected shall be deposited in the financial incentive portion of the agriculture management account. The department of agriculture and land stewardship may provide by rule for financial incentive moneys, through expenditure of the moneys allocated to the financial-incentive-program portion of the agriculture management account, to reduce a person's cost in properly plugging wells abandoned prior to July 1, 1987.

Sec. 306. Section 465.22, Code 1987, is amended to read as follows:

465.22 DRAINAGE IN COURSE OF NATURAL DRAINAGE — RECONSTRUCTION — DAMAGES.

Owners of land may drain the ~~same~~ land in the general course of natural drainage by constructing or reconstructing open or covered drains, discharging the ~~same~~ drains in any natural watercourse or depression ~~whereby~~ so the water will be carried into some other natural watercourse, and ~~when such~~ if the drainage is wholly upon the owner's land the owner ~~shall~~ is not ~~be~~ liable in damages ~~therefor, nor shall any such~~ for the drainage unless it increases the quantity of water or changes the manner of discharge on the land of another. An owner in constructing a replacement drain, wholly on the owner's ~~own~~ land, and in the exercise of due care ~~be~~, is not liable in damages to another ~~in case~~ if a previously constructed drain on the owner's own land is rendered inoperative or less efficient by ~~such~~ the new drain, unless in violation of the terms of a written contract. ~~Nothing in this~~ This section ~~shall in any manner be construed to~~ does not affect the rights or liabilities of proprietors in respect to running streams.

Sec. 307. NEW SECTION. 558.69 EXISTENCE AND LOCATION OF WELLS, DISPOSAL SITES, UNDERGROUND STORAGE TANKS, AND HAZARDOUS WASTE.

With each declaration of value submitted to the county recorder under chapter 428A, there shall also be submitted a statement that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 159.29 or 455B.190. The statement shall also state that no disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a disposal site does exist, the location of the site on the property. The statement shall additionally state that no underground storage tank, as defined in section 455B.471, subsection 6, exists on the property, or if an underground storage tank does exist, the type and size of the tank, and the substance in the tank. The statement shall also state that no hazardous waste as defined in section 455B.411, subsection 4, or listed by the department pursuant to section 455B.412, subsection 2, or section 455B.464, exists on the property, or if hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by the grantors or the transferors of the property. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder.

If a declaration of value is not required, the above information shall be submitted on a separate form. The director of the department of natural resources shall prescribe the form of the statement and the separate form to be supplied by each county recorder in the state. The county recorder shall transmit the statements to the department of natural resources at times directed by the director of the department.

PART FOUR — SOLID WASTE MANAGEMENT AND LANDFILLS

Sec. 401. Section 18.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Administering the provisions of section 18.18.

Sec. 402. Section 28F.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

This chapter provides a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, and industrial waste, facilities used for the conversion of solid waste to energy, and also electric power facilities constructed within the state of Iowa except that hydroelectric power facilities may also be located in the waters and on the dams of or on land adjacent to either side of the Mississippi or Missouri river bordering the state of Iowa, water supply systems, swimming pools or golf courses. This chapter applies to the acquisition, construction, reconstruction, ownership, operation, repair, extension, or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof or any combination of the foregoing with other public agencies, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the seal at pleasure, and execute all the powers conferred in this chapter.

Sec. 403. NEW SECTION. 268.4 SMALL BUSINESS ASSISTANCE CENTER FOR THE SAFE AND ECONOMIC MANAGEMENT OF SOLID WASTE AND HAZARDOUS SUBSTANCES.

1. The small business assistance center for the safe and economic management of solid waste and hazardous substances is established at the University of Northern Iowa. The University of Northern Iowa, in cooperation with the department of natural resources, shall develop and implement a program which provides the following:

a. Information regarding the safe use and economic management of solid waste and hazardous substances to small businesses which generate the substances.

b. Dissemination of information to public and private agencies regarding state and federal solid waste and hazardous substances regulations, and assistance in achieving compliance with the regulations.

c. Advice and consultation in the proper storage, handling, treatment, reuse, recycling, and disposal methods of solid waste and hazardous substances.

d. Identification of the advantages of proper substance management relative to liability and operational costs of a particular small business.

e. Assistance in the providing of capital formation in order to comply with state and federal regulations.

2. a. An advisory committee to the center is established, consisting of a representative of each of the following organizations:

(1) The Iowa department of economic development.

(2) The small business development commission.

(3) The University of Northern Iowa.

(4) The State University of Iowa.

(5) Iowa State University of science and technology.

(6) The department of natural resources.

b. The active participation of representatives of small businesses in the state shall also be sought and encouraged.

3. Information obtained or compiled by the center shall be disseminated directly to the Iowa department of economic development, the small business development centers, and other public and private agencies with interest in the safe and economic management of solid waste and hazardous substances.

4. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.

Sec. 404. Section 455B.301, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed sanitary landfill, including, but not limited to, application of final cover, grading and seeding of final cover, installation of an adequate monitoring system, and construction of ground and surface water diversion structures, if necessary.

NEW SUBSECTION. 8. "Closure plan" means the plan which specifies the methods and schedule by which an operator will complete or cease disposal operations of a sanitary disposal project, prepare the area for long-term care, and make the area suitable for other uses.

NEW SUBSECTION. 9. "Lifetime of the project" means the projected period of years that a landfill will receive waste, from the time of opening until closure, based on the volume of waste to be received projected at the time of submittal of the initial project plan and the calculated refuse capacity of the landfill based upon the design of the project.

NEW SUBSECTION. 10. "Financial assurance instrument" means an instrument submitted by an applicant to ensure the operator's financial capability to provide reasonable and necessary response during the lifetime of the project and for the thirty years following closure, and to provide for the closure of the facility and postclosure care required by rules adopted by the commission in the event that the operator fails to correctly perform closure and postclosure care requirements. The form may include the establishment of a secured trust fund, use of a cash or surety bond, or the obtaining of an irrevocable letter of credit.

NEW SUBSECTION. 11. "Postclosure" and "postclosure care" mean the time and actions taken for the care, maintenance, and monitoring of a sanitary disposal project after closure that will prevent, mitigate, or minimize the threat to public health, safety, and welfare and the threat to the environment posed by the closed facility.

NEW SUBSECTION. 12. "Postclosure plan" means the plan which specifies the methods and schedule by which the operator will perform the necessary monitoring and care for the area after closure of a sanitary disposal project.

NEW SUBSECTION. 13. "Manufacturer" means a person who by labor, art, or skill transforms raw material into a finished product or article of trade.

NEW SUBSECTION. 14. "Leachate" means fluid that has percolated through solid waste and which contains contaminants consisting of dissolved or suspended materials, chemicals, or microbial waste products from the solid waste.

NEW SUBSECTION. 15. "Actual cost" means the operational, remedial and emergency action, closure, postclosure, and monitoring costs of a sanitary disposal project for the lifetime of the project.

Sec. 405. NEW SECTION. 455B.301A DECLARATION OF POLICY.

1. The protection of the health, safety, and welfare of Iowans and the protection of the environment require the safe and sanitary disposal of solid wastes. An effective and efficient solid waste disposal program, protects the environment and the public, and provides the most practical and beneficial use of the material and energy values of solid waste. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste are encouraged. In the promotion of these goals, the following waste management hierarchy in descending order of preference, is established as the solid waste management policy of the state:

a. Volume reduction at the source.

b. Recycling and reuse.

c. Combustion with energy recovery and refuse-derived fuel.

d. Combustion for volume reduction.

e. Disposal in sanitary landfills.

2. In the implementation of the solid waste management policy, the state shall:

a. Establish and maintain a cooperative state and local program of project planning, and technical and financial assistance to encourage comprehensive solid waste management.

b. Utilize the capabilities of private enterprise as well as the services of public agencies to accomplish the desired objectives of an effective solid waste management program.

Sec. 406. Section 455B.304, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The commission shall adopt rules prohibiting the disposal of uncontained liquid waste in a sanitary landfill. The rules shall prohibit land burial or disposal by land application of wet sewer sludge at a sanitary landfill.

Sec. 407. Section 455B.304, unnumbered paragraph 6, Code 1987, is amended to read as follows:

The commission shall, by rule, require continued monitoring of groundwater pursuant to this section for a period of ~~twenty~~ thirty years after the sanitary disposal project is closed. The commission may prescribe a lesser period of monitoring duration and frequency in consideration of the potential or lack thereof for groundwater contamination from the sanitary disposal project. The commission may extend the ~~twenty-year~~ thirty-year monitoring period on a site-specific basis by adopting rules specifically addressing additional monitoring requirements for each sanitary disposal project for which the monitoring period is to be extended.

Sec. 408. Section 455B.304, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules which establish closure, postclosure, leachate control and treatment, and financial assurance standards and requirements and which establish minimum levels of financial responsibility for sanitary disposal projects.

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules which establish the minimum distance between tiling lines and a sanitary landfill in order to assure no adverse effect on the groundwater.

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules for the distribution of grants to cities, counties, central planning agencies, and public or private agencies working in cooperation with cities or counties, for the purpose of solid waste management. The rules shall base the awarding of grants on a project's reflection of the solid waste management policy and hierarchy established in section 455B.301A, the proposed amount of local matching funds, and community need.

NEW UNNUMBERED PARAGRAPH. By July 1, 1990, a sanitary landfill disposal project operating with a permit shall have a trained, tested, and certified operator. A certification program shall be devised or approved by rule of the department.

Sec. 409. Section 455B.305, subsection 5, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. After July 1, 1997, however, no new landfill permits shall be issued unless the applicant certifies that the landfill is needed as a part of an alternative disposal method, or unless the applicant provides documentation which satisfies the director that alternatives have been studied and are not either technically or economically feasible. The decision of the director is subject to review by the commission at its next meeting.

Sec. 410. Section 455B.305, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Beginning July 1, 1992, the director shall not issue, renew, or reissue a permit for a sanitary landfill unless the sanitary landfill is equipped with a leachate control system. The director may exempt a permit applicant from this requirement if the director determines that certain conditions regarding, but not limited to, existing physical conditions, topography, soil, geology, and climate, are such that a leachate control system is unnecessary.

Sec. 411. Section 455B.306, subsection 1, Code 1987, is amended to read as follows:

1. A city, county, and a private agency operating or planning to operate a sanitary disposal project shall file with the director a comprehensive plan detailing the method by which the city, county, or private agency will comply with this part 1. The director shall review each comprehensive plan submitted and may reject, suggest modification, or approve the proposed plan. The director shall aid in the development of comprehensive plans for compliance with this part. The director shall make available to a city, county, and private agency appropriate forms for the submission of comprehensive plans and may hold hearings for the purpose of implementing this part. The director and governmental agencies with primary responsibility for the development and conservation of energy resources shall provide research and assistance, when cities and counties operating or planning to operate sanitary disposal projects request aid in planning and implementing resource recovery systems. A comprehensive plan filed by a private agency operating or planning to operate a sanitary disposal project required pursuant to section 455B.302 shall be developed in cooperation and consultation with the city or county responsible to provide for the establishment and operation of a sanitary disposal project.

Sec. 412. Section 455B.306, subsection 2, Code 1987, is amended to read as follows:

2. The plan required by subsection 1 shall be filed with the department at the time of initial application for the construction and operation of a sanitary ~~landfill~~ disposal project and shall be updated and refiled with the department at the time of each subsequent application for renewal or reissuance of a previously issued permit.

Sec. 413. Section 455B.306, subsection 3, Code 1987, is amended to read as follows:

3. A comprehensive plan filed pursuant to this section in conjunction with an application for issuance, renewal, or reissuance of a permit for a sanitary disposal project shall incorporate and reflect the waste management hierarchy of the state solid waste management policy and

shall at a minimum address the following general topics to the extent appropriate to the technology employed by the applicant at the sanitary disposal project:

a. The extent to which solid waste is or can be recycled.

b. The economic and technical feasibility of using other existing sanitary disposal project facilities in lieu of initiating or continuing the sanitary landfill for which the permit is being sought.

c. The expected environmental impact of alternative solid waste disposal methods, including the use of sanitary landfills.

d. A specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact.

4. In addition to the above requirements, the following specific areas must be addressed in detail in the comprehensive plan:

a. A closure and postclosure plan detailing the schedule for and the methods by which the operator will meet the conditions for proper closure and postclosure adopted by rule by the commission. The plan shall include, but is not limited to, the proposed frequency and types of actions to be implemented prior to and following closure of an operation, the proposed postclosure actions to be taken to return the area to a condition suitable for other uses, and an estimate of the costs of closure and postclosure and the proposed method of meeting these costs. The postclosure plan shall reflect the thirty-year time period requirement for postclosure responsibility.

b. A plan for the control and treatment of leachate, including financial considerations proposed in meeting the costs of control and treatment in order to meet the requirements of section 455B.305, subsection 6.

c. A financial plan detailing the actual cost of the sanitary disposal project and including the funding sources of the project. In addition to the submittal of the financial plan filed pursuant to this subsection, the operator of an existing sanitary landfill shall submit an annual financial statement to the department.

d. An emergency response and remedial action plan including established provisions to minimize the possibility of fire, explosion, or any release to air, land, or water of pollutants that could threaten human health and the environment, and the identification of possible occurrences that may endanger human health and environment.

Sec. 414. Section 455B.306, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to the comprehensive plan filed pursuant to subsection 1, a person operating or proposing to operate a sanitary disposal project shall provide a financial assurance instrument to the department prior to the initial approval of a permit or prior to the renewal of a permit for an existing or expanding facility beginning July 1, 1988.

a. The financial assurance instrument shall meet all requirements adopted by rule by the commission, and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Following the cessation of operation or closure of a sanitary disposal project, neither the guarantor nor the operator shall cancel, revoke, or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from closure, postclosure, and monitoring responsibilities.

b. The operator shall maintain closure, and postclosure accounts. The commission shall adopt by rule the amounts to be contributed to the accounts based upon the amount of solid waste received by the facility. The accounts established shall be specific to the facility.

(1) Money in the accounts shall not be assigned for the benefit of creditors with the exception of the state.

(2) Money in an account shall not be used to pay any final judgment against a licensee arising out of the ownership or operation of the site during its active life or after closure.

(3) Conditions under which the department may gain access to the accounts and circumstances under which the accounts may be released to the operator after closure and postclosure responsibilities have been met, shall be established by the commission.

c. The commission shall adopt by rule the minimum amounts of financial responsibility for sanitary disposal projects.

d. Financial assurance instruments may include instruments such as cash or surety bond, a letter of credit, a secured trust fund, or a corporate guarantee.

e. The annual financial statement submitted to the department pursuant to section 455B.306, subsection 3, paragraph "d", shall include the current amounts established in each of the accounts and the projected amounts to be deposited in the accounts in the following year.

Sec. 415. Section 455B.307, Code 1987, is amended to read as follows:

455B.307 DUMPING — WHERE PROHIBITED.

1. ~~It shall be unlawful for any~~ A private agency or public agency ~~to~~ shall not dump or deposit or permit the dumping or depositing of any solid waste resulting from its own residential, farming, manufacturing, mining, or commercial activities at any place other than a sanitary disposal project approved by the director unless the agency has been granted a permit by the department which allows the dumping or depositing of solid waste on land owned or leased by the agency. The department shall adopt rules regarding the permitting of this activity which shall provide that the public interest is best served, but which may be based upon criteria less stringent than those regulating a public sanitary disposal project provided that the rules adopted meet the groundwater nondegradation goal specified in section 455E.4. The comprehensive plans for these facilities may be varied in consideration of the types of sanitary disposal practices, hydrologic and geologic conditions, construction and operations characteristics, and volumes and types of waste handled at the disposal site. ~~This section shall not prohibit a private agency or public agency from dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining or commercial activities on land owned or leased by it if the action does not violate any statute of this state or rules promulgated by the commission or local boards of health, or local ordinances.~~ The director may issue temporary permits for dumping or disposal of solid waste at disposal sites for which an application for a permit to operate a sanitary disposal project has been made and which have not met all of the requirements of part 1 of this division and the rules adopted by the commission if a compliance schedule has been submitted by the applicant specifying how and when the applicant will meet the requirements for an operational sanitary disposal project and the director determines the public interest will be best served by granting such temporary permit.

~~2~~ 7. The director may issue any order necessary to secure compliance with or prevent a violation of the provisions of this part 1 of division IV or the rules ~~promulgated~~ adopted pursuant ~~thereto~~ to the part. The attorney general shall, on request of the department, institute any legal proceedings necessary in obtaining compliance with an order of the commission or the director or prosecuting any person for a violation of the provisions of ~~said~~ the part or rules issued pursuant ~~thereto~~ to the part.

~~3~~ 8. Any person who violates any provision of part 1 of this division or any rule or any order ~~promulgated~~ adopted or the conditions of any permit or order issued pursuant to part 1 of this division shall be subject to a civil penalty. The amount of the civil penalty shall be based upon the toxicity and severity of the solid waste as determined by rule, but not to exceed five hundred dollars for each day of such violation.

Sec. 416. Section 455B.310, subsection 2, Code 1987, is amended to read as follows:

2. The tonnage fee is ~~twenty-five cents~~ one dollar and fifty cents per ton of solid waste for the year beginning July 1, 1988 and shall increase annually in the amount of fifty cents per ton through July 1, 1992. The city or county providing for the establishment and operation of the sanitary landfill may charge an additional tonnage fee for the disposal of solid waste at the sanitary landfill, to be used exclusively for the development and implementation of alternatives to sanitary landfills.

Sec. 417. Section 455B.310, subsections 4 and 5, Code 1987, are amended to read as follows:

4. All tonnage fees received by the department under this section shall be ~~paid to a groundwater fund created under section 455B.309~~ deposited in the solid waste account of the groundwater protection fund created under section 455E.11.

5. Fees imposed by this section beginning July 1, 1988 shall be paid to the department on ~~an annual~~ a quarterly basis. ~~Fees are due on April 15 for the previous calendar year~~ The initial payment of fees collected beginning July 1, 1988 shall be paid to the department on January 1, 1989 and on a quarterly basis thereafter. The payment shall be accompanied by a return in the form prescribed by the department.

Sec. 418. Section 455B.310, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The department shall grant exemptions from the fee requirements of subsection 2 for receipt of solid waste meeting all of the following criteria:

a. Receipt of the solid waste is pursuant to a written contract between the owner or operator of the sanitary landfill and another person.

b. The contract was lawfully executed prior to January 1, 1987.

c. The contract expressly prohibits an increase in the compensation or fee payable to the owner or operator of the landfill and does not allow voluntary cancellation or renegotiation of the compensation or fee during the term of the contract.

d. The contract has not been amended at any time after January 1, 1987.

e. The owner or operator of the sanitary landfill applying for exemption demonstrates to the satisfaction of the department that good faith efforts were made to renegotiate the contract notwithstanding its terms, and has been unable to agree on an amendment allowing the fee provided in subsection 2 to be added to the compensation or fee provisions of the contract.

f. Applications for exemption must be submitted on forms provided by the department with proof of satisfaction of all criteria.

g. Notwithstanding the time specified within the contract, an exemption from payment of the fee increase requirements for a multiyear contract shall terminate by January 1, 1989.

NEW SUBSECTION. 8. In the case of a sanitary disposal project other than a sanitary landfill, no tonnage fee shall apply for five years beginning July 1, 1987 or for five years from the commencement of operation, whichever is later. By July 1, 1992, the department shall provide the general assembly with a recommendation regarding appropriate fees for alternative sanitary disposal projects.

Sec. 419. Section 455B.311, subsection 2, Code 1987, is amended to read as follows:

2. Grants shall only be awarded to a city or a county; however, a grant may be made to a central planning agency representing more than one city or county or combination of cities or counties for the purpose of planning and implementing regional solid waste management facilities or may be made to private or public agencies working in cooperation with a city or county. The department shall award grants, in accordance with the rules adopted by the commission, based upon a proposal's reflection of the solid waste management policy and hierarchy established in section 455B.301A. Grants shall be awarded only for an amount determined by the department to be reasonable and necessary to conduct the work as set forth in the grant application. Grants may be awarded at a maximum cost-share level of ninety percent with a preference given for regional or shared projects and a preference given to projects involving environmentally fragile areas which are particularly subject to groundwater contamination. Grants shall be awarded in a manner which will distribute the grants geographically throughout the state.

Sec. 420. NEW SECTION. 455B.312 WASTE ABATEMENT PROGRAM.

1. If the department receives a complaint that certain products or packaging which when disposed of are incompatible with an alternative method of managing solid waste and with the solid waste management policy, the director shall investigate the complaint. If the director determines that the complaint is well-founded, the department shall inform the manufacturer of the product or packaging and attempt to resolve the matter by informal negotiations.

2. If informal procedures fail to result in resolution of the matter, the director shall hold a hearing between the affected parties. Following the hearing, if it is determined that removal of the product or packaging is critical to the utilization of the alternative method of disposing of solid waste, the director shall issue an order setting out the requirements for an abatement plan to be prepared by the manufacturer within the time frame established in the order.

If an acceptable plan is not prepared, the plan is not implemented, or the problem otherwise continues unabated, the attorney general shall take actions authorized by law to secure compliance.

Sec. 421. NEW SECTION. 18.18 STATE PURCHASES — RECYCLED PRODUCTS.

1. When purchasing paper products, the department of general services shall, wherever the price is reasonably competitive and the quality intended, purchase the recycled product.

2. The department of general services, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials.

3. The department of natural resources shall assist the department of general services in locating suppliers of recycled products and collecting data on recycled content purchases.

4. Information on recycled content shall be requested on all bids for paper products issued by the state and on other bids for products which could have recycled content such as oil, plastic products, compost materials, aggregate, solvents, and rubber products.

5. The department of general services, in conjunction with the department of natural resources, shall adopt rules and regulations to carry out the provisions of this section.

6. All state agencies shall fully cooperate with the departments of general services and natural resources in all phases of implementing this section.

Sec. 422. GROUNDWATER FUND EXISTING FEES.

All tonnage fees received by the department of natural resources pursuant to section 455B.310 and deposited in the groundwater fund and existing in the groundwater fund prior to December 31, 1987, shall be used for the following purposes:

1. Six cents of the twenty-five cents per ton deposited in the fund is appropriated to the waste management authority of the department of natural resources.

2. Fifty thousand dollars of the moneys in the fund is appropriated to the University of Northern Iowa for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for the establishment of the small business assistance center for the safe and economic management of solid waste and hazardous substances at the University of Northern Iowa.

3. The remainder of the moneys in the account are appropriated to the department of natural resources for the development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

PART FIVE — HOUSEHOLD HAZARDOUS WASTE

Sec. 501. NEW SECTION. 455F.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Department" means the department of natural resources.

2. "Commission" means the state environmental protection commission.

3. "Manufacturer" means a person who manufactures or produces a household hazardous material for resale in this state.

4. "Wholesaler" or "distributor" means a person other than a manufacturer or manufacturer's agent who engages in the business of selling or distributing a household hazardous material within the state, for the purpose of resale.

5. "Retailer" means a person offering for sale or selling a household hazardous material to the ultimate consumer, within the state.

6. "Display area label" means the signage used by a retailer to mark a household hazardous material display area as prescribed by the department of natural resources.

7. "Residential" means a permanent place of abode, which is a person's home as opposed to a person's place of business.

8. "Household hazardous material" means a product used for residential purposes and designated by rule of the department of natural resources and may include any hazardous substance as defined in section 455B.411, subsection 3; and any hazardous waste as defined in section 455B.411, subsection 4; and shall include but is not limited to the following materials: motor oils, motor oil filters, gasoline and diesel additives, degreasers, waxes, polishes, solvents, paints, with the exception of latex-based paints, lacquers, thinners, caustic household cleaners, spot and stain remover with petroleum base, and petroleum-based fertilizers. However, "household hazardous material" does not include laundry detergents or soaps, dishwashing compounds, chlorine bleach, personal care products, personal care soaps, cosmetics, and medications.

Sec. 502. NEW SECTION. 455F.2 POLICY STATEMENT.

It is the policy of this state to educate Iowans regarding the hazardous nature of certain household products, proper use of the products, and the proper methods of disposal of residual product and containers in order to protect the public health, safety, and the environment.

Sec. 503. NEW SECTION. 455F.3 LABELS REQUIRED.

1. A retailer shall affix a display area label, as prescribed by rule of the commission, in a prominent location upon or near the display area of a household hazardous material. If the display area is a shelf, and the price of the product is affixed to the shelf, the label shall be affixed adjacent to the price information.

2. The department shall develop, in cooperation with distributors, wholesalers, and retailer associations, and shall distribute to retailers a household hazardous products list to be utilized in the labeling of a display area containing products which are household hazardous materials.

3. A person found in violation of this section is guilty of a simple misdemeanor.

Sec. 504. NEW SECTION. 455F.4 CONSUMER INFORMATION BOOKLETS.

A retailer shall maintain and prominently display a booklet, developed by the department, in cooperation with manufacturers, distributors, wholesalers, and retailer associations and provided to retailers at departmental expense, which provides information regarding the proper use of household hazardous materials and specific instructions for the proper disposal of certain substance categories. The department shall also develop and provide to a retailer, at departmental expense, bulletins regarding household hazardous materials which provide information designated by rule of the commission. The retailer shall distribute the bulletins without charge to customers.

A manufacturer or distributor of household hazardous materials who authorizes independent contractor retailers to sell the products of the manufacturer or distributor on a person-to-person basis primarily in the customer's home, shall print informational lists of its products which are designated by the department as household hazardous materials. These lists of products and the consumer information booklets prepared in accordance with this section shall be provided by the manufacturer or distributor in sufficient quantities to each contractor retailer for dissemination to customers. During the course of a sale of a household hazardous material by a contractor retailer, the customer shall in the first instance be provided with a copy of both the list and the consumer information booklet. In subsequent sales to the same customer, the list and booklet shall be noted as being available if desired.

Sec. 505. NEW SECTION. 455F.5 DUTIES OF THE COMMISSION.

The commission shall:

1. Adopt rules which establish a uniform label to be supplied and used by retailers.

2. Adopt rules which designate the type and amount of information to be included in the consumer information booklets and bulletins.

Sec. 506. NEW SECTION. 455F.6 DUTIES OF THE DEPARTMENT.

The department shall:

1. Designate products which are household hazardous materials and, based upon the designations and in consultation with manufacturers, distributors, wholesalers, and retailer associations, develop a household hazardous product list for the use of retailers in identifying the products.

2. Enforce the provisions of this chapter and implement the penalties established.

3. Identify, after consulting with departmental staff and the listing of other states, no more than fifty commonly used household products which, due to level of toxicity, extent of use, nondegradability, or other relevant characteristic, constitute the greatest danger of contamination of the groundwater when placed in a landfill. The department may identify additional products by rule.

4. Submit recommendations to the general assembly regarding the products specified in subsection 1 which include but are not limited to the following:

a. Education of consumers regarding the danger incurred in disposal of the products, the proper disposal of the products, and the use of alternative products which do not present as great a disposal danger as the products specified.

b. Dissemination of information regarding the products specified.

c. Special labeling or stamping of the products.

d. A means for proper disposal of the products.

e. Proposed legislative action regarding implementation of recommendations concerning the products.

Sec. 507. NEW SECTION. 455F.7 HOUSEHOLD HAZARDOUS MATERIALS PERMIT.

1. A retailer offering for sale or selling a household hazardous material shall have a valid permit for each place of business owned or operated by the retailer for this activity. All permits provided for in this division shall expire on June 30 of each year. Every retailer shall submit an annual application by July 1 of each year and a fee of ten dollars based upon gross retail sales of up to fifty thousand dollars, twenty-five dollars based upon gross retail sales of fifty thousand dollars to three million dollars, and one hundred dollars based upon gross retail sales of three million dollars or more to the department of revenue and finance for a permit upon a form prescribed by the director of revenue and finance. Permits are nonrefundable, are based upon an annual operating period, and are not prorated. A person in violation of this section shall be subject to permit revocation upon notice and hearing. The department shall remit the fees collected to the household hazardous waste account of the groundwater protection fund. A person distributing general use pesticides labeled for agricultural or lawn and garden use with gross annual pesticide sales of less than ten thousand dollars is subject to the requirements and fee payment prescribed by this section.

2. A manufacturer or distributor of household hazardous materials, which authorizes retailers as independent contractors to sell the products of the manufacturer or distributor on a person-to-person basis primarily in the customer's home, may obtain a single household hazardous materials permit on behalf of its authorized retailers in the state, in lieu of individual permits for each retailer, and pay a fee based upon the manufacturer's or distributor's gross retail sales in the state according to the fee schedule and requirements of subsection 1. However, a manufacturer or distributor which has gross retail sales of three million dollars or more in the state shall pay an additional permit fee of one hundred dollars for each subsequent increment of three million dollars of gross retail sales in the state, up to a maximum permit fee of three thousand dollars.

Sec. 508. NEW SECTION. 455F.8 HOUSEHOLD HAZARDOUS WASTE CLEANUP PROGRAM CREATED.

The department shall conduct programs to collect and dispose of small amounts of hazardous wastes which are being stored in residences or on farms. The program shall be known

as "Toxic Cleanup Days". The department shall promote and conduct the program and shall by contract with a qualified and bonded waste handling company, collect and properly dispose of wastes believed by the person disposing of the waste 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 accepted from a person above the maximum shall be limited by the department and may be subject to a fee set by the department, but the department shall not assess a fee for amounts accepted below the maximum amount. The department shall designate the times and dates for the collection of wastes. The department shall have as a goal twelve "Toxic Cleanup Days" during the period beginning July 1, 1987, and ending October 31, 1988. In any event, the department shall offer the number of days that can be properly and reasonably conducted with funds deposited in the household hazardous waste account. In order to achieve the maximum benefit from the program, the department shall offer "Toxic Cleanup Days" on a statewide basis and provide at least one "Toxic Cleanup Day" in each departmental region. "Toxic Cleanup Days" shall be offered in both rural and urban areas to provide a comparison of response levels and to test the viability of multicounty "Toxic Cleanup Days". The department may also offer at least one "Toxic Cleanup Day" at a previously serviced location to test the level of residual demand for the event and the effect of the existing public awareness on the program. The department shall prepare an annual report citing the results and costs of the program for submittal to the general assembly.

Sec. 509. NEW SECTION. 455F.9 EDUCATION PROGRAM.

In addition to the "Toxic Cleanup Days" program the department shall implement a public information and education program regarding the use and disposal of household hazardous materials. The program shall provide appropriate information concerning the reduction in use of the materials, including the purchase of smaller quantities and selection of alternative products. The department shall cooperate with existing educational institutions, distributors, wholesalers, and retailers, and other agencies of government and shall enlist the support of service organizations, whenever possible, in promoting and conducting the programs in order to effectuate the household hazardous materials policy of the state.

Sec. 510. NEW SECTION. 455F.10 PENALTIES.

Any person violating a provision of this chapter or a rule adopted pursuant to this chapter is guilty of a simple misdemeanor.

Sec. 511. COLLECTION OF USED MOTOR OIL — PILOT PROJECT.

The state department of transportation, in cooperation with the department of natural resources and the Iowa State University of science and technology center for industrial research and service, shall institute a pilot project to collect and dispose of used motor oil from residences and farms in one urban county and one rural county by October 1, 1987.

The state department of transportation shall promote community participation; provide collection sites and facilities; prescribe procedures for each collection site, including the amount of used motor oil to be accepted from a household or farm, and measures necessary to assure maintenance of a sanitary collection site environment; arrange for proper used oil disposal; and report to the general assembly by March 1, 1988, regarding the progress on the pilot project. The report shall include the cost of the project, the amount of used motor oil collected, and any other relevant data gathered by the participating agencies. The state department of transportation shall recommend in the report to the general assembly whether the program should be continued, expanded, modified, or discontinued.

The department of natural resources shall assist the state department of transportation in promoting the pilot project and in applying any state or federal environmental regulations to the pilot project. The Iowa State University of science and technology center for industrial research and service shall coordinate research on establishing the waste stream for used motor

oil, investigate alternative disposal methods, and coordinate research with other states' research projects on used motor oil collection and disposal.

This section is repealed July 1, 1989.

Sec. 512. NEW SECTION. 455F.12 RECYCLING AND RECLAMATION PROGRAMS.

Up to eighty thousand dollars of the moneys deposited in the household hazardous waste account shall be allocated to the department of natural resources for city, county, or service organization projects relative to recycling and reclamation events. A city, county, or service organization shall submit a competitive grant to the department of natural resources by April 1 for approval by the department no later than May 15.

PART SIX — STORAGE TANK MANAGEMENT

Sec. 601. Section 507D.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. An assistance program for the facilitation of insurance and financial responsibility coverage for owners and operators of underground storage tanks which store petroleum shall not be affected by the prohibitions of subsections 2 and 3.

Sec. 602. PLAN OF OPERATIONS PROGRAM. The division of insurance of the department of commerce, in conjunction with the department of natural resources and private industry, shall, no later than September 15, 1987, create a plan of operations program for the development of state or private funds to satisfy the requirements of the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., regarding the financial responsibility of an owner or operator of an underground storage tank which stores petroleum.

The program shall include, but is not limited to, the following elements:

1. The establishment of a pool of insurers sufficient to manage all anticipated participants required to obtain and maintain evidence of financial responsibility in the amounts of one million dollars for corrective action and one million dollars for the compensation of third parties for property damage and bodily injury.

2. The establishment of the mechanism for election of the pool administrator by the participating industry.

3. The establishment of a plan of operations, through the administrator, including but not limited to the following items:

a. Collection of administrative expenses.

b. A claims process and defense system.

c. An actuarial review.

d. A determination of rate classifications which reflect the tank standards and monitoring devices maintained by an individual owner or operator, which in addition to a daily inventory system include but are not limited to the following:

(1) Secondary containment consisting of double wall construction and provided with a device to monitor the interstitial space between the secondary and primary containment structures.

(2) Secondary containment consisting of single wall construction and a man-made liner, and groundwater monitoring wells.

(3) Single wall construction and groundwater monitoring wells.

(4) Any type of tank construction and sniffer wells and an additional monitoring system.

e. A policyholder service system.

f. The billing, collecting, and investment of premiums.

4. The mechanism by which owners or operators who can demonstrate financial responsibility pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., may establish exempt status from participation in the program.

Sec. 603. COMMITTEE CREATED — DUTIES. The legislative council shall create a legislative committee which shall meet within thirty days following the issuance of the plan of operations program. The committee shall be composed of two senators, one appointed by the majority leader of the senate and one appointed by the minority leader of the senate; two

representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives; one representative of petroleum storage tank owners and operators; and one representative of the petroleum industry.

The committee shall, on or before January 1, 1988, prepare proposed legislation for the implementation of the program to be enacted and implemented on or before May 1, 1988. The proposed legislation shall include:

1. The cost of participation of an individual owner or operator based upon the following:

a. The base premium rate determined by the actuarial data.

b. The amount of subsidization of the premium by the state, based on daily inventory and upon the storage tank standards and inventory monitoring systems maintained by an individual owner or operator. The state subsidization of the premium shall be based upon a sliding fee schedule which may reflect the following criteria:

(1) Tanks with secondary containment consisting of double wall construction and provided with a device to monitor the interstitial space between the secondary and primary containment structures.

(2) Tanks with secondary containment consisting of single wall construction and a man-made liner, and provided with groundwater monitoring wells.

(3) Tanks with single wall construction and groundwater monitoring wells.

(4) Tanks with any type of construction and sniffer wells and an additional monitoring system.

2. The funding source for subsidization, which may be, but is not limited to, the following:

a. An increase in the annual storage tank fee.

b. An annual tank assessment fee.

c. A pump inspection fee, paid by fuel dealers.

d. Federal environmental protection agency grants.

3. The management of the plan and the funds, whether the plan is profitable or operates at a loss.

4. The mechanism by which owners or operators who can demonstrate financial responsibility pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., may establish exempt status from participation in the program.

Sec. 604. Section 455B.473, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. An owner or operator of a storage tank described in section 455B.471, subsection 6, paragraph "a", which brings the tank into use after July 1, 1987, shall notify the department of the existence of the tank within thirty days. The registration of the tank shall be accompanied by a fee of ten dollars to be deposited in the storage tank management account. A tank which is existing before July 1, 1987, shall be reported to the department by July 1, 1989. Tanks under this section installed on or following July 1, 1987, shall comply with underground storage tank regulations adopted by rule by the department.

NEW SUBSECTION. 8. It shall be unlawful to deposit a regulated substance in an underground storage tank which has not been registered pursuant to subsections 1 through 5.

The department shall furnish the owner or operator of an underground storage tank with a registration tag for each underground storage tank registered with the department. The owner or operator shall affix the tag to the fill pipe of each registered underground storage tank. A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the underground storage tank fill pipe, the person conveying or depositing the regulated substance may deposit the regulated substance in the unregistered tank provided that the deposit is allowed only in the single instance, that the person reports the unregistered tank to the department of natural resources, and that the person provides the owner or operator with an underground storage tank registration form and informs the owner or operator of the underground storage tank registration requirements. The owner or operator is allowed fifteen days following the report to the department of the owner's or operator's unregistered tank to comply with the registration requirements. If an owner or operator fails

to register the reported underground storage tank during the fifteen-day period, the owner or operator shall pay a fee of twenty-five dollars upon registration of the tank.

Sec. 605. Section 455B.473, subsection 4, Code 1987, is amended to read as follows:

4. The notice of the owner or operator to the department under subsections 1 through 3 shall be accompanied by a fee of ~~five~~ ten 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.~~ All moneys collected shall be deposited in the storage tank management account of the groundwater protection fund created in section 455E.11. All moneys collected pursuant to this section prior to July 1, 1987, which have not been expended, shall be deposited in the storage tank management account.

Sec. 606. Section 455B.474, subsection 2, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. If an owner or operator is required to uncover or remove an underground storage tank based upon a determination of the department that the underground storage tank presents a hazard to the public health, safety, or the environment, and if upon inspection of the tank the determination is unfounded, the state may reimburse reasonable costs incurred in the inspection of the tank. Claims for reimbursement shall be filed on forms provided by the commission. The commission shall adopt rules pursuant to chapter 17A relating to determinations of reasonableness in approval or rejection of claims in cases of dispute. Claims shall be paid from the general fund of the state. When any one of the tanks or the related pumps and piping at a multiple tank facility are found to be leaking, the state shall not reimburse costs for uncovering or removing any of the other tanks, piping, or pumps that are not found to be leaking.

Sec. 607. NEW SECTION. 455B.479 STORAGE TANK MANAGEMENT FEE.

An owner or operator of an underground storage tank shall pay an annual storage tank management fee of fifteen dollars per tank of over one thousand one hundred gallons capacity. The fees collected shall be deposited in the storage tank management account of the groundwater protection fund.

Approved June 9, 1987

CHAPTER 226

EPWORTH, IOWA, LEGALIZING ACT

S.F. 381

AN ACT an Act to legalize the payment of a sales tax refund claim to the city of Epworth, Iowa, by the department of revenue and finance.

WHEREAS, the city of Epworth, Iowa, undertook its 1985 street improvement projects; and

WHEREAS, the city of Epworth, Iowa, paid sales tax on the construction contracts to six different contractors; and

WHEREAS, the city clerk subsequently filed a claim for refund with the department of revenue and finance; and

WHEREAS, the claim filed by the city clerk of the city of Epworth, Iowa, was denied because it was not timely filed as required under section 422.45, subsection 7, paragraph "a"; and

WHEREAS, the claim for refund should be allowed by the department of revenue and finance and the department's actions to allow the refund 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 of Epworth, Iowa, relating to the filing of the claim for refund for sales tax paid on the construction contracts for 1985 street improvement projects, including a declaration that the claim was timely filed, and the action of the department of revenue and finance to pay the claim are validated, legalized and confirmed and the claims are valid, legal, and timely filed.

Approved April 24, 1987

CHAPTER 227

COMPENSATION AND BENEFITS FOR PUBLIC OFFICIALS AND EMPLOYEES

S.F. 504

AN ACT relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges, by providing adjustments for salaries, by providing coverage and adjustments for health, life, disability and dental insurance, by changing retirement benefits received by certain members of the Iowa public employees' retirement system, by creating a county compensation board and specifying its duties, by making coordinating amendments to the Code, and by providing effective dates.

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

Section 1.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1987, and the salary rates for the fiscal year beginning July 1, 1987, are effective for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section pursuant to any Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund.

2. The following annual salary rates shall be paid to the person holding the position indicated:

	1987-1988 Fiscal Year
a. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP	
Salary for the secretary of agriculture	$ 50,000
b. DEPARTMENT OF JUSTICE	
Salary for the attorney general	$ 62,500
c. OFFICE OF THE AUDITOR OF STATE	
Salary for the auditor of state	$ 50,000
d. OFFICE OF THE GOVERNOR	
Salary for the governor	$ 70,000
e. OFFICE OF THE SECRETARY OF STATE	
Salary for the secretary of state	$ 50,000
f. OFFICE OF THE TREASURER OF STATE	
Salary for the treasurer of state	$ 50,000

Sec. 2.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1987, and are effective for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department which the person represents.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

	1987-1988 Fiscal Year
a. Chief justice of the supreme court	$ 70,900
b. Each justice of the supreme court	$ 65,200
c. Chief judge of the court of appeals	$ 63,300
d. Each associate judge of the court of appeals	$ 61,900
e. Each chief judge of a judicial district	$ 60,500
f. Each district court judge except the chief judge of a judicial district	$ 57,800
g. Each district associate judge	$ 48,000
h. Each part-time judicial magistrate	$ 13,400

Sec. 3.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1987, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

	1987-1988 Fiscal Year
a. Chairperson of the public employment relations board	$ 43,900
b. Two members of the public employment relations board	$ 40,700

Sec. 4. Persons receiving the salary rates established under section 1, 2, or 3 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 5. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 6 of this Act within the range provided by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinate's salaries.

The governor, in establishing salaries as provided in section 6 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established by section 6 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law; however, this provision does not exclude necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 6. The following annual salary ranges are effective for the positions in this section and for the fiscal year indicated. The ranges for the fiscal year beginning July 1, 1987, are effective for subsequent years until otherwise provided by the general assembly. The governor shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following salary ranges are effective for the fiscal year beginning July 1, 1987, and as otherwise provided in this section:

	Minimum	Maximum
a. Range 1	$6,200	$18,800
b. Range 2	$22,600	$37,600
c. Range 3	$31,000	$43,800
d. Range 4	$37,600	$50,300
e. Range 5	$43,800	$56,500

2. The following are range 1 positions: part-time members of the parole board.

3. The following are range 2 positions: appellate defender, administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division for deaf persons, the division for Spanish-speaking peoples, and the division of children, youth and families of the department of human rights, administrator of the division of professional licensure of the department of commerce, and administrators of the division of disaster services and the division of veterans affairs of the department of public defense.

4. The following are range 3 positions: superintendent of the division of savings and loan associations of the department of commerce, administrator of the library division of the department of cultural affairs, administrator of the division of community action agencies of the department of human rights, chairperson and members of the employment appeals board of the department of inspections and appeals, administrator of the division for the blind of the department of human rights, and secretary of the state fair board.

5. The following are range 4 positions: superintendent of banking, superintendent of the credit union division of the department of commerce, administrator of the alcoholic beverages division of the department of commerce, and full-time members of the parole board.

6. The following are range 5 positions: chairperson and members of the utilities board, consumer advocate, lottery commissioner, job services commissioner, labor commissioner, industrial commissioner, insurance commissioner, administrators of the historical division and the public broadcasting division of the department of cultural affairs, and administrator of the gaming division of the department of commerce.

7. The following salary ranges are effective for the fiscal year beginning July 1, 1987, and as otherwise provided in this section:

	Minimum	Maximum
DEPARTMENT DIRECTOR'S SALARIES		
a. Range 6	$34,000	$45,500
b. Range 7	$43,500	$57,000
c. Range 8	$49,700	$66,200

8. The following are department director's salary range 6 positions: department coordinator of the department of human rights, director of the civil rights commission, executive director of the college aid commission, director of the law enforcement academy, and executive director of the campaign finance disclosure commission.

9. The following are department director's range 7 positions: director of the department of cultural affairs, director of the department of personnel, director of the department of public health, director of the department of employment services, executive director of the department of elder affairs, commissioner of the department of public safety, director of the department of general services, director of the department of commerce, and director of the department of inspections and appeals.

10. The following are department director's range 8 positions: director of the department of management, commissioner of the department of education, director of the department of revenue and finance, director of the department of economic development, director of the department of human services, director of the department of transportation, executive secretary of the state board of regents, director of the department of natural resources, and director of the department of corrections.

Sec. 7. Funds appropriated to the salary adjustment fund may be expended to fund salaries established pursuant to sections 5 and 6 of this Act if funds appropriated to the agencies represented by or employing the persons holding the positions specified in section 6 of this Act are insufficient to pay salaries provided in section 6 of this Act. The governor shall report to the legislative fiscal committee the salary rates established pursuant to section 6 of this Act by September 1, 1987.

Sec. 8. The following annual salary range is effective for the position specified in this section and for the fiscal year indicated. The range for the fiscal year beginning July 1, 1987, is effective for subsequent fiscal years until otherwise provided by the general assembly. The salary shall be paid to the person indicated at a rate determined as otherwise provided by law within the salary range from funds provided for that purpose:

	Minimum	Maximum
For the court administrator	$49,700	$66,200

Sec. 9. The annual salary rates or ranges provided in sections 1, 2, 3, 6, and 8 of this Act become effective for the fiscal year beginning July 1, 1987, with the pay period beginning June 26, 1987.

Sec. 10. 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 reimbursements, and related benefits not in conflict with the Code.

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.
2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.
3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.
4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.
5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.
6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the University of Northern Iowa faculty bargaining unit.
7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.
8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the social services bargaining unit.
9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.
10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.
11. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 11 and 12 of this Act for employees not covered by a collective bargaining agreement.

Sec. 11.

1. All pay plans provided for in section 19A.9, subsection 2, and section 602.1204 as they exist for the fiscal year ending June 30, 1987, shall be increased for employees who are not included in a collective bargaining agreement made final under chapter 20 by two percent for the fiscal year beginning July 1, 1987, effective with the pay period beginning June 26, 1987. The personnel department shall revise the pay plans 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 increases 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 department of revenue and finance's centralized 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 5, 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 bargaining exempt employee's salary provided for under this section and may increase the base salaries

of the bargaining exempt employees by different percentages in accordance with rules of the personnel department, but the average percentage increase for bargaining exempt employees under each appointing authority's jurisdiction made using the appropriations authorized by this section shall not exceed the average increase provided for in subsection 1 of this section. As used in this section, "bargaining exempt employee" means employees who are excluded from the collective bargaining process as defined in section 20.4, subsections 2 through 5, and 7 through 12.

5. The pay plans for the bargaining eligible employees of the state shall be increased by the same percent and in the same manner included in subsection 1 of this section. As used in this section, "bargaining eligible employee" means an employee who is eligible to organize under section 20, but has not done so.

6. The pay of employees in classes not included in a collective bargaining agreement under chapter 20 and who received a step or equivalent pay reduction following comparable worth increases implemented on March 8, 1985, shall have the step or equivalent pay reduction restored effective the pay period beginning June 26, 1987, if the employee is still employed in the same class and was not adjusted to the minimum salary provided for the class on March 8, 1985, and is not at the top of the salary range provided for the class on or before June 15, 1987.

7. The pay of employees in classes not included in a collective bargaining agreement under chapter 20, and whose class was recommended to be increased by either the comparable worth study established in 1984 Iowa Acts, chapter 1314, or the resulting appeal process provided for in 1985 Iowa Acts, chapter 152, section 3, shall receive the increase recommended in the study or by the comparable worth appeals committee. If the recommendation of the study differs from the recommendation of the appeal committee, the decision of the appeal committee shall be controlling.

8. The policies for implementation of this section shall be approved by the governor except for those policies governing the board employees of the state board of regents, employees of the legislative department, or employees of the judicial department.

Sec. 12. 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, 1987, an average base salary increase of two percent of the base salaries of professional and scientific staff members, except board office employees as provided for in section 10, paid during the preceding fiscal year, to be allocated to professional and scientific staff members at the discretion of the state board of regents. In addition to the increases specified above, employees may receive merit increases 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, 1987, by increasing the salary levels for each grade and step within the plans by two percent for the fiscal year beginning July 1, 1987. In addition to the increases specified above, employees may receive merit increases or the equivalent thereof.

3. For faculty members who are not included in the collective bargaining agreement made final under chapter 20, for the fiscal year beginning July 1, 1987, an average base salary increase to be allocated at the discretion of the state board of regents.

4. The funds allocated to the state board of regents for faculty salary adjustments at the three state universities shall be distributed based on an amount necessary to fund an eleven percent increase in the faculty salaries after funds received from increased tuition, less the amount committed to student aid, have been allocated for that purpose.

5. The collective bargaining representatives for the faculty at the University of Northern Iowa and for the University of Northern Iowa, shall determine the distribution of the University of Northern Iowa faculty's allocation of salary adjustment funds which are provided in excess of the amount necessary to fund the collective bargaining agreement negotiated pursuant to chapter 20 for employees in the University of Northern Iowa faculty bargaining unit. The distribution shall be either according to the contract in effect for the fiscal year beginning July 1, 1987, for the fiscal year beginning July 1, 1987, or according to a different procedure that is agreeable to both parties.

6. The pay of employees in classes not included in a collective bargaining agreement under chapter 20 and who received a step or equivalent pay reduction following comparable worth increases implemented on March 8, 1985, shall have the step or equivalent pay reduction restored effective the pay period beginning June 26, 1987, if the employee is still employed in the same class and was not adjusted to the minimum salary for the class on March 8, 1985, and is not at the top of the salary range provided for the class on or before June 25, 1987.

7. The pay of employees in classes not included in a collective bargaining agreement under chapter 20 and whose class was recommended to be increased by either the comparable worth study established in 1984 Iowa Acts, chapter 1314 and the resulting appeals process provided for in 1985 Iowa Acts, chapter 152, section 3, shall receive the increase recommended in the study or by the comparable worth appeal committee. If the recommendation of the study differs from the recommendation of the appeal committee, the decision of the appeal committee shall be controlling.

Sec. 13. All funds appropriated to the salary adjustment fund for the department of transportation and for state agencies paid through the department of revenue and finance's centralized payroll system shall be used to fund salary and fringe benefit expenditures for the fiscal year beginning July 1, 1987, beginning with the biweekly pay date of July 17, 1987, and ending with the biweekly pay date of July 1, 1988. However, if an earlier effective date is provided in a collective bargaining agreement negotiated under chapter 20, the earlier effective date shall prevail for employees subject to that collective bargaining agreement.

Sec. 14. Section 2.10, subsections 1 through 3, 6, and 7, Code 1987, are amended to read as follows:

1. Every member of the general assembly except the speaker of the house and majority and minority floor leaders of the senate and house shall receive an annual salary of ~~fourteen~~ sixteen thousand six hundred dollars for the year ~~1985~~ 1989 and subsequent years while serving as a member of the general assembly. The majority and minority floor leaders of the senate and house, except the senate majority leader, shall receive an annual salary of ~~seventeen~~ twenty-two thousand ~~one~~ nine hundred dollars for the year ~~1985~~ 1989 and subsequent years while serving in such capacity. **In addition, each such member shall receive the sum of* ~~forty~~ seventy-three *dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that in the event the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, such payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. However, members from Polk county shall receive* ~~twenty-five~~ fifty *dollars per day. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.**

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*Item veto see message at end of the Act

2. The lieutenant governor shall receive an annual salary of ~~twenty-one~~ twenty-three thousand nine hundred dollars ~~for the year 1985 and subsequent years~~. Personal expense and travel allowances shall be the same for the lieutenant governor as for a senator. **The lieutenant governor while performing administrative duties of the office of lieutenant governor when the general assembly is not in session or serving as the president of the senate during special sessions of the general assembly shall receive ~~sixty~~ seventy-three dollars per diem and reimbursement for expenses incurred in performing such duties.* The lieutenant governor may elect to become a member of any state group insurance plan for employees of the state established under chapter 509A and the disability insurance program established under section 79.20 on the same basis as a full-time state employee. The lieutenant governor shall authorize a payroll deduction of any premium due.* The salary, per diem, and expenses of the lieutenant governor provided for under this subsection, including office and staff expenses, shall be paid from funds appropriated to the office of the lieutenant governor by the general assembly.

3. The speaker of the house and the senate majority leader shall receive an annual salary of ~~twenty-one~~ twenty-three thousand nine hundred dollars for the year ~~1985~~ 1989 and subsequent years while serving as the speaker of the house or as the senate majority leader. Expense and travel allowances shall be the same for the speaker of the house and the senate majority leader as provided for other members of the general assembly.

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

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

**Sec. 15. Section 2.40, Code 1987, is amended to read as follows:*

2.40 MEMBERSHIP IN STATE INSURANCE PLANS.

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

1. The member shall pay the ~~total~~ premium for the plan selected on the same basis as a full-time state employee.

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

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

In order to implement this section a member of the general assembly may elect to become a member of a state ~~health or medical service~~ group insurance plan effective ~~July 1, 1983 or as authorized in the contract of the state~~ January 1, 1989, unless a member of the general assembly is a member of a state group insurance plan on December 31, 1988. A member of the general assembly may continue membership in a state group insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing

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*Item veto see message at end of the Act

to become a member of the state health or medical service group insurance plan for the first time, a member of the general assembly has the status of a "new hire", full-time state employee. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January following reelection without a statement of health, a physical examination, or a condition rider. ~~If a member of the general assembly elected to be paid the member's total salary during each pay period during the first six months of 1983, that member may become a member of the state health or medical service group insurance plan by paying the premium due until that member's salary and payroll deductions commence.~~*

Sec. 16. Section 79.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Salaries specifically provided for in an appropriation Act of the general assembly shall be in lieu of existing statutory salaries, for the positions provided for in the Act, and all salaries, including longevity where applicable by express provision in the Code, shall be paid according to the provisions of chapter 91A and shall be in full compensation of all services, including any service on committees, boards, commissions or similar duty for Iowa government, except for members of the general assembly. A state employee on an annual salary shall not be paid for a pay period an amount which exceeds the employee's annual salary transposed into a rate applicable to the pay period by dividing the annual salary by the number of ~~calendar days~~ pay periods in the fiscal year, ~~and multiplying the result by the number of calendar days in the pay period~~. Salaries for state employees other than annual salaries shall be established on an hourly basis.

**Sec. 17.* *Section 79.20, subsection 4, Code 1987, is amended to read as follows:*

4. All permanent full-time state employees shall be covered under the employees disability insurance program, except ~~the members of the general assembly,~~ *board members and members of commissions who are not full-time state employees, and state employees who on July 1, 1974, are under another disability program financed in whole or in part by the state.* For purposes of this section, members of the general assembly shall be considered full-time employees of the state during their tenure in office. Members of the general assembly serving on or after January 9, 1989, shall receive credit for the time they continuously served as members of the general assembly before January 9, 1989.*

Sec. 18. Section 97B.41, subsection 3, paragraph b, subparagraph (1), Code 1987, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 7. However, a county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or a part-time basis.

Sec. 19. Section 97B.50, subsection 2, Code 1987, is amended to read to read as follows:

2. A member ~~who has completed thirty or more years of service~~ who retires from the system due to disability and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), as amended to July 1, 1978, who is eligible for early retirement, but has not reached the normal retirement date, shall receive full benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 ~~of this section~~ regardless of whether the member has completed thirty or more years of membership service. This section takes effect July 1, ~~1986~~ 1987 for a member meeting the requirements of this subsection who retired from the system at any time between July 4, 1953 and June 30, ~~1978~~ 1987.

Sec. 20. Section 97B.50, subsection 3, Code 1987, is amended by striking the subsection.

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*Item veto see message at end of the Act

Sec. 21. NEW SECTION. 97B.73A PART-TIME COUNTY ATTORNEYS.

A part-time county attorney may elect in writing to the department to make employee contributions to the system for the county attorney's previous service as a county attorney and receive credit for membership service in the system for the period of service as a part-time county attorney for which employee contributions are made. The contributions paid by the member shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 12, for that period of membership service. A member who elects to make contributions under this section shall notify the county board of supervisors of the member's election, and the county board of supervisors shall pay to the department the employer contributions that would have been contributed by the employer under section 97B.11 plus interest on the contributions that would have accrued if the county attorney had been a member of the system for that period of service.

Sec. 22. Section 97C.2, subsection 3, Code 1987, is amended to read as follows:

3. The term "employee" includes elective and appointive officials of the state or any political subdivision thereof, except elective officials in positions, the compensation for which is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions; ~~provided that no~~. However, a member of a county board of supervisors or a county attorney shall not be deemed to be an elective official in a part-time position, but every member of a county board of supervisors and every county attorney shall be deemed to be an employee ~~within the purview of~~ under this chapter and ~~shall be~~ is eligible to receive ~~all of~~ the benefits provided by this chapter to which the member may be entitled as an employee.

Sec. 23. Notwithstanding section 97B.41, subsection 3, if a county as an employer under chapter 97B and a part-time county attorney have made contributions under section 97B.11 prior to July 1, 1987, the part-time county attorney shall receive credit for membership service under the system for the period for which the contributions were made.

Sec. 24. Section 331.321, subsection 1, paragraph n, Code 1987, is amended to read as follows:

n. ~~One member~~ Two members of the county compensation board in accordance with section 331.905.

Sec. 25. Section 331.322, subsection 7, Code 1987, is amended to read as follows:

7. Provide necessary office facilities and the technical and clerical assistance requested by the county compensation board to accomplish the purposes of sections 331.905 ~~to~~ and 331.907.

Sec. 26. Section 331.323, subsection 1, unnumbered paragraph 5, Code 1987, is amended to read as follows:

When the duties of an officer or employee are assigned to one or more elected officers, the board shall set the initial salary for each elected officer ~~which shall not exceed the recommendation of the county compensation board. The county auditor shall call a special meeting of the county compensation board for this purpose and the county compensation board shall make a recommendation within thirty days of the call. The board may reduce the salary recommendation but not below the existing salary of the affected elective officer.~~ Thereafter, the salary shall be determined as provided in section 331.907.

Sec. 27. Section 331.502, subsection 32, Code 1987, is amended by striking the subsection.

Sec. 28. Section 331.905, subsections 1, 2, and 3, Code 1987, are amended by striking the subsections and inserting in lieu thereof the following:

1. There is created in each county a county compensation board which shall be composed of seven members who are residents of the county. The members of the county compensation board shall be selected as follows:

a. Two members shall be appointed by the board of supervisors.

b. One member shall be appointed by each of the following county officers: the county auditor, county attorney, county recorder, county treasurer, and county sheriff.

2. The members of the county compensation board shall be appointed to four-year, staggered terms of office. The members of the county compensation board shall not be officers or employees of the state or a political subdivision of the state. A term shall be effective on the first of July of the year of appointment and a vacancy shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 29. Section 331.907, subsections 1 and 2, Code 1987, are amended by striking the subsections and inserting in lieu thereof the following:

1. The annual compensation of the auditor, treasurer, recorder, sheriff, county attorney, and supervisors shall be determined as provided in this section. The county compensation board annually shall review the compensation paid to comparable officers in other counties of this state, other states, private enterprise, and the federal government. In setting the salary of the county sheriff, the county compensation board shall consider setting the sheriff's salary so that it is comparable to salaries paid to professional law enforcement administrators and command officers of the Iowa highway safety patrol, the division of criminal investigation of the department of public safety, and city police agencies in this state. The county compensation board shall prepare a compensation schedule for the elective county officers for the succeeding fiscal year. A recommended compensation schedule requires a majority vote of the membership of the county compensation board.

2. At the public hearing held on the county budget as provided in section 331.434, the county compensation board shall submit its recommended compensation schedule for the next fiscal year to the board of supervisors for inclusion in the county budget. The board of supervisors shall review the recommended compensation schedule for the elected county officers and determine the final compensation schedule which shall not exceed the compensation schedule recommended by the county compensation board. In determining the final compensation schedule if the board of supervisors wishes to reduce the amount of the recommended compensation schedule, the amount of salary increase proposed for each elected county officer shall be reduced an equal percentage. A copy of the final compensation schedule shall be filed with the county budget at the office of the director of the department of management. The final compensation schedule takes effect on July 1 following its adoption by the board of supervisors.

Sec. 30. ORIGINAL APPOINTMENTS — TRANSITION.

1. Notwithstanding section 331.905, subsection 2, which provides for four-year terms of office, the members of the county compensation board appointed under section 331.905, subsection 1, paragraph "a" and two members of the county compensation board appointed under section 331.905, subsection 1, paragraph "b", shall be appointed to a two-year term which begins on July 1, 1987 and ends on June 30, 1989. The two members shall be selected by lot. Thereafter, the members appointed initially to a two-year term shall be appointed to four-year terms of office. All other members of the county compensation board shall be appointed to four-year terms of office commencing July 1, 1987.

2. The terms of office of members of county compensation boards serving unexpired terms immediately before the effective date of this Act shall expire on June 30, 1987, and their offices are abolished on that date. Appointments made to the county compensation boards to be effective on or after July 1, 1987, except those made as provided in section 33* of this Act, are void.

Sec. 31. NEW SECTION. 602.1514 JUDICIAL COMPENSATION COMMISSION.

1. A judicial compensation commission is established. The commission is composed of eight members, four of whom shall be appointed by the governor and four of whom shall be appointed by the legislative council. Members of the commission shall be appointed without regard to political affiliation and shall not be state officials or employees, employees of any state department, board, commission, or agency or of any political subdivision of the state.

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*Section 28 apparently intended

2. Members of the commission shall serve for a term of office of four years, and for the initial commission, two members determined by lot shall be appointed by each appointing authority to a term of two years. Thereafter, all members shall be appointed to four-year terms. Vacancies on the commission shall be filled for the unexpired term in the same manner as the original appointment.

3. Members of the commission shall serve without compensation, but shall receive actual and necessary expenses, including travel at the state rate. Payment shall be made from funds available pursuant to section 2.12; however, members appointed by the governor shall be paid from funds appropriated to the office of the governor.

4. The commission shall elect its own chairperson from among its membership and shall meet on the call of the chairperson to review judicial salaries and related benefits. The commission shall review the compensation and related benefits paid to statutory judicial officers, and shall review the compensation and related benefits paid for comparable positions in other states, the federal government, and private enterprise. Based on the review and other factors deemed relevant, the commission shall make its recommendation as to judicial salaries and related benefits to the governor and the members of the general assembly. No later than February 1 of each odd-numbered year the commission shall report to the governor and to the general assembly its recommendations.

5. The governor and the general assembly shall consider the recommendations of the commission in determining judicial salaries and related benefits.

Sec. 32. Section 2A.4, Code 1987, is amended to read as follows:

2A.4 MEETINGS — DUTIES.

The commission shall elect its own chairperson from among its membership and shall meet on the call of the chairperson to review compensation and expenses received by members of the general assembly and salaries of the other elective state officials. The commission shall review compensation and expenses paid to members of the general assembly and salaries paid to other elective state officials, ~~and statutory~~ judicial ~~officers,~~ and shall review compensation, expenses, and salaries paid for comparable positions in other states, the federal government, and private enterprise. Based on such review and other factors deemed relevant, the commission shall make its determination as to compensation and expense levels for members of the general assembly and as to salary levels for other elective state officials to be recommended to the governor and the members of the general assembly. No later than February 1, 1973, and each two years thereafter, the commission shall report to the governor and to the general assembly its recommendations for compensation and expenses for members of the general assembly and for salaries for other elective state officials.

Sec. 33. Sections 15 and 17 of this Act take effect January 1, 1989.

Sec. 34. Section 331.906, Code 1987, is repealed.

Approved June 8, 1987, except the items which I hereby disapprove and which are designated as that portion of section 14, subsection 1 which is herein bracketed in ink and initialed by me; that portion of section 14, subsection 2 which is herein bracketed in ink and initialed by me; section 14, subsections 6 and 7 in their entirety; section 15; and section 17. My reasons for vetoing these items are delineated 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*

Dear Madam Secretary:

I hereby transmit Senate File 504, an Act relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges, by providing adjustments for salaries, by providing coverage and adjustments for health, life, disability and dental insurance, by changing retirement benefits received by certain members of the Iowa Public Employees' Retirement System, by creating a county compensation board and specifying its duties, by making coordinating amendments to the Code, and by providing effective dates.

Senate File 504 provides for salary and benefit increases for public officials and state employees. It ratifies the recent collective bargaining agreement and provides for a two percent scheduled increase for all state employees on July 1 of this year plus appropriate merit increases. In addition, substantial changes are made to the salaries provided for statewide elected officials, the judiciary, and members of the General Assembly.

I had recommended a 3.5 percent salary increase for elected officials and members of the General Assembly. That level of increase is consistent with the average cost of increases provided for other state employees. I am concerned that the increases provided for in Senate File 504, in some cases, greatly exceed my recommendations. Several items in Senate File 504 provide for large compensation increases for members of the General Assembly which are not reflected in their actual salaries. As a result, the average member of the General Assembly would receive a total compensation increase of approximately 30 percent if Senate File 504 were signed into law as enacted.

My recommendations reflected the fact that some salary adjustments are in order for elected officials, particularly since those salaries have been frozen for the past three years. However, I cannot accept the excessive level of compensation increases provided for members of the General Assembly in Senate File 504.

I am unable to approve that portion of Section 14, Subsection 1, which reads as follows:

> In addition, each such member shall receive the sum of ~~forty~~ seventy-three dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that in the event the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, such payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. However, members from Polk county shall receive ~~twenty-five~~ fifty dollars per day. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.

And, I am unable to approve that portion of Section 14, Subsection 2, which reads as follows:

> The lieutenant governor while performing administrative duties of the office of lieutenant governor when the general assembly is not in session or serving as the president of the senate during special sessions of the general assembly shall receive ~~sixty~~ seventy-three dollars per diem and reimbursement for expenses incurred in performing such duties.

The lieutenant governor may elect to become a member of any state group insurance plan for employees of the state established under chapter 509A and the disability insurance program established under section 79.20 on the same basis as a full-time state employee. The lieutenant governor shall authorize a payroll deduction of any premium due.

And, I am unable to approve the item designated as Section 14, Subsections 6 and 7 in their entirety.

These items in Senate File 504 would provide Polk County members of the General Assembly with a 100 percent increase in their daily allowance during the time the legislature is in session. In addition, non-Polk County legislators would receive an 82.5 percent increase in their daily allowance during the regular and special sessions. Such an increase in the daily allowance when combined with the 13 percent salary increase already provided for in Senate File 504 would allow legislators to receive a combined compensation increase of up to 30 percent.

Clearly, inflation has not increased by 82.5 percent or 100 percent over the past three years; such a large increase in the per diem is, therefore, difficult to justify. Moreover, given the difficult economic times which have faced many Iowans over the past few years, elected officials would do well to set an appropriate example by moderating their compensation increases to those clearly provided in their salaries. By dramatically increasing the daily allowances, legislators have, in effect, provided a huge hidden compensation increase for themselves. I cannot accept this back door method of increasing legislative compensation.

I am unable to approve that item designated as Section 15, in its entirety and Section 17, in its entirety.

This item in Senate File 504 provides that a portion of the health insurance costs for members of the General Assembly will be paid for by the state and allows the members an almost unlimited ability to change insurance coverage. In addition, this item provides that members of the General Assembly shall become members of the state disability insurance program, despite the fact that legislators have, in the past, not been considered full time state employees. This special treatment for members of the General Assembly ranges beyond the restrictions included in the health and disability insurance plans provided for other state employees. If members of the General Assembly wish to be part of those plans, they should live with the same rules as other state employees. Moreover, by requiring the taxpayers to foot a portion of the health insurance coverage for members of the General Assembly, another form of a hidden increase in compensation for members of the general assembly is included in this bill. I cannot accept these well-masked attempts to increase the compensation of legislators.

I am also deeply concerned about the efforts of the General Assembly to use legal drafting devices to evade my item veto authority on compensation bills. The General Assembly has chosen to remove the appropriation from the salary bill and place it in a separate bill. In fact, that salary adjustment appropriation is made as a lump sum and is placed as a condition upon the approval of Senate File 504. I cannot accept that legislative device to clearly evade the Governor's item veto authority. (People ex rel State Board of Agriculture vs. Brady 115 NE 204)

In this case, the legislature is clearly incorporating a lump sum appropriation in a separate bill in order to evade the Governor's ability to strike specific items relating to the expenditure of that lump sum appropriation. That is clearly a legal device designed to avoid the Governor's ability to strike appropriation items and cannot be accepted.

Moreover, by tying two separate pieces of legislation together with a conditional lump sum appropriation, the legislature is attempting to greatly limit the Governor's authority to separately decide upon the merits of each appropriation item in each bill. Taken to its logical conclusion, the legislature could, in effect, eliminate the Governor's item veto authority by

providing for the authorization for expenditures in one bill and a lump sum appropriation for those purposes in another. I cannot allow such an erosion of the Governor's item veto authority to occur.

The Governor's item veto authority was designed to provide the Governor with the ability to strike appropriation items. Nothing is more clearly related to the expenditure of taxpayers money than legislation providing additional salary increases. To view the item veto authority otherwise would greatly hamstring the gubernatorial authority over appropriations and potentially emasculate this important check on state spending.

In addition, the bill does authorize payments from a standing unlimited appropriation in Chapter 2 of the Code. An authorization of payment is an appropriation by definition.

In short, I cannot accept the items in Senate File 504 which provide for an 82.5 percent to 100 percent increase in daily allowances for legislators and allow legislators to receive special health insurance coverage treatment. Taken together, these benefit increases would increase legislative compensation by over 30 percent. That is an excessive increase.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 504 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 228

SUPPLEMENTAL APPROPRIATIONS AND COLLECTION AND DISTRIBUTION OF MONEYS

H.F. 355

AN ACT relating to and making appropriations for state agencies, by providing supplemental appropriations for the fiscal year beginning July 1, 1986 and ending June 30, 1987, by providing highway funding through loans and anticipatory certificates, by specifying responsibility of the collection services center relating to collection and disbursement of child support payments and information, by appropriating and reallocating funds for state agencies, by providing for limitations on certain expenditures, 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 for the fiscal year beginning July 1, 1986 and ending June 30, 1987, to the department of human services, the following amounts, or so much thereof as is necessary, to supplement prior appropriations:

	1986-1987 Fiscal Year
1. For aid to families with dependent children to be used for the same purposes and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 1	$ 900,000
2. For medical assistance to be used for the same purposes and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 2, paragraph "e"	$ 8,000,000
3. For medical contracts to be used for the same purpose and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 3	$ 214,600
4. For state supplementary assistance to be used for the same purpose and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 5	$ 730,000
5. For home-based services to be used for the same purpose and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 7	$ 52,116
6. For foster care to be used for the same purpose and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 8	$ 3,208,193
7. For county-based juvenile justice to be used for the same purpose and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 303, subsection 10	$ 900,000
8. For supplementation of federal social services block grant and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 308	$ 392,437

**Sec. 2.* *The department of human services shall not implement any mandatory coverage system for Title XIX recipients for enrollment in health maintenance organizations. The department shall work to develop policies and guidelines to implement on a pilot basis a special case management program for Title XIX enrollees, after reviewing programs in place in other states. The department, in consultation with the legislative fiscal bureau and under monitoring by the fiscal committee of the legislative council, shall develop a methodology to evaluate and compare the effectiveness of the provision of Title XIX services through case management and through health maintenance organizations, in terms of both cost and health*

*Item veto see message at end of the Act

*outcomes. The evaluation shall continue for at least eighteen months subsequent to the implementation of the programs.**

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987, to the department of human services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For a work incentive program $ 400,000
2. For food stamp employment and training program $ 100,000

**Sec. 4. 1986 Iowa Acts, chapter 1246, section 1, subsection 4, unnumbered paragraph 1, is amended to read as follows:*

For establishment and maintenance of an ambassador's program *$* ~~*1,000,000*~~ *500,000**

Of the funds appropriated by this subsection, the department of economic development shall spend one hundred thousand (100,000) dollars for the special marketing project to develop a marketing and promotion plan for the Quad Cities area in cooperation with the state of Illinois.

**Sec. 5. 1986 Iowa Acts, chapter 1246, section 1, subsection 6, unnumbered paragraph 1, is amended to read as follows:*

For establishment and maintenance of an export finance program *$* ~~*1,000,000*~~ *500,000**

Sec. 6. 1986 Iowa Acts, chapter 1249, section 4, subsection 9, is amended to read as follows:

9. For ~~a solar~~ an ethanol and corn starch project to be administered by the center for industrial research and service $ 150,000

Sec. 7. 1986 Iowa Acts, chapter 1246, section 103, subsection 8, is amended to read as follows:

8. For the ~~old territorial capitol in~~ Port of Burlington building in Burlington for ~~restoration~~ renovation $ 22,000

Sec. 8. 1986 Iowa Acts, chapter 1246, section 303, subsection 9, is amended to read as follows:

9. For community-based programs $ ~~2,883,000~~ 2,698,500

Sec. 9. 1986 Iowa Acts, chapter 1246, section 303, subsection 9, paragraph h, is amended to read as follows:

h. Of the funds appropriated by this subsection, ~~one million one~~ nine hundred fifteen thousand five hundred ~~(1,100,000)~~ (915,500) dollars, or so much thereof as is necessary, is allocated for protective day care.

Sec. 10. 1986 Iowa Acts, chapter 1246, section 501, subsection 3, is amended to read as follows:

3. INDEMNITY FUND AND ESCROW.

From the general fund of the state as an advance for administration of the indemnity fund and escrow provision created by the 1986 Iowa Acts, Senate File 2116, for not more than five full-time equivalent positions $ 100,000

~~It is a condition of the funds appropriated by this subsection that the general fund be reimbursed from the interest accruing to the indemnity fund, no later than June 30, 1987, for the advance made by this subsection. Notwithstanding 1986 Iowa Acts, Senate File 2116, section 33, only interest accruing to the indemnity fund may be used for administration costs of the indemnity fund. In addition, interest accruing to the indemnity fund may be used for the expenses of administration of the escrow provision, subject to the approval of the Iowa grain indemnity fund board, notwithstanding 1986 Iowa Acts, Senate File 2116, section 33.~~

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*Item veto see message at end of the Act

The general assembly authorizes the transfer of funds appropriated under this section by the department of management to the department of justice to fund farm mediation services.

Sec. 11. 1986 Iowa Acts, chapter 1246, section 713, is amended to read as follows:

SEC. 713. 1985 Iowa Acts, chapter 254, section 1, subsection 1, paragraph b, is amended to read as follows:

b. For the fiscal year beginning July 1, 1986 $ ~~44,000,000~~ 40,500,000

**Sec. 12. Notwithstanding the 1986 Iowa Acts, chapter 1246, section 111, subsection 7, there is appropriated from the moneys appropriated to the obstetrical patient care fund to the department of public health for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the following amounts to be used as follows:*

1. Three hundred thousand (300,000) dollars, or so much thereof as is necessary, for statewide expansion of the maternal health and child health centers.

2. Seventy-seven thousand five hundred sixty (77,560) dollars, or so much thereof as is necessary, to complete the regional centers necessary to provide for statewide coverage of developmental educationally related programs of the mobile and regional child health specialty clinics of the child health care services program.

*3. Notwithstanding section 8.33, the funds appropriated under subsections 1 and 2 of this section which remain unobligated and unencumbered for the fiscal year beginning July 1, 1986 and ending June 30, 1987, shall remain available to the Iowa department of public health for the purposes specified in the fiscal year beginning July 1, 1987 and ending June 30, 1988.**

Sec. 13. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987 to the state board of regents the sum of sixty-five thousand (65,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 110, subsection 3, paragraph "c", subparagraph (2).

Sec. 14. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987 to the judicial department, the sum of one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, to be credited to the fund established pursuant to section 602.1302, subsection 4, to be spent for jury and witness fees.

Sec. 15. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987 to the department of natural resources the sum of twenty thousand (20,000) dollars, or so much thereof as is necessary, to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 505 to fund the costs of a pilot project for toxic waste cleanup days.

**Sec. 16. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987 to the department of general services the sum of four million (4,000,000) dollars, or so much thereof as is necessary, of which seven hundred fifty thousand (750,000) dollars shall be allocated to the historical division of the department of cultural affairs to equip the new historical building with the remainder to be used for capitol complex construction and renovation.*

*Notwithstanding section 8.33, funds appropriated by this section which are unexpended or unencumbered shall carry forward to the 1987-1988 fiscal year for the same purpose as originally appropriated.**

**Sec. 17. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987, to the department of agriculture and land stewardship, the following amounts, or so much thereof as is necessary, to be used for the following purposes:*

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*Item veto see message at end of the Act

1986-1987
Fiscal Year

1. Startup funding for the Iowa grain quality program *$ 125,000*

2. Startup funding of a regenerative, sustainable, biological and/or education and demonstration project *$ 75,000*

*Notwithstanding section 8.33, the funds which remain unobligated or unencumbered for the purposes provided in this section for the fiscal year beginning July 1, 1986 and ending June 30, 1987 shall remain available for expenditure by the department of agriculture and land stewardship for the purposes specified in the fiscal year beginning July 1, 1987 and ending June 30, 1988.**

**Sec. 18. There is appropriated from the general fund of the state to the Iowa agricultural development authority for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the amount of five million (5,000,000) dollars, or so much thereof as is necessary, to be used for providing assistance to Iowa farmers under and through the agricultural loan assistance programs. Not more than one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, shall be used for general administration, including salaries, support, maintenance, and miscellaneous purposes.*

Not more than one-half of the funds appropriated shall be committed for grants pursuant to agreements under section 175.35 entered into on or after April 1, 1987 but before October 1, 1987. Notwithstanding section 8.33, moneys appropriated by this section which are committed for grants pursuant to agreements under section 175.35 entered into on or after April 1, 1987 but before October 1, 1987, shall not revert to the general fund of the state.

Not more than one-half of the funds appropriated shall be committed for assistance, training, and management programs for agricultural producers under the program established in House File 626, enacted by the Seventy-second General Assembly, 1987 Session. Notwithstanding section 8.33, the moneys appropriated for assistance, training, and management programs for agricultural producers under this section which are committed pursuant to agreements under House File 626 and entered into between April 1, 1987 and June 30, 1989 shall not revert to the general fund of the state.

*If House File 626 does not become law, the moneys allocated for that program under this section shall be used for grants pursuant to agreements under section 175.35.**

**Sec. 19. There is appropriated from the general fund of the state to the historical division of the department of cultural affairs for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the amount of one hundred thirty thousand (130,000) dollars, or so much thereof as is necessary, to cover the expenses of moving the division's Des Moines collection into the new historical building or to be used to duplicate the Iowa City genealogical records and transferring the duplicates to Des Moines.*

*Notwithstanding section 8.33, the funds appropriated under this section which remain unobligated or unencumbered for the fiscal year beginning July 1, 1986 and ending June 30, 1987, shall remain available to the historical division of the department of cultural affairs for the purposes specified in the fiscal year beginning July 1, 1987 and ending June 30, 1988.**

Sec. 20.

1. During the fiscal period beginning July 1, 1986 and ending June 30, 1990, upon the request of the public broadcasting division of the department of cultural affairs, 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. For the fiscal period beginning July 1, 1986 and ending June 30, 1990, the proceeds from the sale of the property and building are appropriated to the public broadcasting division of the department of cultural affairs to pay a portion

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*Item veto see message at end of the Act

of the costs of construction of a new building for the public broadcasting division of the department of cultural affairs. 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 public broadcasting division of the department of cultural affairs.

2. During the fiscal period beginning July 1, 1986 and ending June 30, 1990, if the property and building are not sold or proceeds from the sale of the property have not been received at the time the public broadcasting division requires money to exercise the purchase option on its new building located at 6450 Corporate Drive, Johnston, Iowa, there is appropriated from the general fund of the state to the public broadcasting division of the department of cultural affairs, for the fiscal period beginning July 1, 1986 and ending June 30, 1990, the sum of five hundred thousand (500,000) dollars, or as much thereof as is necessary, to be used to purchase the new building. Notwithstanding section 8.33, moneys appropriated in this subsection shall revert on June 30, 1990.

3. If funds appropriated under subsection 1 are expended for the purpose provided in subsection 1, subsection 2 is void.

Sec. 21. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the sum of four hundred thousand (400,000) dollars, or so much thereof as is necessary, to be used by Iowa State University of science and technology for the college of veterinary medicine. Notwithstanding section 8.33, the funds which remain unobligated or unencumbered for the purposes provided in this section for the fiscal year beginning July 1, 1986 and ending June 30, 1987 shall remain available for expenditure for the purposes specified in this section during the fiscal year beginning July 1, 1987 and ending June 30, 1988.

Sec. 22. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987 to the department of justice the sum of fifty thousand (50,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by 1986 Iowa Acts, chapter 1246, section 414.

Sec. 23. Notwithstanding section 8.55, the moneys in the Iowa economic emergency fund on the effective date of this Act are transferred to the general fund of the state. Funds transferred to the general fund of the state shall be used to defray expenses incurred for the fiscal year beginning July 1, 1986 and ending June 30, 1987.

Sec. 24. The state transportation commission may authorize the temporary transfer of funds between the department's share of the RISE fund under section 315.4 to the primary road fund in an amount not to exceed twenty-five million dollars. Transferred funds shall be repaid within ninety days to the fund from which they came upon receipt of federal highway trust fund reimbursements and not later than July 1, 1988. However, the commission shall not authorize the transfer of any RISE funds already allocated for expenditure on a specific RISE project prior to July 1, 1988.

**Sec. 25.*

1. The state transportation commission may issue anticipatory certificates in an amount not to exceed fifty million dollars prior to July 1, 1987. If by July 1, 1987, the state has not received the full allotment of the appropriate federal highway trust funds, the state transportation commission may issue additional anticipatory certificates. However, the commission shall not issue more than one hundred fifty million dollars in anticipatory certificates. The

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*Item veto see message at end of the Act

certificates shall be retired at the time or times determined by the commission but not later than July 1, 1988.

2. The certificates shall be authorized by a resolution adopted by the commission which shall specify:

a. The primary road funds, specifying the year or years, from which the certificates are payable.

b. The amount of certificates authorized.

c. The denomination, and place of payment, which may be at any bank within or without the state, of each certificate.

d. The rate of interest which each certificate shall bear which shall not exceed that permitted by chapter 74A, and the date or dates interest is payable.

e. The authorization for the chairperson of the commission and the treasurer of state to sign and countersign the certificates.

3. Each certificate shall specify on its face the following information:

a. The annual accruing primary road funds, naming the year from which the certificate is payable.

b. The date the certificate is payable.

c. That the certificate is payable solely from accruing primary road funds.

4. The state transportation commission is authorized to pledge all or any portion of the primary road fund toward the payment of the certificates and amounts in the primary road fund are appropriated, to the extent necessary, for payment of principal and interest on the certificates. The certificates shall be payable solely from the primary road fund and under no circumstance shall any certificate be or become or be construed to constitute a debt of or a charge against the state within the purview of any constitutional or statutory limitation or provision.

5. Each of the certificates shall be executed by the manual or facsimile signature of the chairperson of the commission and the treasurer of state.

6. Interest on the certificates shall be exempt from state income taxation.

7. The treasurer of state shall be responsible for the sale of the certificates. In lieu of selling the certificates, the treasurer of state may apply the certificates at face value plus interest in payment of any warrants duly authorized and issued for primary road work.

8. The treasurer of state, or the treasurer's designee, shall, if appropriate, enter on a record the name and address of all persons to whom the certificates are issued, with a particular designation of the certificate delivered to each person.

*9. Any subsequent holder of a certificate may present the certificate to the treasurer of state, or the treasurer's designee, who shall enter the subsequent holder's name and address in place of the name and address of the previous holder.**

Sec. 26. The department of general services shall not purchase any equipment which requires an expenditure in excess of one hundred thousand (100,000) dollars during the remainder of the fiscal year beginning July 1, 1986 and ending June 30, 1987, unless the equipment purchase was approved in the department's budget for the fiscal year by the general assembly. The limitations imposed upon the department of general services under this section shall also apply to any state agency or department which purchases equipment through the department of general services. The limitations imposed under this section shall also apply to lease-purchase agreements. The limitations imposed by this section shall apply to the department of general services and any state agency or department for the fiscal year beginning July 1, 1987 and ending June 30, 1988.

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*Item veto see message at end of the Act

*Sec. 27. *Section 8.23, Code 1987, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *On or before September 1, 1987, and each succeeding year, all agencies and departments of government shall transmit to the director and the director of the legislative fiscal bureau, as part of their recommendations for appropriations for administration, operations and maintenance, each item or expenditure, actual or estimated, planned equipment purchases in excess of one hundred thousand dollars during the fiscal year, and the costs of lease-purchase agreements for equipment which exceed one hundred thousand dollars in the fiscal year. Each lease-purchase agreement or proposed purchase of equipment shall be listed as a separate item in the proposed budget.**

Sec. 28. Section 99E.31, subsection 5, paragraph f, Code 1987, is amended to read as follows:

f. To the Iowa state university of science and technology the sum of two hundred fifty thousand dollars for allocation to the center for industrial research and service for a hazardous waste research program and ~~a solar energy conversion program~~ an ethanol and corn starch project. Of the amount allocated under this paragraph, the sum of fifty thousand dollars shall be used for ~~a solar energy conversion program~~ an ethanol and corn starch project. The hazardous waste research program shall be created within the civil engineering department. This research program shall concentrate its efforts in the cleanup of industrial hazardous waste in the state with special emphasis upon new waste disposal techniques and applications. The center for industrial research and service shall administer the research funds and report to the general assembly on the program's progress and result.

Sec. 29. Section 99E.32, subsection 2, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. h. For the fiscal year beginning on July 1, 1986 the department shall establish a pilot program entitled the new business opportunity program to provide financial and technical assistance to emerging businesses and industries that expand and diversify the state's economic base. Assistance may be in any form authorized under the community economic betterment account and the department may allocate up to one million dollars of the account's funds for the pilot program.

Sec. 30. Section 252B.13, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

252B.13 COLLECTION SERVICES CENTER.

1. The department shall establish within the unit a collection services center for the receipt and disbursement of all support payments as defined in section 598.1. For purposes of this section, child support payments do not include attorney fees or court costs. The judicial department and the department of human services shall cooperate in the establishment of the center which will receive and disburse support payments.

2. The collection services center shall have no more than twenty-eight full-time equivalent positions. The department shall not transfer on a temporary or permanent basis any other personnel of the department to the center. The limitation on full-time equivalent positions does not apply to temporary conversion staff necessary to convert current records of the clerks of court into the center's data base. No temporary conversion staff are authorized on or after April 1, 1988.

3. The center shall establish a procedure to file and record complaints against the operation of the clearinghouse system. The center shall keep a record of all complaints received and the complaints shall be retained by the center. Upon request for the complaints, the center shall provide the complaints received, tallied and in the aggregate as a public record.

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*Item veto see message at end of the Act

4. The center shall develop a system to provide certified child support arrearages through telephone communications, without costs, from the center to the clerks of the district court and the clerks of the district court are authorized to receive this information. The center shall also retain written documentation of these records to permit access to the records in those situations where the electronic data base is inoperable. All requests for information shall receive a response within a two-hour period of time during the regular business hours of the center.

5. The state of Iowa, subject to chapter 25A, shall be financially responsible for errors made by the center in providing information to any person when that person acts on the basis of the information provided by the center.

6. The center shall submit a report relating to the time required between the time the payment is received and the time the funds are distributed to the recipient to the fiscal committee of the legislative council on August 1, 1987, November 1, 1987, January 1, 1988, and January 1 of each succeeding year.

Sec. 31. Section 252B.14, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

252B.14 SUPPORT PAYMENTS — CLERK OF COURT — COLLECTION SERVICES CENTER.

Sections 252B.13 through 252B.17 apply to all initial or modified orders for support entered under this chapter, chapters 234, 252A, 252C, 598, and 675 of the Code. For purposes of this section, child support payments do not include attorney fees or court costs. All orders or judgments for support entered on or before March 31, 1987, 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. All orders or judgments for support entered on or after April 1, 1987 shall direct the payment of such sums to the collection services center established pursuant to section 252B.13. Payments to persons other than the clerk of the district court and the collections services center do not satisfy the support obligations created by such orders or judgments, except as provided for trusts in sections 252D.1, 598.22, 598.23 or for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 32. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 5, 1987, except the items which I hereby disapprove and which are designated as section 2, section 5, section 12, section 16, section 17, section 18, section 19, section 21, section 25, section 26, section 27, and that portion of section 4 which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated 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*

Dear Mr. Speaker:

I hereby transmit House File 355, an Act relating to and making appropriations for state agencies, by providing supplemental appropriations for the fiscal year beginning July 1, 1986, and ending June 30, 1987, by providing highway funding through loans and anticipatory certificates, by specifying responsibility of the collection services center relating to collection and disbursement of child support payments and information, by appropriating and reallocating funds for state agencies, by providing for limitations on certain expenditures, and providing an effective date.

House File 355 provides essential supplemental funding to state agencies, particularly to human services programs. However, this bill also contains $9 million of excessive spending in fiscal year 1987. As a result, action must be taken to reduce the level of spending contained in this bill.

In addition, this bill contains a number of budget gimmicks which are designed to mask the actual level of spending in fiscal year 1988. This bill appropriates over $9 million in fiscal year 1987 while allowing those funds to be carried over to fiscal year 1988 — when the expenditures are actually needed. That "appropriate-now and spend-later" budgetary practice is dangerous — it results in $9 million of excessive spending in fiscal year 1988 and an $18 million budget problem the following year. Iowa taxpayers cannot afford double expenditures.

Many of these programs item vetoed are of high priority, and ought to be funded in fiscal year 1988 when the expenditures are actually anticipated. In that way we can forthrightly show the taxpayers of Iowa our budgetary priorities and avoid excessive spending which will cause additional burdens on taxpayers in the future.

House File 355 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 2 in its entirety.

Section 2 of House File 355 prohibits the Department of Human Services from implementing a mandatory coverage system for Title XIX recipients who are enrolled in a health maintenance organization. The Department of Human Services has been attempting to establish health maintenance organizations, consistent with federal law, to contain Medicaid costs. Such programs are already under way in Davenport and Dubuque and it is anticipated that an HMO project will soon be implemented in Des Moines.

Health care costs continue to increase dramatically and threaten taxpayers with excessive costs for the Medicaid program. While it is not palatable to reduce the available services under the Medicaid program, it would be appropriate to look for other reasonable cost containment measures. Contracting for medical services and mandatory HMO services are two such approaches. This would allow individuals eligible for Medicaid to receive appropriate and accessible health care within a predetermined cost to the state's taxpayers. The Department of Human Services is preparing a proposal for a pilot mandatory HMO project for consideration by the Council in January of next year. My budget for fiscal year 1988 assumes that we can save up to $400,000 in Medicaid costs as a result of the mandatory HMO project. Therefore, in order to help limit the taxpayers' liability for Medicaid costs, I cannot accept provisions in Section 2 which would prohibit the Department of Human Services from establishing a mandatory coverage system for Title XIX recipients involved in HMO's.

I am unable to approve that portion of Section 4 of House File 355 which reads as follows:

> "Sec. 4. 1986 Iowa Acts, chapter 1246, section 1, subsection 4, unnumbered paragraph 1, is amended to read as follows:

For establishment and maintenance
of an ambassador's program $ ~~1,000,000~~
500,000"

Section 4 of House File 355 deappropriates $500,000 for the Ambassador's program. It also sets aside $100,000 for a special marketing project for the Quad Cities.

I have recommended and approved that portion of Section 4 which provides these funds for a joint marketing effort with the State of Illinois to promote the Quad Cities. However, I cannot approve the deappropriation of the $500,000 for this program.

These funds cannot be used unless they are matched by private sector contributions. At the present time, a private sector board has been established for the Ambassador's program and private fundraising activities are under way. Many community leaders from throughout the state are excited about this program because it provides a way for them to promote their communities through a grassroots effort.

At the present time, Iowa ranks 35th in the nation in terms of its overall economic development marketing budget. We need more marketing funds — not fewer. I believe it would be inappropriate for us to hamper our private sector fundraising activities and reduce our limited commitment to the marketing and promotion of the State of Iowa by the deappropriation of these funds.

I am unable to approve the item designated as Section 5 in its entirety.

Section 5 of House File 355 deappropriates $500,000 from the Export Finance Program. The Export Finance Program is a program unique to Iowa which provides interest rate reductions for companies interested in entering the export market. While this new program has had a relatively slow start-up, seventeen companies have now been assisted by it and $11.4 million of export sales have been generated as a result. I do not believe it is appropriate to reduce our commitment to economic development efforts, particularly those designed to increase the export of Iowa-produced goods. Therefore, we should maintain the flexibility of the Department of Economic Development to utilize these available funds during the remainder of this fiscal year to enhance our export efforts.

I am unable to approve the item designated as Section 12 in its entirety.

Section 12 of House File 355 appropriates $377,560 to the Department of Health or various health related programs. These are expansions of existing health services programs. In addition, this section allows the funds appropriated this year to be used next fiscal year as well.

Maternal and child health centers, as well as specialty clinics for child health services, are appropriate functions of government and are worthy of consideration for expansion. However, the legislature should not expand existing programs in this supplemental appropriation, given the state's tight finances.

In addition, I am concerned that this section of House File 355 appropriates funds during fiscal year 1987 for what are expected to be fiscal year 1988 expenditures. The legislature should consider funding for the expansion of these health services programs in the appropriate fiscal year budget before adjournment.

I am unable to approve the item designated as Section 16 in its entirety.

Section 16 of House File 355 appropriates $4 million to the Department of General Services to equip the new Historical Building and to be used for Capitol Complex construction and renovation. There is some indication that a portion of these funds is designed to be used for preparatory work for a new legislative office facility. I have given my strong support for funds for

the new Historical Building and Capitol Building renovation. Indeed, in my budget recommendation for fiscal year 1988, I asked that $1 million be appropriated for Capitol restoration and $1.5 million be provided to allow for the equipping of the new Historical Building. I urge the General Assembly to consider these items for full appropriation in the fiscal year 1988 budget before it is finalized.

However, an appropriation of $4 million in fiscal year 1987 with the allowance that these funds be carried forward to fiscal year 1988 again creates a false fiscal year 1988 budget. A portion of these funds are needed and will be spent next fiscal year and that is the period for which they should be appropriated.

I am unable to approve the item designated as Section 17 in its entirety.

Section 17 of House File 355 appropriates $125,000 to start-up funding for the Iowa Grain Quality Program and $75,000 to fund a new demonstration project within the Department of Agriculture and Land Stewardship. In addition, these funds are allowed to be rolled over into the next fiscal year for expenditure. Again, I object to the legislature's efforts to appropriate fiscal year 1988 funds in fiscal year 1987 — I cannot accept this method of false budgeting.

In addition, in this case, the Iowa Grain Quality Program has already begun through the assistance of the Iowa Corn Growers Association, the Iowa Soybean Association, and the Department of Economic Development. At the present time, offers are already on the table with a number of countries interested in purchasing Iowa certified quality grain and a trademark is being established. Therefore, these start-up funds are not necessary. With regard to the demonstration projects, funding is provided for similar projects in the ground water protection bill which is now being considered by the General Assembly. It would be most appropriate for these projects to be considered in that bill.

I am unable to approve the item designated as Section 18 in its entirety.

Section 18 of House File 355 would provide $5 million to the Iowa Agricultural Development Authority for interest buy-down programs and targeted assistance to livestock producers. I recommended that $5 million be appropriated in fiscal year 1988 for this purpose. I believe that the Iowa legislature should provide assistance to agricultural producers who have difficulty obtaining operating credit. Last year, over 1,300 farmers were provided with assistance in this manner. In addition, I recommended that we provide financial assistance to Iowa farmers interested in re-entering the livestock market.

However, House File 355 again appropriates funds in fiscal year 1987 which, in fact, would not be expended until fiscal year 1988. While the Agricultural Development Authority does indicate the need for some minimal administrative costs in fiscal year 1987, most of these funds would not be needed until some time during the middle of fiscal year 1988. That is why I recommended the $5 million appropriation for this purpose during that fiscal year. Therefore, I urge the legislature to appropriate the $5 million for this purpose in the fiscal year 1988 budget to ensure that agricultural producers receive appropriate assistance. Such action is imperative for Iowa agriculture.

I am unable to approve the item designated as Section 19 in its entirety.

Section 19 of House File 355 appropriates $130,000 to cover the expenses of moving the Historical Division's genealogical records from Iowa City to Des Moines.

This section also contains language which allows the funds appropriated in this section to be spent during the fiscal year 1988.

I have recommended appropriate funding to the Department for moving central records to the new Historical Building during the fiscal year 1988. I strongly urge the legislature to adopt those funding recommendations.

I am unable to approve the item designated as Section 21 in its entirety.

Section 21 of House File 355 appropriates $400,000 to Iowa State University for the College of Veterinary Medicine. The College of Veterinary Medicine has experienced a substantial reduction of operating funds due to the expiration of a contract with the State of Nebraska to teach Nebraska veterinary students at Iowa State.

This section also includes a clause allowing unexpended funds during this fiscal year to be utilized next fiscal year. It is anticipated that all of these funds are slated for use in fiscal year 1988.

Thus, despite the merits of this appropriation, Section 21 is but another legislative attempt to appropriate fiscal year 1988 funds in fiscal year 1987. If the legislature wishes to provide additional funds to the Iowa State University College of Veterinary Medicine, they should be provided in the fiscal year in which they are needed — fiscal year 1988. I urge the General Assembly to consider it in that time period.

I am unable to approve the item designated as Section 25 in its entirety.

Section 25 of House File 355 provides the Transportation Commission with authority to issue anticipatory warrants not to exceed $50 million prior to July 1, 1987. This language was included in the bill in order to give the Commission authority to deal with the severe cash flow problems caused by the threatened loss of federal highway funds earlier this year. Now that the federal funding for highways has been settled by the Congress, the authority to issue these certificates is no longer necessary.

I am unable to approve the item designated as Section 26 in its entirety.

Section 26 of House File 355 prohibits the Department of General Services from purchasing or lease-purchasing any equipment costing more than $100,000 for the remainder of fiscal year 1987 and for fiscal year 1988.

This section of House File 355 unnecessarily restricts the ability of the Department of General Services to purchase equipment in a cost effective manner. The Department has effectively used the lease purchase option to minimize costs for essential equipment for state agencies. This restriction could drastically restrict the ability of state government to continue automation plans needed to further reduce the administrative costs of state government. In addition, restricting this method of purchasing would hamstring our ability to update our computer equipment. If such appropriate updating is not accomplished, the quality of services provided to the public would be significantly hampered.

I am unable to approve the item designated as Section 27 of House File 355 in its entirety.

This section of the bill will require all agencies, including the Regent institutions, to transmit to the Director of the Legislative Fiscal Bureau each item of anticipated equipment purchases in excess of $100,000 during the fiscal year. These proposed items are also required to be listed as a separate line item in the proposed budgets by the agencies and the institutions.

Section 27 of this bill is designed to assist the legislature in implementing the restriction on equipment purchases contained in Section 26 of the bill. Given the fact that Section 26 is item vetoed, state agencies and Regent institutions should not be required to do this unnecessary paperwork and reporting. Certainly, if the legislature desires to receive information regarding actual equipment purchases, the information should be made available upon request.

In summary, the state finances remain tight and House File 355 would result in $9 million of excessive spending. Moreover, the state's budget requires a concerted effort over the next

several years to restore it to a generally accepted system of accounting. Appropriating funds in one year and spending them in another would set the state back in our efforts to put the state's fiscal house in order.

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 355 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 229

FEDERAL FUNDS APPROPRIATED AND ALLOCATED

S.F. 513

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 Iowa department of public health, three million eighty-two thousand (3,082,000) dollars for the federal fiscal year beginning October 1, 1987. 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.

Of the funds appropriated in this subsection, twenty-nine thousand eight hundred fifty-one (29,851) dollars shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. Seventeen and eight-tenths percent of the remaining 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. Funds appropriated in subsection 1 shall not be used by the Iowa department of public health for administrative expenses, except for those specified to be used for audits in subsection 1. The Iowa department of public 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 from funds appropriated to the department from the general fund of the state in addition to the amount to be used for audits in subsection 1. The auditor of state shall bill the Iowa department of public health for the costs of the audit.

4. Five percent of the remaining funds appropriated in subsection 1 shall be used to provide alcohol and drug abuse services to women.

5. After deducting the funds allocated in subsections 1, 2, 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 Iowa department of public health:

a.	Drug abuse programs	38.89 percent
b.	Alcohol abuse programs	38.89 percent
c.	Alcohol and drug abuse 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 Iowa department of public 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, 1987. 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.

Of the funds appropriated in this subsection, fifty-three thousand two hundred sixty (53,260) dollars shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, 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 remaining funds appropriated in subsection 1 shall be allocated 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. The University of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child-health speciality clinics.

3. An amount not exceeding one hundred fourteen thousand four hundred eighty-six (114,486) dollars of the remaining funds allocated in subsection 2 to the Iowa department of public health shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

It is the intent of the general assembly that the departments of public health, human services, and education 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, 1987, are transferred to the 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.

5. The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the Social Security Act.

Sec. 3. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, one million forty-seven thousand four hundred ninety-five (1,047,495) dollars for the federal fiscal year beginning October 1, 1987. 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.

Of the funds appropriated in this subsection, five thousand eight hundred eighty (5,880) dollars shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. An amount not exceeding ninety-eight thousand eight hundred seventy (98,870) dollars of the remaining funds appropriated in subsection 1 shall be used by the Iowa department

of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

3. Of the remaining 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 remaining funds appropriated in subsection 1 is transferred within the special fund in the state treasury established under section 8.41, for use by the Iowa department of public 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 1, 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated for use of the following programs in amounts determined by the Iowa department of public health: fluoridation program, risk reduction services, health incentive program, hypertension program, and emergency medical services.

Sec. 4. ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, such amount as is received from the federal government under Pub. L. 99-570 for the federal fiscal year beginning October 1, 1987. Funds appropriated by this section provide for the alcohol and drug abuse treatment and rehabilitation 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 seventeen thousand four hundred (17,400) dollars of the funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the Iowa department of public 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 Iowa department of public health for the cost of the audit.

Sec. 5. NARCOTICS CONTROL ASSISTANCE PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the Iowa department of public health, two million two hundred ninety thousand (2,290,000) dollars for the federal fiscal year beginning October 1, 1987. Funds appropriated by this section are the anticipated funds to be received from the federal government for the designated fiscal year under Pub. L. 99-570 which provides for the narcotics control assistance program 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 ten percent of the funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the Iowa department of public 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 Iowa department of public health for the cost of the audit.

DIVISION II

Sec. 6. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights, the sum of three million seven hundred ninety-six thousand eight hundred twenty-one (3,796,821) dollars for the federal fiscal year beginning October 1, 1987. 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 division of

community action agencies of the department of human rights 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 administrator of the division of community action agencies of the department of human rights shall allocate not less than ninety-seven 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.

2. An amount not exceeding three percent of the funds appropriated in subsection 1 for the federal fiscal year beginning October 1, 1987 shall be used by the division of community action agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights 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 division of community action agencies of the department of human rights for the costs of the audit.

Sec. 7. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development, the sum of twenty-four million nine hundred thousand (24,900,000) dollars for the federal fiscal year beginning October 1, 1987. 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 department of economic development 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, 1987 shall be used by the department of economic development 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, 1987 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 department of economic development. 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 department of economic development 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 economic development for the costs of the audit.

DIVISION III

Sec. 8. EDUCATION APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of education for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the amount received from Pub. L. No. 97-35, Title V, Subtitle D, chapter 2, not to exceed five million nine hundred forty thousand (5,940,000) 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 eighty-eight thousand (1,188,000) 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 thousand (200,000) 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. 9. Funds appropriated in section 8 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. 10. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights, the sum of thirty-five million four hundred ninety thousand nine hundred sixteen (35,490,916) dollars for the fiscal year beginning October 1, 1987. 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 division of community action agencies of the department of human rights 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 division of community action agencies of the department of human rights. 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 division of community action agencies of the department of human rights 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 remaining funds not to exceed one million (1,000,000) dollars to carry forward into the federal fiscal year beginning October 1, 1988, 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. 11. 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 eighty-four thousand nine hundred seventy-two (33,084,972) dollars for the fiscal year beginning October 1, 1987. Funds appropriated by this subsection are the funds, other than the funds appropriated in subsection 3, 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 seven thousand nine hundred thirty-two (1,907,932) 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, 1987. 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, 1987 for the following programs within the department of human services:

	1987-1988 Federal Fiscal Year
a. Field operations	$ 13,068,647
b. Home-based services	$ 153,002
c. Foster care	$ 4,847,444
d. Community-based services	$ 776,329
e. Local administrative costs and other local services	$ 12,199,070
f. Volunteers	$ 132,548

Sec. 12. 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. 13. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 8 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. 14. 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, 4, and 5, section 8, subsection 3, and section 11, 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.

2. If funds received from the federal government from block grants exceed the amounts appropriated in section 10 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.

3. If funds received from the federal government in the form of block grants exceed the amounts appropriated in section 7 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 department of economic development.

4. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 6 of this Act, one hundred percent of the excess is allocated to the community services block grant program.

Sec. 15. 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, 1987 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 1987 federal fiscal year as modified by the 1987 Session of the Seventy-second General Assembly for the fiscal year beginning July 1, 1987 compared to the total federal funds received in the 1987 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, 1987 but had anticipated applying for funds during the fiscal year ending September 30, 1988, 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 1987 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 1987 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 1987 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 1987 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. 16. 1986 Iowa Acts, chapter 1250, is amended by adding the following new sections:

SEC. _____. ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health, such amount as is received from the federal government under Pub. L. 99-570 for the federal fiscal year beginning October 1, 1986. Funds appropriated by this section provide for the alcohol and drug abuse treatment and rehabilitation 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 seventeen thousand four hundred (17,400) dollars of the funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the Iowa department of public 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 Iowa department of public health for the cost of the audit.

SEC. _____. NARCOTICS CONTROL ASSISTANCE PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the Iowa department of public health, two million two hundred ninety thousand (2,290,000) dollars for the federal fiscal year beginning October 1, 1986. Funds appropriated by this section are the anticipated funds to be received from the federal government for the designated fiscal year under Pub. L. 99-570 which provides for the narcotics control assistance program 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 ten percent of the funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the Iowa department of public 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 Iowa department of public health for the cost of the audit.

Sec. 17. 1985 Iowa Acts, chapter 268, section 2, subsection 2, unnumbered paragraph 1, is amended to read as follows:

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.

Approved June 6, 1987

CHAPTER 230

PETROLEUM OVERCHARGE FUNDS

S.F. 517

AN ACT relating to state agencies receiving petroleum overcharge funds and appropriating petroleum overcharge funds.

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

Section 1. There is appropriated for the fiscal year* beginning July 1, 1987 and ending June 30, 1989, the following amounts, or so much thereof as is necessary, from the funds in the Exxon and Stripper Well accounts in the energy conservation trust fund created in section 93.11, as indicated, to the energy and geological resources division of the department of natural resources for disbursement under section 93.11 to the following agencies for the purposes designated:

	Exxon	Stripper Wells
1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects, and including administrative costs	$ 175,000	$
2. To the department of natural resources for the following purposes:		
a. For deposit in the energy bank for schools and merged area schools created in 565 Iowa administrative code, rule 6.5	$	$ 500,000
b. An independent study evaluating federal weatherization due July 1, 1988	$ 75,000	$
c. For energy conservation efforts by low-income nonprofit housing organizations	$	$ 500,000
d. For a competitive grant program administered by the energy fund disbursement council with the following funds to be transferred to the designated agencies for the indicated purposes:		
(1) To the department of natural resources in cooperation with the department of economic development to provide venture capital to new businesses in Iowa whose products or services are directly related to energy conservation	$	$ 500,000
(2) To the department of natural resources for energy conservation grants and contracts to be used to fund cost-effective and environmentally sound energy conservation and renewable resource projects which meet the guidelines of one or more of the five energy programs specified in Pub. L. No. 97-377, § 155, 96 Stat. 1830, 1919 (1982)	$ 1,000,000	$

*According to enrolled Act

e. For the administration of the programs funded by this subsection, except paragraph "f"	$	$ 200,000
f. For deposit in the oil overcharge account of the groundwater protection fund created by House File 631, 1987 Iowa Acts, and allocated as provided in that Act	$ 2,000,000	$ 3,530,000
3.To the state department of transportation for the following purposes:		
a. For energy conservation loans, grants, or expenditures to aid mass transit, to be distributed according to the existing department of transportation formula and targeted for low-income Iowans	$	$ 1,700,000
b. For grants and loans for one or more pilot projects of intermodal transportation facilities, including ports, terminals, transfer facilities and freight distribution centers	$ 750,000	$
c. For energy conservation projects	$	$ 1,500,000
4. To the state board of regents for research by the Iowa State University of science and technology center for industrial research and service on establishing a waste stream for used motor oil, investigating alternative disposal methods, and coordinating with other states' research projects on used motor oil collection and disposal	$	$ 30,000
5. To the department of economic development for the Iowa main street	$ 125,000	$
6. To the department of general services for energy conservation improvements at Terrace Hill	$	$ 50,000

Sec. 2.

1. It is a condition of the funds appropriated by section 1, subsection 1, of this Act that the department of human rights adopt rules to provide that rents shall not be raised because of the increased value of dwelling units due solely to weatherization assistance provided under that paragraph.

2. Notwithstanding section 8.33, the funds appropriated by section 1, subsection 3, paragraph "c" shall not revert and shall continue until the completion of the projects.

3. If an appropriation made by section 1 from the Stripper Wells account of the energy conservation trust fund is eligible to be made in whole or in part from the Exxon account, then, to the extent of that eligibility, that appropriation shall be made from the Exxon account instead of the Stripper Wells account.

Sec. 3. There is appropriated to the designated agencies from the Amoco/Beldridge/Nordstrom account, Amoco Refined account, OKC & Coline account, and the Exxon account in the energy conservation trust fund created in section 93.11 for the fiscal year beginning July 1, 1987 and ending July 1, 1988 the following amounts, or so much thereof as is necessary to maintain the funding level for each of the following programs at the level of the preceding fiscal year, to supplement federal funds for the following programs:

1. To the department of human rights for low-income weatherization program	$ 936,934
2. To the department of natural resources for:	
a. Institutional conservation program	$ 270,702
b. State energy conservation program	$ 118,500

c. Energy extension service program $ 49,700

All the funds in the Amoco/Beldridge/Nordstrom account, Amoco Refined account, and OKC & Coline account shall be appropriated by this section before the funds in the Exxon account are appropriated by this section.

Sec. 4. The state agencies appropriated and disbursed funds under section 1 of this Act shall adopt rules under chapter 17A to establish and implement the programs funded by this Act.

Sec. 5. Section 93.11, subsections 1 and 4, Code 1987, are amended by striking the subsections and inserting in lieu thereof the following:

1. a. The energy conservation trust fund is created within the state treasury. This state on behalf of itself, its citizens, and its political subdivisions accepts any moneys awarded or allocated to the state, its citizens, and its political subdivisions as a result of the federal court decisions and federal department of energy settlements resulting from alleged violations of federal petroleum pricing regulations and deposits the moneys in the energy conservation trust fund.

b. The energy conservation trust fund is established to provide for an orderly, efficient, and effective mechanism to make maximum use of moneys available to the state, in order to increase energy conservation efforts and thereby to save the citizens of this state energy expenditures. The moneys in the accounts in the fund shall be expended only upon appropriation by the general assembly and only for programs which will benefit citizens who may have suffered economic penalties resulting from the alleged petroleum overcharges.

c. The moneys awarded or allocated from each court decision or settlement shall be placed in a separate account in the energy conservation trust fund. Notwithstanding section 453.7, interest and earnings on investments from moneys in the fund shall be credited proportionately to the accounts in the fund.

d. Unless prohibited by the conditions applying to an account, the moneys in the energy conservation trust fund may be used for the payment of attorney fees and expenses incurred by the state to obtain the moneys and shall be paid by the director of revenue and finance from the available moneys in the fund subject to the approval of the attorney general.

e. However, petroleum overcharge funds received pursuant to claims filed on behalf of the state, its institutions, departments, agencies, or political subdivisions shall be deposited in the general fund of the state to be disbursed directly to the appropriate claimants in accordance with federal guidelines and subject to the approval of the attorney general.

4. The administrator of the energy and geological resources division of the department of natural resources shall be the administrator of the energy conservation trust fund. The administrator shall disburse moneys appropriated by the general assembly from the accounts in the fund in accordance with the federal court orders, law and regulation, or settlement conditions applying to the moneys in that account, and subject to the approval of the energy fund disbursement council if such approval is required. The council, after consultation with the attorney general, shall immediately approve the disbursement of moneys from the account in the fund for projects which meet the federal court orders, law and regulations, or settlement conditions which apply to that account.

Sec. 6. Section 93.11, subsection 3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, the administrator of the energy and geological resources division of the department of natural resources, and a designee of the director of the department of transportation, who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the majority leader of the senate and two members of the house of representatives appointed by the speaker of

the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by the energy and geological resources division of the department of natural resources. The attorney general shall provide legal assistance to the council.

Sec. 7. Section 93.11, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 5. The following accounts are established in the energy conservation trust fund:

a. The Warner/Imperial account.

b. The Amoco/Beldridge/Nordstrom account.

c. The Exxon account.

d. The Stripper Wells account.

e. The Diamond Shamrock account.

f. The Amoco Refined account.

g. The OKC & Coline account.

h. The other funds account.

NEW SUBSECTION. 6. The moneys in the account in the energy conservation trust fund distributed to the state as a result of the 1985 federal court decision finding Exxon corporation in violation of federal petroleum pricing regulations shall be expended, to the extent possible, over a period of no more than six years and shall be disbursed for projects which meet the strict guidelines of the five existing federal energy conservation programs specified in Pub. L. No. 97-377, § 155, 96 Stat. 1830, 1919 (1982). The council shall approve the disbursement of moneys from the account in the fund for other projects only if the project meets one or more of the following conditions:

a. The projects meet the guidelines for allowable projects under a modification order entered by the federal court in the case involving Exxon corporation.

b. The projects meet the guidelines for allowable projects under a directive order entered by the federal court in the case involving Exxon corporation.

c. The projects meet the guidelines for allowable projects under the regulations adopted or written clarifications issued by the United States department of energy.

Sec. 8. 1986 Iowa Acts, chapter 1249, section 4, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the funds available in the energy conservation trust fund, established in section 93.11, for the fiscal ~~year~~ period beginning July 1, 1986, and ending June 30, ~~1987~~ 1988, to the energy and geological resources division of the department of natural resources for disbursement under section 93.11, the following amounts, or so much thereof as is necessary, to be used for the purposes designated consistent with the expressed legislative intent of this Act:

Sec. 9. The treasurer of state shall transfer and deposit funds in the petroleum overcharge fund created by section 93.15 into the appropriate accounts in the energy conservation trust fund created by section 93.11. Any appropriation of the funds in the petroleum overcharge fund shall follow and apply to the funds in the energy conservation trust fund.

Sec. 10. Sections 93.15 and 601K.128, Code 1987, are repealed.

Approved June 6, 1987

CHAPTER 231

LOTTERY REVENUES APPROPRIATED AND ALLOCATED

S.F. 515

AN ACT relating to the allocations and appropriations of lottery revenues and the programs for which the revenues may be used.

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

Section 1. Section 99E.9, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. In making decisions relating to the marketing or advertising of the Iowa lottery and the various games offered, the board shall give consideration to marketing or advertising through Iowa-based advertising agencies and media outlets.

Sec. 2. Section 99E.10, subsection 1, unnumbered paragraph 3, Code 1987, is amended to read as follows:

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~~ monthly basis. Revenues generated during the last ~~quarter~~ month of the fiscal year which are transferred to the Iowa plan fund during the following fiscal year shall be considered revenues transferred during the previous fiscal year for purposes of the allotments made to and appropriations made from the separate accounts in the Iowa plan fund for that previous fiscal year. However, upon the request of the director 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~~ monthly transfer to the Iowa plan fund, the director 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.

Sec. 3. Section 99E.20, subsection 2, Code 1987, is amended to read as follows:

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~~ monthly 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. The commissioner shall certify before the twentieth of each month that portion of the fund resulting from the previous month's sales to be transferred to the Iowa plan fund.

Sec. 4. Section 99E.31, subsection 2, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

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 department of economic development specifying the purpose for which the funds will be used. In ranking applications for funds, the department shall consider a variety of factors including, but not limited to:

(1) The proportion of local match to be provided.

(2) The proportion of private contribution to be provided, including the involvement of financial institutions.

(3) The total number of jobs to be created or retained.

(4) The size of the business receiving assistance. The department shall award more points to small businesses as defined by the United States small business administration.

(5) The potential for future growth in the industry represented by the business being considered for assistance.

(6) The need of the business for financial assistance from governmental sources. More points shall be awarded to a business which the department determines that governmental assistance is most necessary to the success of the project.

(7) The quality of the jobs to be created. In rating the quality of the jobs the department shall award more points to those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, or have other related factors.

*(8) *More points shall be awarded for providing loans over grants. Loans in excess of fifty thousand dollars involving a city or county, if the city or county has established a special economic development fund to which repayments of interest would be credited and from which moneys would be used solely for additional economic development projects or purposes, shall be made on the following terms: principal payments shall be paid to the community economic betterment account; interest payments shall be paid to the city or county making the loan; and the city or county shall supervise and enforce the terms of the loan and the cost of supervision and enforcement shall be borne and paid by the city or county from funds other than those received as interest payments on economic development loans. The department shall document all repayments of project loans made through the community economic betterment program. During each legislative session the department shall report to the economic development appropriation subcommittees concerning the expected loan repayments to be collected for the respective fiscal year and the nature and purposes of how the funds resulting from the loan repayments are to be expended.*

(9) The level of need of the political subdivision.

(10) The impact of the proposed project on the economy of the political subdivision.

*(11) *The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall identify existing businesses within an industry in competition with the business being considered for assistance. The department shall determine the probability that the proposed financial assistance will displace employees of the existing businesses and shall consider the level of excess production capacity within an industry when making this determination. In determining the impact on businesses in competition with the business being considered for assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.*

*(12) *The level of compliance of the business with OSHA and other business safety regulations, the quality of the business' relations with labor, the level of fairness in its dealings with its employees, and the amount of business ethics shown by the business.*

The department shall not provide more than one million dollars for any project, unless at least two-thirds of the members of the economic development board 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 department for a project from additional moneys credited to that account is not subject to the one million dollar limitation.

Sec. 5. Section 99E.31, subsection 4, paragraph a, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. In addition to the other proposals mentioned, an institution under the control of the state board of regents, a merged area school, or an independent college or university in the state may apply for a grant for an applied research project. An

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*Item veto see message at end of the Act

applied research project is limited to specific research or the testing of an idea, process, or product to determine the potential for feasible commercial applications. Institutions under the control of the state board of regents, the merged area schools, and the independent colleges and universities shall submit their proposals directly to the Iowa high technology council. The Iowa high technology council shall receive and evaluate the applied research project proposals from the merged area schools, independent colleges and state universities and make recommendations to the Iowa department of economic development. Applied research project proposals may be in, but are not limited to, the following areas of research:

(1) Management development.
(2) Biotechnology.
(3) Microelectronics.
(4) Genetics.
(5) Molecular biology.
(6) Laser science.
(7) Third crop development.
(8) Productivity enhancement/process controls.
(9) Energy alternatives.

NEW UNNUMBERED PARAGRAPH. In the ranking of applied research project proposals, the Iowa department of economic development shall consider all of the following:

(1) Level of private sector support, assistance, or participation in the project.
(2) The commercial feasibility of the project.
(3) The potential of the commercial feasibility of the project to diversify the economic base of Iowa.
(4) The technical feasibility of the project.
(5) Matching funds from other sources.

Funded applied research projects shall be given priority by the Iowa department of economic development in receiving product development funds or other department services or assistance designed to promote or encourage the development of new products or new businesses; by the state board of regents in receiving admission into campus incubators, assistance from the small business development centers, or other services or assistance designed for developing new products or new businesses; and by the community colleges in receiving small business job training programs or other assistance designed for developing new products or new businesses.

Sec. 6. Section 99E.32, subsection 1, paragraphs a and b, Code 1987, are amended to read as follows:

a. In the fiscal year beginning July 1, 1986 the first three million four hundred thirty-eight thousand dollars, in the fiscal year beginning July 1, 1987 the first ~~one~~ six million six hundred seventy-five thousand dollars, in the fiscal year beginning July 1, 1988 the first ~~one~~ three million seven hundred fifty thousand dollars and in the fiscal year beginning July 1, 1989 the first ~~one~~ three million seven hundred fifty thousand 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~~,~~; for the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, eight million five hundred fifty thousand dollars, eight million three hundred seventy-five thousand dollars, seven million nine hundred thousand dollars, and seven million nine hundred thousand dollars, respectively, to the jobs now account~~,~~; and for the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, twelve million five hundred thousand dollars, seven million four hundred thousand dollars, eleven million five hundred thousand dollars, and eleven million two hundred fifty thousand dollars, respectively, to the education and agriculture research and development account. ~~However, the allotment to the jobs now account for the fiscal year beginning July 1, 1986 shall be eight million five hundred fifty thousand dollars.~~

Sec. 7. Section 99E.32, subsection 3, Code 1987, is amended to read as follows:

3. There are 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 99E.33 to be used for the following purposes:

a. To the natural resource commission for the purposes designated in section 99E.31, subsection 3, paragraph "a". For the fiscal year beginning July 1, 1986, the amount appropriated is two million five hundred thousand dollars. For the fiscal year beginning July 1, 1987, the amount appropriated is two million dollars.

b. To the Iowa product development fund for the purposes provided in section 28.89. For the fiscal year beginning July 1, 1987, the amount appropriated is one million five hundred thousand dollars.

c. To the department of cultural affairs for the purposes designated in section 99E.31, subsection 3, paragraph "d". For the fiscal year beginning July 1, 1987, the amount appropriated is six hundred seventy-five thousand dollars.

d. To the Iowa department of economic development for the purposes designated in section 99E.31, subsection 3, paragraph "e". For the fiscal year beginning July 1, 1986, the amount appropriated is two million six hundred thousand dollars. For the fiscal year beginning July 1, 1987, the amount appropriated is two million fifty thousand dollars to be used for the purposes and in the amounts as follows:

(1) Satellite centers under section 28.101, one million one hundred twenty-five thousand dollars of which fifty thousand dollars shall be used by the department to hire a rural development coordinator; forty-five thousand dollars for an informational referral center; and ninety-five thousand dollars for model rural development projects.

(2) Federal procurement offices, one hundred thousand dollars.

(3) Iowa main street program, two hundred seventy-five thousand dollars.

(4) Technical assistance for businesses for purposes of the federal small business innovation research grants program, two hundred fifty thousand dollars of which fifty thousand dollars shall be expended to develop and operate a small business information center.

(5) Business incubators, three hundred thousand dollars.

The funds shall be used to provide for operations of existing incubators and for the establishment of at least one new incubator in the fiscal year. The department will award grants to universities, community colleges, and local communities on an annual basis. In awarding the grants, the department shall consider the incubator's plan to become self-sufficient from the need for further grants within three years of its start-up. Future grants shall be contingent upon how the incubator is succeeding in becoming self-sufficient. The local community, university, or college is required to match the state's grant on a dollar for dollar basis.

e. For the fiscal year beginning July 1, 1986 only, the sum of two hundred thousand dollars for the targeted small business loan guarantee program established pursuant to section 220.111.

f. For the fiscal ~~year~~ years beginning July 1, 1986 and July 1, 1987 only, to the Iowa conservation corps account the sum of one million dollars and seven hundred fifty thousand dollars, respectively. Of the funds appropriated under this paragraph, five hundred thousand dollars shall be used for a summer jobs program for young adults, as a part of the Iowa youth corps and designed to provide part-time public service employment to work on conservation-oriented projects.

g. ~~To~~ For the fiscal years beginning July 1, 1988 and July 1, 1989 only, to the Iowa department of economic development, one million dollars for purposes of administration of the "young adult program" of the Iowa conservation corps, established in section 15.225.

Sec. 8. Section 99E.32, subsection 3, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. h. For the fiscal year beginning July 1, 1987 only, to the advance account of the area school job training fund established in section 280C.6, one million dollars.

NEW LETTERED PARAGRAPH. i. For the fiscal year beginning July 1, 1987 only, to the department of agriculture and land stewardship the sum of three hundred thousand dollars for developing pilot public/private partnerships to assist Iowa producers of agricultural products in the promotion, marketing, and selling of agricultural products to local and regional markets.

NEW LETTERED PARAGRAPH. j. For the fiscal year beginning July 1, 1987 only, to the department of agriculture and land stewardship the sum of one hundred thousand dollars, or so much as is necessary, to provide a grant to the organizers from the 1988 world ag expo in the Amana colonies.

Sec. 9. Section 99E.32, subsection 4, Code 1987, is amended to read as follows:

4. There are 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 99E.33 to be used for the following purposes:

a. To the Iowa college aid commission for the forgivable loan program established in sections 261.71 to 261.73. For the fiscal year beginning July 1, 1986, the amount appropriated is seven hundred fifty thousand dollars. Notwithstanding subsection 7, any moneys not expended under this paragraph by June 30, 1987 shall not be used for purposes of this paragraph but shall be transferred and used for the purposes described in paragraph "c" for the fiscal year beginning July 1, 1987. For the fiscal year beginning July 1, 1987, no amount is appropriated.

b. To the Iowa department of economic development for the purposes and under the conditions specified in section 99E.31, subsection 4, paragraph "a". For the fiscal year beginning July 1, 1986, the amount appropriated is ten million seven hundred fifty thousand dollars. For the fiscal year beginning July 1, 1987, the amount appropriated is seven million dollars of which five hundred thousand dollars shall be allocated to the Iowa State University of science and technology for the national center for food and industrial agricultural product development; and two hundred fifty thousand dollars shall be allocated to the University of Northern Iowa for the decision making science institute.

c. To the Iowa college aid commission for the purposes and under the conditions specified in section 99E.31, subsection 4, paragraph "b". For the fiscal year beginning July 1, 1987, no amount is appropriated. However, the funds transferred under paragraph "a" are available for use under this paragraph for the fiscal year beginning July 1, 1987.

d. For the fiscal years beginning July 1, 1987 and July 1, 1988 only, to the Iowa peace institute, the sum of two hundred fifty thousand dollars each fiscal year for salaries, support, and maintenance provided, and to the extent that, the appropriations are matched dollar for dollar by the Iowa peace institute. The peace institute shall not use any of the state funds for the construction or purchase of real property.

e. For the fiscal years beginning July 1, 1987, July 1, 1988, and July 1, 1989 to the Iowa State University of science and technology, the sum of one hundred fifty thousand dollars for each fiscal year for allocation to the Iowa State University water resource research institute for a subsurface water and nutrient management system. This research shall concentrate its efforts on providing optimum soil water table level throughout the growing season, reduction of nitrates in Iowa's surface and subsurface waters, reduction of Iowa's dependency on subsurface water for irrigation, increasing productivity of selected Iowa soils for selected crops. The Iowa State University water resource research institute shall administer the research funds and report to the general assembly by February 1 of each year, on the program's progress and results.

Sec. 10. Section 99E.32, subsection 5, paragraphs c and h, Code 1987, are amended to read as follows:

c. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for the fiscal ~~year~~ years beginning July 1, 1986 and July 1, 1987 to the Iowa state university of science and technology for funding for the small business development centers the sum of seven hundred thousand dollars and eight hundred twenty-five thousand dollars, respectively.

h. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1986 to the legislative council for the use of the world trade advisory committee the sum of one hundred twenty-five thousand dollars, or so much thereof as is necessary, to pay expenses of the members of the committee and other expenses approved by the committee. Notwithstanding subsection 7, any moneys not expended under this paragraph by June 30, 1987 shall ~~revert to the Iowa plan fund to be allotted~~ be transferred for the fiscal year beginning July 1, 1987 to the ~~various accounts in the Iowa plan fund~~ department of economic development for a labor management council for which the department may contract out.

Sec. 11. Section 99E.32, subsection 5, Code 1987, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. i. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1987 to the Iowa department of economic development the sum of two million dollars for the establishment of welcome centers as provided in 1987 Iowa Acts, House File 540. Of the amounts appropriated, sixty thousand dollars shall be used for the establishment of rural centers to be located in or near communities with populations of five thousand or less. Not more than twenty thousand dollars shall be expended for each center. The local communities are required to equally match state funds.

NEW LETTERED PARAGRAPH. j. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for construction, equipment, renovation, and other costs associated with buildings in the capitol complex the sum of two million seven hundred fifty thousand dollars for each of the fiscal years beginning July 1, 1987; July 1, 1988; and July 1, 1989 to the department of general services. Of the total funds appropriated, seven hundred fifty thousand dollars shall be utilized to pay costs of equipping the new historical building and the costs of moving exhibits into that building; **the funds shall next be used to construct and equip additional space for the general assembly as approved by the legislative council;** and the remaining funds shall be used for renovation and remodeling of buildings in the capitol complex.

NEW LETTERED PARAGRAPH. k. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1987 to the department of public defense for the purpose of the armory in Algona the sum of fifty thousand dollars.

NEW LETTERED PARAGRAPH. l. There is appropriated from the allotment to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1987 to the department of public defense for the purpose of the armory in Denison the sum of fifty thousand dollars.

Sec. 12. Section 99E.32, subsection 7, Code 1987, is amended to read as follows:

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~~

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~~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.

**Sec. 13.* *Section 99E.32, Code 1987, is amended by adding the following new subsection:*

NEW SUBSECTION. *9. All agencies, boards, commissions, or overseers of funds to which moneys are appropriated under this section shall report to the legislative fiscal bureau by October 10, January 10, April 10, and July 10 for each quarter ending September 30, December 31, March 31, and June 30 of the fiscal year for which the funds are appropriated. The legislative fiscal bureau shall determine the necessary financial and program information to be transmitted to the general assembly.**

Sec. 14. Section 28.101, subsection 2, unnumbered paragraph 1, Code 1987, 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 department 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 May 3, 1985. Each regional delivery area wishing to receive a grant from the department 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 department. A grant shall not be awarded within the regional economic delivery area without the approval of the regional coordinating plan by the department. The department may rescind its approval of a regional coordinating plan upon thirty days notice, if the department determines that the stated purpose of the plan is not being carried out. The department 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 regional coordinating councils shall have sole authority to hire the director of the satellite centers. If, in the opinion of the department, the director of any satellite center is not fulfilling the regional coordinating plan, the department may rescind its approval of the plan. The center director's duties and responsibilities include the following:

Sec. 15. NEW SECTION. 38.1 PEACE INSTITUTE.

A corporate body called the "Iowa Peace Institute" is created. The institute is an independent nonprofit public instrumentality and the exercise of the powers granted to the institute as a corporation in this chapter is an essential governmental function. As used in this chapter "institute" means the "Iowa Peace Institute". The purposes of the institute include but are not limited to the following:

1. Provide statewide leadership in promoting the establishment of the United States institute of peace in Iowa.
2. Develop programs that promote peace among nations.
3. Cooperate with the efforts of institutions of higher education in the state in providing courses in the history, culture, religion and language of world communities.
4. Encourage development of courses in the art of negotiation and conflict resolution without the use of violence.

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5. Maintain a roster of specialists in world trouble areas to lecture, hold seminars, and participate in designing alternate policy options.

6. Develop alternative strategies for settling international disputes which could be proposed to or contracted for by the United States and other governments.

7. Contract with persons or business organizations to facilitate their engaging in international commerce.

Sec. 16. NEW SECTION. 38.2 GOVERNING BOARD.

The institute shall be administered by a governing board which shall consist of not less than fifteen members nor more than twenty-five members as determined by the bylaws of the institute. The bylaws shall also provide for the method of selection of the members, except that seven members shall be appointed as follows:

1. Three members shall be appointed by the governor.
2. One member shall be selected by the majority leader of the senate.
3. One member shall be selected by the minority leader of the senate.
4. One member shall be selected by the speaker of the house of representatives.
5. One member shall be selected by the minority leader of the house of representatives.

Members shall serve a term of four years. Vacancies shall be filled for the unexpired portion of the term.

Sec. 17. NEW SECTION. 38.3 NONPROFIT CORPORATION.

The institute as a corporation has perpetual succession 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. 18. NEW SECTION. 38.4 DUTIES OF THE BOARD.

The governing board, within the limits of the funds available to it, shall:

1. Employ an executive director to administer the activities of the institute and employ support personnel as necessary.
2. Approve plans relating to the purposes for which the institute is established.
3. Execute contracts with public and private agencies relating to the purposes for which the institute is established.
4. Perform other functions necessary to carry out the purposes of the institute.
5. Establish advisory committees to assist the institute in carrying out its purposes.
6. Provide an annual report to the governor and the general assembly.

Sec. 19. NEW SECTION. 38.5 GIFTS — GRANTS.

The institute may accept grants, gifts, and bequests, including but not limited to appropriations, federal funds, and other funding available for carrying out the purposes of the institute.

Sec. 20.

1. It is the intent of the general assembly that the department of economic development, in its administration of the community economic betterment account grant program, shall conform its activities to the mission, goals, and objectives provided in this section and collect information pertaining to performance measures developed by the legislative fiscal bureau. The department shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the economic development appropriations subcommittee on the performance measures. The department shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.

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*Item veto see message at end of the Act

2. The department exists to enhance the economic development of the state and provide for job creation and increased prosperity and opportunities for the citizens of the state by providing direct financial and technical assistance and training to businesses and individuals by coordinating other state, local, and federal economic development programs.

3. The department's goals includes the diversification and expansion of the state's economic base and to retain businesses which currently make up that economic base to accomplish the following objectives:

a. To assist businesses that add diversity to and generate new opportunities for the state economy.

b. To attract, retain, and expand businesses that produce exports or import substitutes, including businesses which purchase a larger share of their products from Iowa producers which should receive a higher priority.

c. To assist businesses whose products or services do not necessarily have to be produced in this state.

d. To assist businesses which pay higher wages.

e. To assist businesses who produce value-added products and services.

4. The community economic betterment account grant program elements which will be reviewed by the legislative fiscal bureau as performance indicators include:

a. The total amount of community economic betterment funds available.

b. The total number of businesses assisted.

c. The total number of jobs retained.

d. The total number of jobs created.

e. The total amount of funds leveraged from outside sources.

f. The number and dollar amount of grants and loans and number of jobs associated with CEBA-assisted businesses identified by the department as existing businesses which change or expand product lines and effectively reduce the dominance of the Iowa economy by agriculture or agriculture-related industries.

g. The number and dollar amount of grants and loans and number of jobs associated with CEBA-assisted businesses identified by the department as start-up businesses which effectively reduce the dominance of the Iowa economy by agriculture or agriculture-related industries.

h. The number and dollar amount of grants and loans and number of jobs associated with CEBA-assisted businesses identified by the department as relocated businesses which effectively reduce the dominance of the Iowa economy by agriculture or agriculture-related industries.

i. The number and dollar amount of grants and loans and number of jobs associated with CEBA-assisted businesses identified by the department as businesses that produce agriculture-related value-added products and services.

j. The number and dollar amount of grants and loans and number of jobs associated with CEBA-assisted businesses identified by the department that produce exports or import substitutes.

k. The number and dollar amount of grants and loans and number of jobs associated with CEBA-assisted businesses identified by the department that would not necessarily have to produce products and services in Iowa.

*l. The number and dollar amount of grants and loans and number of jobs associated with the range of wages and benefits paid by businesses which received CEBA funds.**

Sec. 21. Section 99E.32, subsection 2, paragraph h, as enacted by 1987 Iowa Acts, House File 355, section 29, is amended to read as follows:

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*Item veto see message at end of the Act

h. For the fiscal ~~year~~ years beginning on July 1, 1986 and July 1, 1987 the department shall establish a pilot program entitled the new business opportunity program to provide financial and technical assistance to emerging businesses and industries that expand and diversify the state's economic base. Assistance may be in any form authorized under the community economic betterment account and the department may allocate for each of those fiscal years up to one million dollars of the account's funds for the pilot program.

Sec. 22. 1986 Iowa Acts, chapter 1190, section 10, is repealed.

Approved June 7, 1987, except the items which I hereby disapprove and which are designated as section 4, subsection 8; section 4, subsection 11; that portion of section 4, subsection 12 which is herein bracketed in ink and initialed by me; that portion of section 11, new lettered paragraph j which is herein bracketed in ink and initialed by me; section 13; and section 20. My reasons for vetoing these items are delineated 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*

Dear Madam Secretary:

I hereby transmit Senate File 515, an Act relating to the allocations and appropriations of lottery revenues and the programs for which the revenues may be used.

Senate File 515 makes appropriations from lottery revenues to the various accounts of the Iowa Plan Fund. I am pleased that the General Assembly, for the most part, maintained our commitment to use the lottery funds for economic development and job creation activities. However, the language included in this legislation unwisely restricts the use of these funds for job creation purposes, provides funds for the construction of a legislative underground office facility which has little, if any, positive economic development impact, and inappropriately involves the legislative branch in executive branch management activities.

Senate File 515 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 4, Subsections 8, 11 in their entirety and the first paragraph of Subsection 12.

Subsections 8, 11 and a portion of 12 of Section 4 of Senate File 515 provide unnecessary restrictions on the ability of the Department of Economic Development to provide community economic betterment account funds. These funds are provided to local communities to assist in job creation efforts. One of the values of this program has been its flexibility – the Department is able to act quickly and responsibly in the race for new jobs.

Subsections 8, 11 and 12 would greatly hamper the ability of the Department of Economic Development to respond quickly to an opportunity for new job creation in the state. Subsection 10 would require large upfront loans to eligible businesses which would quickly dry up available funds. While loans should be used where economically feasible, the department should retain the flexibility to use either grants or loans.

Subsection 11 requires a detailed competitive impact assessment before funds are authorized. The competitive impacts of CEB grants should and are a part of the department's decision-making process. However, the detailed restrictions imposed in Subsection 11 would greatly limit the ability of the department to act quickly in response to an economic development opportunity.

In addition, the designated portion of Subsection 12 would require the department to do an exhaustive analysis of each company's labor relations and "business ethics" record prior to providing assistance to create jobs. Such standards are illusory and could tie the department up into bureaucratic knots when speed and decisiveness are needed to obtain new jobs.

Taken together, these subsections could well cost Iowa jobs in the future by unnecessarily restricting the use of community economic betterment funds. They must therefore be disapproved.

I am unable to approve the item designated as that portion of Section 11, New Lettered Paragraph, j, which reads as follows: "the funds shall next be used to construct and equip additional space for the general assembly as approved by the legislative council;".

This item of Senate File 515 provides funds for the construction of an underground office building for the General Assembly. The General Assembly has also provided appropriations for the next several fiscal years to complete this multi-million construction project. Given the state's tight fiscal condition and the need for additional funds for economic development and other important priorities, I cannot approve this measure to construct a new legislative office building.

Lottery funds are to be used for economic development purposes. Constructing an underground office facility for the expansion of the General Assembly is not the type of job creation Iowans had in mind when the lottery funding package was first developed. For that reason, I cannot approve this item.

I am unable to approve the item designated as Section 13 in its entirety.

Section 13 of Senate File 515 requires all the agencies, boards and commissions which receive funds from the lottery to provide frequent reports to the legislative fiscal bureau. This is an excessive level of reporting and would limit the ability of the managers of these funds to appropriately administer the programs within the executive branch's discretion. Therefore, I cannot approve this item.

I am unable to approve the item designated as Section 20 in its entirety. Section 20 of Senate File 515 imposes burdensome performance measures and reporting requirements on the Department of Economic Development. The type of management related goals, and reporting mechanisms included in the bill are the essence of executive branch administrative discretion. The Department of Management has developed performance measures for each department. The results of these measures can be shared at appropriate times with the Legislative branch.

In addition, the Department of Economic Development will respond to appropriate requests for information from the legislature regarding the implementation of economic development programs. However, the administration of programs must remain an executive branch prerogative without the encroachment incorporated in Section 20 of Senate File 515.

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 Senate File 515 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 232

APPROPRIATIONS AND PROVISIONS RELATING TO PUBLIC DEFENSE, PUBLIC SAFETY, AND TRANSPORTATION

S.F. 518

AN ACT relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation, and enforcement, and including allocation of moneys from the road use tax fund and providing effective dates.

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 Iowa law enforcement academy for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
1. For salaries and support for not more than twenty-four point thirty-six full-time equivalent positions, maintenance and miscellaneous purposes	$ 749,800

Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1987 to the Iowa law enforcement academy the sum of twenty-eight thousand two hundred (28,200) dollars for repair of a chiller unit, repair of a parking lot, repair or replacement of carpet and replacement of a washing machine at the academy.

2. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1987, to the Iowa law enforcement academy the sum of thirty-five thousand (35,000) dollars for the purchase of judgmental shooting equipment.

**3.* *It is the intent of the general assembly that the Iowa law enforcement academy, in its training program, shall conform its activities to the mission, goals, and objectives provided in this subsection and collect information pertaining to performance measures developed by the legislative fiscal bureau. The academy shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the transportation and safety appropriations subcommittee on the performance measures. The academy shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.*

The academy exists to maximize training opportunities for law enforcement officers and jailers in an effort to upgrade and maintain law enforcement at a professional status by providing and coordinating basic and continued training.

The academy goals include providing basic and continued training of all law enforcement officers and jailers of the state and its political subdivisions, continuing to upgrade the professional status of law enforcement and jailer training in the state, and insuring uniformity and quality of training across the state to accomplish the following objectives:

a. To continue the production of audio-visual training materials.

b. To serve as the principal library and media resource center.

c. To conduct law enforcement basic training courses and continued training courses.

d. To provide continued training for Iowa law enforcement academy training officers so they can maintain state-of-the-art information.

e. To design and prepare entrance level and promotional examinations for use by county civil service commissions.

f. To administer psychological tests to applicants for law enforcement positions.

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*Item veto, see message at end of the Act

g. To direct research in the field of law enforcement.

h. To process applications for reserve peace officers to carry weapons.

i. To make recommendations to the governor, the general assembly, and others on matters to upgrade the law enforcement and jailer service.

j. To adopt rules and regulations.

*k. To increase the incidence of regionally facilitated in-service training courses.**

Sec. 2. Notwithstanding section 80B.11, subsection 5, during the fiscal year beginning July 1, 1987, not more than one-half of the cost of providing cognitive and psychological examinations of law enforcement officer candidates may be charged for taking the examinations by the Iowa law enforcement academy. However, no charge shall be made for officer candidates being tested on behalf of state departments or agencies.

The Iowa law enforcement academy may also charge not more than one-half of the cost of providing the ten-week course which is designed to meet the minimum basic training requirements for a law enforcement officer. However, a charge shall not be made for officers employed by state departments or agencies.

Sec. 3. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For salaries and support of not more than one hundred forty-two point zero five full-time equivalent positions, maintenance, and miscellaneous purposes	$ 3,221,000

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 and fifty cents per capita for the fiscal year beginning July 1, 1987 and ending June 30, 1988. 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.

2. For the war orphans educational aid fund	$ 15,200

Sec. 4. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

	1987-1988 Fiscal Year
1. ADMINISTRATIVE FUNCTION	
a. For salaries and support for not more than forty-five point seventy-five full-time equivalent positions, maintenance, and miscellaneous purposes of the department's administrative functions including the medical examiner's office and the criminal justice information system	$ 1,957,800
b. For salaries and support of not more than seventy-nine full-time equivalent positions, maintenance, and miscellaneous purposes relating to radio communications	$ 2,612,000

The balance of the fund created under section 321J.17 carried forward each fiscal year may be used to provide salary and support of not more than eight and five-tenths full-time equivalent positions and maintenance for the victim compensation functions of the department of public safety.

2. INSPECTION FUNCTION

For salaries and support of not more than thirty two full-time equivalent positions, maintenance, and miscellaneous purposes of fire marshal's inspections, administration of the state

*Item veto, see message at end of the Act

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 $ 1,138,500

3. SECURITY FUNCTION

For salaries and support of not more than thirty-one full-time equivalent positions, maintenance, and miscellaneous purposes of the capitol security division $ 808,500

4. INVESTIGATION FUNCTION

a. For salaries and support of not more than one hundred thirty-six full-time equivalent positions, 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 $ 5,099,675

b. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1987, to the department of public safety, division of criminal investigation, the sum of two hundred thousand (200,000) dollars for undercover purchases by the division of criminal investigation and local law enforcement agencies.

c. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated from the unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1987 to the department of public safety, division of criminal investigation, the sum of two hundred thousand (200,000) dollars, or so much thereof as is necessary, to be used for salaries, support, maintenance, and miscellaneous purposes.

d. For salaries and support of not more than four full-time equivalent positions, maintenance, and miscellaneous purposes for the employment of pari-mutuel 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 $ 180,900

Sec. 5. Notwithstanding section 384.15, subsection 7, paragraph "b", there is appropriated all unencumbered and unobligated money remaining in the law enforcement training reimbursement fund on June 30, 1987, after operation of section 1, subsections 1 and 2, and section 4, subsection 4, paragraphs "b" and "c" of this Act, to the department of public safety for the capital acquisition of an automated fingerprint identification system (AFIS). There is also appropriated the unencumbered and unobligated money credited to the law enforcement training reimbursement fund during the fiscal year beginning July 1, 1987 and ending June 30, 1988, to the department of public safety for such fiscal year for the capital acquisition of an automated fingerprint identification system (AFIS). However, the total moneys appropriated under this section shall not exceed five hundred thousand (500,000) dollars.

Except as otherwise provided by law, the automated fingerprint identification system computer committee as established in 1986 Iowa Acts, chapter 1207, section 18, paragraph "c", shall be maintained.

Sec. 6. There is appropriated from the road use tax fund to the department of public safety, division of highway safety and uniformed force, for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used as follows:

	1987-1988 Fiscal Year
1. For salaries and support of not more than four hundred forty-two full-time equivalent positions, maintenance, and miscellaneous purposes including the federal Highway Safety Act program, and the state's contributions 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	$ 19,352,000

However, the unfunded liability of the peace officers' retirement, accident, and disability system, as of July 1, 1986 shall not be considered a liability of the road use tax fund.

An employee of the department of public safety or the department of natural resources or their successor agencies 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 the employee previously served in a position which would have been covered by the agreement. The employee shall be given credit for the service in that prior position as though it were covered by that agreement. This section shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

It is the intent of the general assembly that the department of public safety, division of highway safety and uniformed force, increase the number of its vehicle theft officers by two full-time equivalent positions under this appropriation.

2. For the capital purchase of four hundred nine mobile vehicle repeaters and radios to be used by the Iowa state patrol, eight hundred forty thousand (840,000) dollars, or so much thereof as may be necessary. Moneys credited under this subsection are for mobile vehicle repeaters and radios to be placed solely in new motor vehicles used by members of the Iowa safety patrol below the rank of lieutenant for patrolling the highways.

Sec. 7. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
1. For salaries, support, maintenance, and miscellaneous purposes for:	
a. Administrative services (forty-nine full-time equivalent positions)	$ 2,637,476
b. General counsel (one full-time equivalent position)	$ 116,925
c. Planning and research (nine full-time equivalent positions)	$ 283,645
d. Aeronautics and public transit (four full-time equivalent positions)	$ 156,275
e. Motor vehicles (five hundred twenty-nine full-time equivalent positions)	$ 14,225,922
f. Rail and water (fifteen full-time equivalent positions)	$ 557,000
2. For the purpose of making payments to the department of personnel 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	$ 12,500

Sec. 8. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of ninety-five thousand eighty (95,080) 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 and the department of public safety, division of highway safety and uniformed force.

Sec. 9. There is appropriated from the road use tax fund from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", to the department of transportation for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of seven hundred fifty thousand (750,000) dollars for improving the state aircraft pool.

Sec. 10. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
1. For salaries, support, maintenance, and miscellaneous purposes for:	
a. Administrative services (three hundred one full-time equivalent positions)	$ 16,355,404
b. General counsel (seven full-time equivalent positions)	$ 689,942
c. Planning and research (one hundred sixty-four full time equivalent positions)	$ 5,388,387
d. Aeronautics and public transit (four full-time equivalent positions)	$ 156,275
e. Highways (two thousand eight hundred seventy-six full-time equivalent positions)	$ 111,735,947
f. Motor vehicles (eighteen full-time equivalent positions)	$ 492,435
g. Rail and water (seven full-time equivalent positions)	$ 236,000
2. To be deposited in the state department of transportation materials and equipment revolving fund established by section 307.47 for funding the increased replacement cost of vehicles	$ 2,000,000
3. For the purpose of making payments to the department of personnel 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
5. Subject to enactment of a new transportation network designed to serve business and industry, for salaries and support for not more than twenty-three full-time equivalent positions, maintenance and miscellaneous purposes	$ 750,000

Sec. 11. There is appropriated from the road use tax fund from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b" to the state department of transportation for the fiscal year beginning July 1, 1987 and ending June 30, 1988, for the purposes of terminal improvements at essential air service airports, the sum of two hundred fifty thousand (250,000) dollars. In selecting projects the state department of transportation shall give preference to projects that will assist in maintaining and attracting air service.

Sec. 12. The treasurer of state shall credit in six equal installments prior to January 1, 1988, from the road use tax fund from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", to the state department of transportation for purposes of retiring bonds and indebtedness on state-owned toll bridges an amount sufficient to repay all indebtedness on all state-owned toll bridges. Tolls on these bridges shall be eliminated no later than July 1, 1987.

Section 8.33 does not apply to moneys credited under this section. Any Iowa residents employed by the state department of transportation for collecting tolls on these bridges shall be given preference for subsequent employment with the state department of transportation for positions for which they are qualified.

Sec. 13. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of six hundred sixty-six thousand five hundred forty (666,540) 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. 14. There is appropriated from the state aviation fund to the state department of transportation for the administration of aeronautics and public transit for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
1. For salaries and support of not more than eight full-time equivalent positions, maintenance and miscellaneous purposes	$ 276,548
2. For salary and support for not more than one full-time equivalent position, maintenance, and miscellaneous purposes if a new transportation network designed to serve business and industry is enacted and becomes law	$ 35,000

Sec. 15. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used in the manner designated:

	1987-1988 Fiscal Year
1. For the repaving of the warehouse lot at the Ames complex	$ 150,000
2. For the replacement of obsolete field facilities at Adair, Creston, Denison, Greenfield, Oakland, Sac City, and Sigourney	$ 3,510,500

It is the intent of the general assembly that the state department of transportation check on the availability of existing buildings in these cities to determine the feasibility of remodeling existing buildings rather than constructing new facilities.

3. Section 8.33 does not apply to the funds appropriated by this section. However, unencumbered or unobligated funds remaining on June 30, 1991 from funds appropriated for the fiscal year beginning July 1, 1987 shall revert to the fund from which appropriated on September 30, 1991.

Sec. 16. *The state department of transportation shall lower the entrance pipe by two feet at station 329 + 60 Rt on U.S. highway 63 in Tama county, Iowa.

Sec. 17. Section 80.4, Code 1987, is amended to read as follows:

80.4 HIGHWAY PATROL.

The Iowa highway safety patrol is established in the department of public safety ~~shall consist of a complement of not to exceed four hundred ten persons~~. The patrol shall be under the direction of the director of public safety.

Sec. 18. Section 306.42, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding any other provision of the Code, for transfers of roads and streets made after May 1, 1987, neither the transferring jurisdiction or the receiving jurisdiction shall be held liable for any claim or damage for any act or omission relating to the design, construction, or maintenance of the road or street that occurred prior to the effective date of the transfer. This paragraph shall apply to all transfers pursuant to this chapter or section 313.2.

Sec. 19. Section 312.2, subsection 17, Code 1987, is amended to read as follows:

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

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*Item veto, see message at end of the Act

section 601J.6, an amount equal to one fortieth of the revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b".

Sec. 20. Section 312.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 18. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the state department of transportation for county, city and state traffic safety improvement projects an amount equal to one-half of one percent of moneys credited to the road use tax fund.

Sec. 21. Section 313.63, Code 1987, is amended to read as follows:

313.63 ACTION BY ADJOINING STATE.

The department shall not enter into an agreement of acceptance until the adjoining state enters into an agreement to accept ownership of that portion of the bridge being within ~~such~~ the adjoining state~~, and agrees to pay the cost of maintaining such portion of the bridge or its proportionate share of the total cost of maintaining the bridge~~.

Sec. 22. Section 313A.34, subsection 6, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

6. A provision for the division of ownership with the adjoining state and for a proportional division of the maintenance costs of the bridge when all outstanding indebtedness or other obligations payable from the revenues of the bridge have been paid.

Sec. 23. Section 316.15, Code 1987, is amended to read as follows:

316.15 FEDERAL GRANTS — PAYMENT OF RIGHT-OF-WAY AND RELOCATION ASSISTANCE BENEFITS.

The department may do all things necessary to carry out the provisions of this chapter and to secure federal grants to make the payments required by this chapter, but the absence of federal aid to make such payments shall not discharge the obligation to make the payments. The department is authorized to pay all right-of-way and relocation assistance benefits in the full amount authorized by federal standards and rules. In order to avoid delays, payment for such benefits made in cooperation with the federal government may be advanced from the primary road fund.

Sec. 24. Section 321J.17, Code 1987, is amended to read as follows:

321J.17 CIVIL PENALTY — SEPARATE FUND — REINSTATEMENT.

When the department revokes a person's motor vehicle license or nonresident 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. Any balance in the 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 motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 25. Section 327H.24, Code 1987, is amended to read as follows:

327H.24 REVERSIONS — TRANSFERS — MONEYS TO BE REPAID.

Moneys deposited in the railroad assistance fund ~~shall~~ are not ~~be~~ subject to ~~section~~ sections 8.33 and 8.39. However, moneys credited to the fund by a city, county, or railroad district which are unexpended or unobligated following the expiration of an agreement shall be paid back to the city, county, or railroad district.

Sec. 26. Section 423.24, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

423.24 DEPOSIT OF REVENUE.

The revenue arising from the operation of this chapter shall be credited as follows:

1. a. All revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 shall be credited to the primary road fund to the extent necessary to reimburse that fund for the expenditures, not otherwise eligible to be made from the primary road fund, made for repairing, improving and maintaining bridges over the rivers bordering the state. Expenditures for those portions of bridges within adjacent states may be included when they are made pursuant to an agreement entered into under sections 313.63, 313A.34 and 314.10.

b. Any remaining revenues derived from the operation of section 423.7 shall be credited to the road use tax fund.

2. All other revenue arising under the operation of this chapter shall be credited to the general fund of the state.

Sec. 27. Section 327H.24, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 453.7, subsection 2, interest and earnings on moneys deposited in the railroad assistance fund shall be credited to the railroad assistance fund. Interest and earnings credited to the railroad assistance fund under this paragraph shall be expended as nonreimbursable grants.

Sec. 28. 1983 Iowa Acts, chapter 198, section 32, unnumbered paragraph 1, is amended to read as follows:

SEC. 32. Notwithstanding the provisions of section 423.24, there is transferred from revenues collected under chapter 423 during each year of the fiscal period beginning July 1, 1983 and ending June 30, 1985 from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of seven million five hundred thousand (7,500,000) dollars which shall be transferred to the special railroad facility fund to be used exclusively for the purposes provided in this section. The Iowa railway finance authority may enter into a partnership agreement as allowed under section 307B.7, subsection 7, for the purpose of acquiring the right-of-way of the Chicago, Rock Island and Pacific railroad. The funds shall be expended to supplement private investment capital obtained for that purpose by matching any private investment capital on an equal basis. The funds transferred to the special railroad facility fund under this section shall be considered an interest-free loan to be repaid to the road use tax fund from receipts credited to the special railroad facility fund under section 307B.23 except that moneys credited for repayment of the loan during the period beginning July 1, 1987 and ending June 30, 1989, shall be credited to the railroad assistance fund.

**Sec. 29. 1986 Iowa Acts, chapter 1246, section 12, subsection 5, is amended to read as follows:*

*5. For ~~area~~ garages ~~for the~~ in Tama-Toledo ~~area~~, Dubuque and Centerville $ 1,344,000**

Sec. 30. 1986 Iowa Acts, chapter 1246, section 12, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Section 8.33 does not apply to the funds appropriated by this section. However, unencumbered or unobligated funds remaining on June 30, 1991 from funds appropriated for the fiscal year beginning July 1, 1986 shall revert to the fund from which appropriated on September 30, 1991.

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*Item veto; see message at end of the Act

Sec. 31. 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.

Sec. 32. Section 1, subsections 1 and 2, section 4, subsection 4, paragraphs "b" and "c" and sections 5, 24, 25, and 30, take effect June 30, 1987.

Approved June 8, 1987, except the items which I hereby disapprove and which are designated as section 1, subsection 3; section 16; and section 29; all of which are bracketed in ink and initialed by me. My reasons for vetoing these items are delineated 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*

Dear Madam Secretary:

I hereby transmit Senate File 518, an Act relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation, and enforcement, and including allocation of moneys from the road use tax fund and providing effective dates.

Senate File 518 provides appropriations for law enforcement and transportation related agencies in state government. While I have some concern about the excessive appropriations from the law enforcement training reimbursement fund, the appropriations made in this bill are generally in line with my original recommendations. However, Senate File 518 includes several provisions which excessively tie the hands of the executive branch of state government and must be vetoed.

I am unable to approve the item designated as Section 1, Subsection 3 in its entirety. Subsection 3 of Section 1 of Senate File 518 establishes detailed performance review measures and reporting requirements for the law enforcement academy's training program. The management-related goals and reporting mechanisms included in this subsection are the essence of executive branch administrative discretion. The Department of Management has developed performance measures for each department. The results of these measures can be shared at appropriate times with the legislative branch. However, the legislative requirements imposed in Subsection 3 are excessive and cannot be approved.

I am unable to approve Section 16 of Senate File 518 in its entirety. Section 16 requires the Department of Transportation to lower the entrance pipe by two feet at station 329 + 60 Rt on U.S. highway 63 in Tama county, Iowa. The level of the drainage pipe referred to in Section 16 is now under study by the Department of Transportation in order to relieve a drainage problem in the area. There are different views in the area about the appropriate level at which the pipe should be located. The decision on the appropriate level for the pipe is one which should clearly be subject to administrative discretion and executive branch expertise. Such detail directed by the General Assembly is a glaring example of excessive legislative branch encroachment into executive branch authority. As such, I cannot approve Section 16.

I am unable to approve Section 29 of Senate File 518 in its entirety. Section 29 of this bill amends the 1986 Iowa Acts, to require that DOT maintenance garages be placed in Tama-Toledo, Dubuque and Centerville. This section prohibits the department from placing these garages in any area around these communities. I understand the intent of this section is to require the department to place the garage in an appropriate location in Tama-Toledo. And I am pleased that the Department of Transportation officials do plan to build that garage very near those communities. However, by requiring that these garages be placed within the city limits of Dubuque and Centerville, the legislature inadvertently created a serious problem for the department. At the present time, the maintenance garage in the Dubuque area is now under construction just outside of the city limits of that community. And the Centerville area garage is also proposed to be constructed just outside the city limits. Neither of these projects could move forward if this legislation were signed into law.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 518 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 233

APPROPRIATIONS AND PROGRAMS RELATING TO VARIOUS PUBLIC AGENCIES

S.F. 511

AN ACT relating to the financing of public agencies and programs and making appropriations to agencies, boards, commissions, departments, and programs of state government relating to elected officials, the executive council, management, revenue and finance, personnel, general services, economic development, agriculture, natural resources, and education, providing a property tax exemption for certain educational facilities, establishing an office of state-federal relations, providing for the education of American Indian children, establishing an occupational therapist loan program, providing for the sale of certain property and the purchase of certain property, providing tax exemption for certain property of a public television station, establishing a targeted small business linked deposit program and Iowa satisfaction and performance bond program, establishing a state fair authority, establishing an obstetrical and newborn indigent patient care program, accretion to bargaining units of certain teachers, providing for a loan of moneys in the permanent school fund, providing a tax deduction and a tax credit for certain purposes, making provisions retroactive, and providing effective dates.

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

DIVISION I
ADMINISTRATION

Section 101. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987 and ending June 30, 1988 to the office of the secretary of state, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than forty-five full-time equivalent positions, maintenance, and other operational purposes	$ 1,295,192

Sec. 102. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For salaries and support for not more than fifteen full-time equivalent positions, maintenance, and miscellaneous purposes of the general office of the governor	$ 763,711
2. For the governor's expenses connected with office	$ 5,439
3. For salaries and support for not more than three full-time equivalent positions, and miscellaneous purposes of the governor's quarters at Terrace Hill	$ 79,554
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	$ 15,706
5. For salaries and support for not more than two full-time equivalent positions, maintenance, and miscellaneous purposes of the office of administrative rules coordinator	$ 76,466

Sec. 103. There is appropriated from the general fund of the state to the office of the lieutenant governor for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than two point five full-time equivalent positions, 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	$ 122,518

Sec. 104. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than twenty-five full-time equivalent positions, maintenance and other operational purposes	$ 569,188

Sec. 105. There is appropriated from the general fund of the state to the executive council for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than one point four full-time equivalent positions, maintenance, and miscellaneous purposes	$ 39,605

Sec. 106. There is appropriated from the general fund of the state to the following named agencies for the fiscal year commencing July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. NATIONAL CONFERENCE OF STATE LEGISLATURES	
For support of the membership assessment	$ 60,844
2. COMMISSION ON UNIFORM STATE LAWS	
For support of the commission and expenses of the members	$ 18,273

Sec. 107. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. GENERAL OPERATIONS	
For salaries and support for not more than two hundred thirty-three point six full-time equivalent positions, maintenance, and miscellaneous purposes	$ 4,963,985

It is the intent of the general assembly that the department of general services shall continue the forms management program with the funds appropriated in this subsection.

Savings achieved in providing telecommunications services shall be used by the department of general services to increase efficiencies in the provision of those services.

2. DIVISION OF INFORMATION SERVICES	
For salaries and support for not more than one hundred sixty-three full-time equivalent positions, maintenance, and miscellaneous purposes	$ 5,379,627

*Item veto, see message at end of the Act

It is the intent of the general assembly that funds appropriated in this subsection not be used for the replacement of computer equipment with newer technological devices to replace the current processing capacity or replace the currently installed magnetic tape units.

It is the intent of the general assembly that ninety thousand (90,000) dollars of the funds appropriated in this subsection be used for the installation of computer terminals to improve county auditor access to the state voter registration system.

3. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A $ 1,571

4. UTILITY COSTS

For payment of utility costs $ 1,583,067

The department of general services may use funds appropriated in this subsection for utility costs to fund energy conservation projects in the state capitol complex which will have a one hundred percent payback within a twelve-month period.

5. 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 $ 667,773

6. RISK MANAGEMENT

To fund risk reduction projects for uninsured state-owned property pursuant to section 18.164, subsection 1 $ 18,500

It is the intent of the administration appropriations subcommittee that an additional two million (2,000,000) dollars should be appropriated from the lottery funds to the department of general services for continuation of the capitol restoration project which is an important project which should be continued on schedule.

Sec. 108. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1987-1988
Fiscal Year

DEPARTMENT OF GENERAL SERVICES – REVOLVING FUNDS

1. From the centralized printing permanent revolving fund established by section 18.57 for salaries and support for not more than twenty-nine full-time equivalent positions, maintenance, and miscellaneous purposes $ 743,986

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, 1987 which are legally payable from this fund.

3. From the general service revolving fund established by section 18.9 for salaries and support for not more than fourteen full-time equivalent positions, maintenance, and miscellaneous purposes $ 470,850

The remainder of the general services 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, 1987 and ending June 30, 1988 which are legally payable from this fund.

4. From the vehicle dispatcher revolving fund established by section 18.119 for salaries and support for not more than fifteen full-time equivalent positions, maintenance, and miscellaneous purposes $ 439,926

5. 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, 1987 which are legally payable from this fund.

Sec. 109. There is appropriated from the general fund of the state to the department of general services for each fiscal year in the fiscal period beginning July 1, 1988 and ending June 30, 1990, the sum of three million (3,000,000) dollars, or so much thereof as is necessary, to be used for capitol complex construction and renovation.

Sec. 110. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For salaries and support for not more than ninety-four point twenty-five full-time equivalent positions, maintenance, and miscellaneous purposes ...	$ 3,045,213

a. The department may expend up to sixty-nine thousand five hundred thirty-eight (69,538) dollars of the funds appropriated in this subsection for the purpose of investigating worker's compensation claims and expediting the claims process. The department may not employ more than two additional full-time equivalent positions annually for this purpose.

b. The department may expend up to thirty-four thousand four hundred forty-two (34,442) dollars of the funds appropriated in this subsection for the purpose of monitoring trends in unemployment compensation claims and to provide training to department administrative and supervisory staff in unemployment cost avoidance. The department may not employ more than one additional full-time equivalent position annually for this purpose.

2. For salaries and support for not more than four point seventy-five full-time equivalent positions, maintenance, and other operational purposes to pay the costs of administration of federal old age benefit and Iowa old age survivors insurance programs	$ 152,272

Sec. 111. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes designated:

	1987-1988 Fiscal Year
For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system	$ 2,124,435

It is the intent of the general assembly that the Iowa public employees' retirement system employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

Sec. 112. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1987 and ending June 30, 1988, 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:

	1987-1988 Fiscal Year
For salaries and support for not more than six hundred thirteen point twenty-eight full-time equivalent positions, maintenance, and miscellaneous purposes	$ 17,316,998

Sec. 113. There is appropriated from the motor vehicle fuel tax fund to the department of revenue and finance for the fiscal year beginning July 1, 1987 and ending June 30, 1988,

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*Item veto; see message at end of the Act

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:

	1987-1988 Fiscal Year
	$ 977,676

It is the intent of the general assembly that one hundred twenty-five thousand (125,000) dollars of the funds appropriated in this section be used for increased monitoring of special fuel tax accounts and the collection of delinquent fuel taxes. The department shall report quarterly beginning July 1, 1987 to the legislative fiscal bureau the estimates of additional revenue collected as a result of any increase in auditing and enforcement provided under this appropriation.

Sec. 114. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than one hundred forty-one point thirty-five full-time equivalent positions, maintenance, and miscellaneous purposes	$ 7,458,628

After exhausting its lottery fund appropriation, the lottery division of the department of revenue and finance may, upon approval of the department of management **and the fiscal committee of the legislative council,** expend additional funds.

Sec. 115. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987 and ending June 30, 1988 to the department of management, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. DEPARTMENT OF MANAGEMENT	
For salaries and support for not more than thirty-two full-time equivalent positions, maintenance, and miscellaneous purposes and for program administration of justice assistance funds, the statistical analysis center, and highway safety grant funds, provided that the office of state-federal relations is no longer funded through the department of management under a chapter 28E agreement or funded by the department of management through its budget	$ 1,354,464
2. COUNCIL OF STATE GOVERNMENTS	
For support of the membership assessment	$ 52,500

Sec. 116. There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than three full-time equivalent positions, maintenance, and miscellaneous purposes	$ 190,034

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*Item veto; see message at end of the Act

Sec. 117. 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, 1987 and ending June 30, 1988 the sum of one million four hundred seventy-five thousand (1,475,000) dollars, or so much thereof as may be necessary, to be used for payments to counties as provided in section 422.100. Notwithstanding section 422.100, all of the funds allocated to the counties from the moneys and credits replacement fund during the fiscal year beginning July 1, 1987 and ending June 30, 1988, shall be allocated to cities as required by law by the county treasurer.

If Senate File 279 is enacted by the Seventy-second General Assembly, 1987 Session, and becomes law, this section is void.

Sec. 118. 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, 1987 and ending June 30, 1988 the following amount, or so much thereof as is necessary, to be used for state assistance to municipalities, with distribution in accordance with section 405.1.

1987-1988 Fiscal Year
$ 14,503,500

If Senate File 279 is enacted by the Seventy-second General Assembly, 1987 Sesson, and becomes law, this section is void.

Sec. 119. There is appropriated from the general fund of the state to the county assistance fund, established in section 334A.1, for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amount, or so much thereof as is necessary, to be used for state assistance to counties, with distribution in accordance with section 334A.2.

1987-1988 Fiscal Year
$ 5,296,500

If Senate File 279 is enacted by the Seventy-second General Assembly, 1987 Session, and becomes law, this section is void.

Sec. 120.

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 year beginning July 1, 1987, the sum of thirty-four million seven hundred sixty-three thousand six hundred fifty-seven (34,763,657) dollars, or so much thereof as may be necessary, to be distributed to the various departments to supplement other funds appropriated by the general assembly.

2. There is appropriated from the road use tax fund of the state to the state department of transportation, for the fiscal year beginning July 1, 1987, the sum of two hundred ninety-six thousand forty-five (296,045) dollars, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly.

3. There is appropriated from the road use tax fund of the state to the department of public safety, for the fiscal year beginning July 1, 1987, the sum of five hundred sixty-five thousand nine hundred eighteen (565,918) dollars, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly.

4. There is appropriated from the primary road fund to the state department of transportation, for the fiscal year beginning July 1, 1987, the sum of two million one hundred fifty-nine thousand seven hundred thirteen (2,159,713) dollars, or so much thereof as may be necessary, to supplement other funds appropriated by the general assembly.

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 reimbursements, and related benefits not in conflict with the Code for public officials and employees as authorized in Senate File 504, enacted by the Seventy-second General Assembly, 1987 Session.

6. The funds allocated to the state board of regents for faculty salary adjustments at the three state universities shall be distributed based on an amount necessary to fund an eleven

percent increase in the faculty salaries after funds received from increased tuition, less the amount committed to student aid, have been allocated for that purpose.

Sec. 121.

1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987, the following amounts to the designated political subdivisions or public agencies:

	1987-1988 Fiscal Year
a. To the seven regional libraries of the regional library system as defined in section 303B.2	$ 15,400
b. To the substance abuse treatment facilities receiving substance abuse program grants as provided in section 125.25	$ 97,000
c. To local boards of health receiving in-home health care grants	$ 30,100
d. Local homemaker/chore service programs	$ 100,600

2. The director of the department of management shall allocate and distribute each of the amounts specified in this section to the programs indicated. Moneys received by local programs under this section shall be used to pay the state's share of the authorized salary increases for the local program employees.

**Sec. 122.* *There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987 to the department of general services the sum of four million two hundred fifty thousand (4,250,000) dollars, or so much thereof as is necessary, of which seven hundred fifty thousand (750,000) dollars shall be allocated to the historical division of the department of cultural affairs to equip the new historical building with the remainder to be used for capitol complex construction and renovation.*

*Notwithstanding section 8.33, funds appropriated by this section which are unexpended or unencumbered shall carry forward to the fiscal year beginning July 1, 1987 for the same purpose as originally appropriated.**

Sec. 123. Funds appropriated from the general fund of the state in sections 120 and 121 of this Act relate only to salaries supported from general fund appropriations of the state.

Sec. 124. 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 504, enacted by the Seventy-second General Assembly, 1987 Session.

Sec. 125. CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY — STUDY.

The legislative fiscal bureau shall conduct a study and evaluation of the criminal and juvenile justice planning agency within the department of management and shall report its findings to the general assembly. The study and evaluation shall include a review of the following:

1. The appropriate organization and location of the agency.
2. The agency's progress in meeting the requirements of chapter 80C.
3. The coordination and expenditure of federal justice-related grant moneys.
4. The activity of the criminal and juvenile justice advisory council.
5. The staffing pattern and needs of the agency.
6. Assistance provided by the agency to state and local units of government.
7. Other relevant issues identified by the legislative council or the legislative fiscal bureau.

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*Item veto see message at end of the Act

Sec. 126. NEW SECTION. 7F.1 OFFICE FOR STATE-FEDERAL RELATIONS.

1. PURPOSE. The purpose of this section is to establish, as an independent agency, an office for state-federal relations which will develop a nonpartisan state-federal relations program accessible to all three branches of state government.

2. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Office" means the office for state-federal relations established pursuant to this section.

b. "Commission" means the state-federal relations commission established pursuant to this section.

**3. COMMISSION ESTABLISHED. A state-federal relations commission is established composed of the director of the department of management or the director's designee, the director of the legislative fiscal bureau or the director's designee, and the state court administrator or the administrator's designee. A different member of the commission shall serve as the commission's chairperson each year. The commission shall:*

a. Establish general policies for the operation and funding of the office.

b. Promote cooperation and information sharing among the agencies of the three branches of government in the development of an effective state-federal relations program.

*c. Annually review the operation and activities of the office and by February 15 report its findings and any recommendations to the governor, the general assembly, and the supreme court.**

4. OFFICE ESTABLISHED. A state-federal relations office is established as an independent agency **with oversight of the office to be provided by the state-federal relations commission**. The office shall be located in Washington D.C. and shall be administered by the director of the office who is appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor. The office and its personnel are exempt from the merit system provisions of chapter 19A.

5. OFFICE DUTIES. The office shall:

a. Coordinate the development of Iowa's state-federal relations efforts which shall include an annual state-federal program to be presented to Iowa's congressional delegation, the sponsorship of training sessions for state government officials, and the maintenance of a management information system.

b. Provide state government officials with greater access to current information on federal legislative and executive actions affecting state government.

c. Advocate federal policies and positions which benefit the state or are important to state government.

d. Monitor federal budget policies and assistance programs and assess their impact on the state.

e. Strengthen the working relationships between state government officials and Iowa's congressional delegation.

f. Improve the state's ability to establish key contacts with federal officials, officials from other states, organizations, business groups, and professional associations in order to share information and form cooperative agreements.

6. SUPPORT SERVICES AND COOPERATION. The department of management, the legislative fiscal bureau, and the state court administrator's office shall provide administrative support services to the office. All agencies of state government shall cooperate fully with the office on matters pertaining to its federal-state relations responsibilities. Agencies may enter into agreements with the office to provide or receive special services of benefit to or from the federal-state relations program.

**Sec. 127. Section 8.21, Code 1987, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. The governor shall transmit to the general assembly not later than seven days following delivery of the budget message to the general

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*Item veto; see message at end of the Act

*assembly the final bill drafts of the governor's proposed budget expenditures. The bill drafts shall be written in the bill drafting form adopted by the legislative council.**

Sec. 128. NEW SECTION. 12.40 TARGETED SMALL BUSINESS LINKED DEPOSIT PROGRAM.

The treasurer of state shall adopt rules to implement a targeted small business linked deposit program to increase the availability of lower cost funds to inject needed capital into small businesses owned and operated by women or minorities, which is the public policy of the state. The rules shall be in accordance with the following:

1. "Targeted small business" means a business as defined in section 220.111, subsection 1.

2. A linked deposit shall only be approved in connection with a loan application for a targeted small business which has been certified pursuant to section 15.108, subsection 7, paragraph "c", subparagraph (4).

3. Loan applications for a targeted small business shall be for the purchase of land, machinery, equipment, or licenses, or patent, trademark, or copyright fees and expenses, but not inventory.

4. The maximum size of a targeted small business loan is one hundred thousand dollars per borrower for intangible property and two hundred fifty thousand dollars per borrower for tangible personal or real property.

Sec. 129. NEW SECTION. 12.41 IOWA SATISFACTION AND PERFORMANCE BOND PROGRAM.

Agencies of state government shall be required to waive the requirement of satisfaction or performance bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of a lack of experience. This waiver shall not apply to businesses with a record of repeated failure of substantial performance or material breach of contract in prior circumstances. The waiver shall be applied only to a project or individual transaction amounting to fifty thousand dollars or less, notwithstanding section 573.2. In order to qualify, the targeted small business shall provide written evidence to the department of economic development that the bond would otherwise be denied the business. The granting of the waiver shall in no way relieve the business from its contractual obligations and shall not preclude the state agency from pursuing any remedies under law upon default or breach of contract.

The department of economic development shall certify targeted small businesses for eligibility and participation in this program and shall make this information available to other state agencies.

Subdivisions of state government may also grant such a waiver under similar circumstances.

Sec. 130. Section 18.12, subsection 7, Code 1987, is amended to read as follows:

7. Contract, with the approval of the executive council, for the repair, remodeling or, if the condition warrants, demolition of all buildings and grounds of the state at the seat of government and the institutions of the department of human services and the department of corrections for which no specific appropriation has been made, if the cost of repair, remodeling or demolition will not exceed one hundred thousand dollars when completed. The cost of repair projects for which no specific appropriation has been made shall be paid from the fund provided in section 19.29.

Sec. 131. Section 18.134, Code 1987, is amended to read as follows:

18.134 LIMITATION OF COMMUNICATIONS.

The department of general services shall not provide or resell communications services to entities other than state agencies. A political subdivision receiving communications services from the state as of April 1, 1986 may continue to do so ~~until January 1, 1988~~ but communications services shall not be provided or resold to additional political subdivisions. The rates charged to the political subdivision shall be the same as the rates charged to state agencies.

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*Item veto, see message at end of the Act

Sec. 132. Section 324.66, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The appropriate state agency shall administer the taxes imposed by this chapter in the same manner as and subject to section 422.25, subsection 4 and section 422.52, subsection 3. ~~Notwithstanding section 422.52, subsection 3, all special fuel licensees are required to file a bond with the director in an amount as established by the director.~~

**Sec. 133.* NEW SECTION. *421.45 AUDIT EXPENSE FUND.*

There is created in the office of the treasurer of state an "audit expense fund" for the use of the department to fund audit expenses as authorized in this section. The department may employ up to twenty-five full-time equivalent positions in its tax audit staff to increase tax audits. Positions filled under authority of this section shall be paid from funds in the audit expense fund.

Of the funds appropriated to the department under section 112 of this Act, one million dollars shall be credited to the audit expense fund on July 1, 1987.

*The moneys in the fund shall be used for salaries, support, maintenance, and miscellaneous purposes for the additional audit staff authorized by this section. Moneys received by the department of revenue and finance from audits conducted by audit staff employed with moneys available under this section shall be credited to the general fund of the state and this fund. Of the moneys received, three-fourths of the moneys shall be credited to the general fund of the state and the remaining moneys shall be credited to the audit expense fund.**

Sec. 134. Section 422.45, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. The gross receipts from the sale of tangible personal property which will be given as prizes to players in games of skill, games of chance, raffles, and bingo games as defined in chapter 99B.

Sec. 135. All federal grants to and the federal receipts of agencies appropriated funds under this division of this Act are appropriated for the purposes set forth in such federal grants or receipts.

DIVISION II
AGRICULTURE AND NATURAL RESOURCES

Sec. 201. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. There is appropriated from the general fund of the state and the trust funds indicated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. ADMINISTRATIVE DIVISION	
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes	$ 944,285
b. From the fertilizer fund to be transferred to the administration division	$ 45,417
c. From the dairy trade practice fund to be transferred to the administration division	$ 86,321
d. From the commercial feed fund to be transferred to the administration division	$ 45,417
e. The department of agriculture and land stewardship 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.	

*Item veto; see message at end of the Act

f. Funds appropriated by this subsection are for the salaries and support of not more than forty-one point seventy-four full-time equivalent positions.

2. FARM COMMODITY DIVISION

a. From the general fund for salaries and support for not more than twenty-three point five full-time equivalent positions, maintenance, and miscellaneous purposes $ 705,842

b. Of the amount appropriated from the general fund under paragraph "a" of this subsection, three hundred forty-six thousand three hundred seventy-nine (346,379) dollars shall be allocated to the horticultural division for the continuation of the agricultural diversification program as enacted by 1986 Iowa Acts, chapter 1246, section 501, subsection 1, paragraph "e".

3. REGULATORY DIVISION

From the general fund for salaries and support for not more than one hundred forty-seven full-time equivalent positions, maintenance, and miscellaneous purposes $ 3,519,884

4. LABORATORY DIVISION

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes $ 593,578

b. From the commercial feed fund to be transferred to the laboratory division $ 756,329

c. From the pesticide fund to be transferred to the laboratory division $ 464,835

d. From the fertilizer fund to be transferred to the laboratory division $ 801,609

e. Funds appropriated by this subsection are for salaries and support of not more than ninety-two full-time equivalent positions.

5. SOIL CONSERVATION DIVISION

a. From the general fund for salaries and support for not more than one hundred eighty-eight point zero five full-time equivalent positions, maintenance, assistance to soil conservation districts, and for miscellaneous purposes $ 4,269,334

The full-time equivalent positions authorized in this paragraph include four full-time equivalent positions for projects authorized in House File 631 regarding agricultural drainage wells and sinkholes.

b. Of the amount appropriated from the general fund of the state under paragraph "a" of this subsection, three hundred three thousand four hundred thirty-six (303,436) dollars shall be used to conduct soil surveys in conjunction with federal, state, and local agencies in Iowa.

c. To provide financial incentives for soil conservation practices in accordance with the provisions of paragraph "d" of this subsection $ 6,546,519

d. The following requirements apply to the funds appropriated by paragraph "c":

(1) Not more than five percent may be allocated for cost sharing to abate complaints filed under section 467A.47 and 467A.48.

(2) 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 section 214 of this Act.

(3) The soil conservation district commissioners may allocate financial incentives not exceeding sixty percent of the cost of permanent soil conservation practices for special watershed practices or summer construction incentives under section 467A.7, subsections 17 and 19.

(4) Except for the allocations subject to subparagraphs 1, 2, and 3, these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than fifty percent of the approved cost for voluntary permanent soil conservation practices and priority shall be given to family-operated farms.

(5) The soil conservation committee may allocate funds to conduct research and demonstration projects to promote conservation tillage and nonpoint sources pollution control practices.

(6) Not more than thirty percent of a district's allocation may be allocated by the soil conservation district commissioners for the establishment of management practices to control soil erosion on land that is now row cropped.

(7) The financial incentive payments may be used in combination with department of natural resources funds.

e. The provisions of section 8.33 shall not apply to the funds appropriated by paragraph "c". Unencumbered or unobligated funds remaining on June 30, 1991 from funds appropriated for the fiscal year beginning July 1, 1987 shall revert to the general fund on September 30, 1991.

*6. *It is the intent of the general assembly that the department of agriculture and land stewardship, in its operation of the agricultural marketing program, shall conform its activities to the mission, goals, and objectives provided in this subsection and collect information pertaining to performance measures developed by the legislative fiscal bureau. The department shall provide a report at least quarterly to the legislative fiscal bureau and the cochairpersons and ranking members of the agriculture and natural resources appropriations subcommittee on the performance measures. The department shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.*

The department shall operate an agricultural marketing program designed to lead to more advantageous marketing of Iowa agricultural products to accomplish the following objectives:

a. Investigate the subject of marketing agricultural products and recommend efficient and economical methods of marketing.

b. Promote the sales, distribution, and merchandising of agricultural products to be indicated by the number of trade or sales leads originated through the agricultural marketing programs, by the number of Iowa companies represented at trade shows, and by the number of out-of-state buyers contacted through trade shows and other promotional events.

c. Furnish information and assistance to the public concerning the marketing of agricultural products to be indicated by the number of Iowa companies that receive counseling or assistance.

d. Cooperate with the college of agriculture of Iowa State University of science and technology in farm marketing education and research and avoid unnecessary duplications to be indicated by the number of meetings with the university staff to discuss marketing research and education and number and type of recommendations generated from these meetings.

e. Gather and diffuse useful information concerning all phases of the marketing of Iowa farm products in cooperation with other public and private agencies.

f. Ascertain sources of supply of Iowa agricultural products and prepare and publish from time to time lists of names and addresses of producers and consignors and furnish lists to persons applying for them to be indicated by the number of potential out-of-state buyers that receive the list of Iowa suppliers.

*g. Aid in the promotion and development of the agricultural processing industry in the state to be indicated by the number of trade or sales leads originated through the agricultural marketing programs, the number of Iowa companies represented at trade shows, the number of out-of-state buyers contacted through trade shows and other promotional events, and the number of Iowa companies meeting with out-of-state buyers brought to Iowa as part of the agricultural marketing programs.**

Sec. 202. There is appropriated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1987 and ending June 30, 1988 from the funds available under

*Item veto; see message at end of the Act

section 99D.13 the sum of one hundred twelve thousand (112,000) dollars, or as much thereof as necessary, for volunteer assistance and not more than three full-time equivalent positions for the administration of section 99D.22.

Sec. 203. MULTIFLORA ROSE ERADICATION COST REIMBURSEMENT.

1. There is appropriated from the general fund of the state to the state department of agriculture and land stewardship for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of sixty thousand (60,000) 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 director of revenue and finance.

4. Federal lands and federal land tenants are not eligible for reimbursement under this section.

Sec. 204. DEPARTMENT OF NATURAL RESOURCES. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
1. For salaries, support, maintenance, and miscellaneous purposes	$ 10,149,123

Of the amounts appropriated from the general fund under this subsection, thirty-three thousand (33,000) dollars shall be used for studies of preserves. It is a condition of the funds appropriated by this subsection that the department fund the position of state ecologist. It is a condition of the funds appropriated by this subsection that the department cease motor fuel price forecasting and reporting during fiscal year 1988, section 93.7 notwithstanding.

2. For reimbursement to federal agencies for cooperative contracts	$ 186,169
3. For the green thumb program for the employment of the elderly in conservation and outdoor recreation related fields in coordination with other agencies as provided by law	$ 200,000

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. No. 95-217, in an amount equal to five percent of the amount approved as the eligible cost of the project by the environmental protection commission $ 1,278,008

The provisions of section 8.33 shall not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1991 from funds appropriated for the fiscal year beginning July 1, 1987, shall revert to the general fund on September 30, 1991.

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 6, 9, and 10, 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, 1987 and ends June 30, 1989.

Sec. 205. There is appropriated from the state fish and game protection fund to the department of natural resources for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
DIVISION OF FISH AND WILDLIFE	
1. From the state fish and game protection fund for salaries, support, maintenance, equipment, and miscellaneous purposes including not more than two million one hundred ten thousand six hundred fourteen (2,110,614) dollars during the fiscal year beginning on July 1, 1987 which shall be available from the state fish and game protection fund for administrative support	$ 13,769,023
2. 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	$ 145,000
3. 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	$ 950,000

4. Funds remaining in the fish and game protection fund during fiscal year 1987-1988 which are not specifically appropriated by this section are appropriated and may be used for capital projects and contingencies arising during the fiscal year beginning July 1, 1987. 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 in 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.

*5. *It is the intent of the general assembly that the law enforcement bureau of the fish and wildlife division of the department of natural resources, in its operations to protect the state's fish and wildlife natural resources, shall conform its operation to the mission, goals, and objectives provided in this subsection and collect information pertaining to the performance*

*Item veto, see message at end of the Act

measures developed by the legislative fiscal bureau. The division shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the agriculture and natural resources appropriations subcommittee on the performance measures. The division shall be notified by July 1, 1987 of the specific performance measures for which data shall be collected and reported.

The fish and wildlife division of the department of natural resources exists to protect, propagate, increase, and preserve the wild mammals, fish, birds, reptiles, and amphibians of the state and enforce by proper actions and proceedings the laws and rules relating to them and to collect, classify, and preserve all statistics, data, and information as in its opinion tend to promote the objects of the law, to conduct research in improved conservation methods, and disseminate information to residents and nonresidents in conservation matters. The bureau must ensure adequate protection and wise use of Iowa's fish and wildlife natural resources to accomplish the following objectives:

a. To enforce conservation laws and rules relating to fishing, hunting, trapping, boating, dock permits, snowmobiling, and public land management to be indicated by not less than one hundred thousand hours per year devoted to law enforcement.

b. To assist with fish and wildlife population surveys and nuisance animal complaints to be indicated by not less than five thousand hours per year devoted to these surveys and nuisance animal investigations.

c. To provide conservation information to the public by writing newspaper and magazine articles, speaking before organized groups, contacting radio and television media, and person-to-person contacts, to be indicated by not less than twenty thousand hours per year devoted to providing public information and not less than four thousand hours per year devoted to public programs and meetings.

d. To provide assistance to the public, other public agencies, and other divisions of the department as needed to be indicated by not less than ten thousand hours per year devoted to providing assistance to the public and other agencies.

*e. To provide conservation-recreation safety and ethics training through hunter safety and ethics training, snowmobile safety training, boating safety training, and fur harvester education and ethics training to be indicated by offering not less than nine hundred safety-recreation courses, three thousand two hundred hours per year devoted to safety-recreation training, and training not less than ten thousand persons.**

Sec. 206. MARINE FUEL TAX FUND. There is appropriated from the marine fuel tax fund to the department of natural resources for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amounts, or so much thereof as is necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
1. For maintenance and development of boating facilities and access to public waters	$ 397,179
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, 1987 and ending June 30, 1988 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, 1988, shall revert to the fund from which appropriated June 30, 1990.

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*Item veto, see message at end of the Act

Sec. 207. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1986 and ending June 30, 1987, for the payment of assessments to the midwest interstate low-level radioactive waste compact the following amounts, or so much thereof as is necessary, for the fiscal periods indicated:

1. Assessment for the fiscal year beginning July 1, 1986 and ending June 30, 1987 $ 45,000

**2. Assessment for the fiscal year beginning July 1, 1987 and ending June 30, 1988 $ 60,000*

*Notwithstanding section 8.33, funds appropriated by this section which remain unexpended or unencumbered on June 30, 1987 shall not revert to the general fund of the state.**

Sec. 208. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of forty thousand (40,000) dollars, or so much thereof as is necessary, to conduct a feasibility study of constructing a dam at Pine Lake state park.

Sec. 209. Notwithstanding section 8.33, of the funds appropriated to the horticultural division of the department of agriculture and land stewardship by 1986 Iowa Acts, chapter 1246, section 501, subsection 1, paragraph "e", which would otherwise revert to the general fund, fifteen thousand (15,000) dollars, or so much thereof as necessary, shall carry over and be used by the department to conduct a pilot project providing federal special supplemental food program recipients with coupons redeemable at farmers markets. The department shall adopt rules governing the project.

**Sec. 210. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the sum of two hundred fifty thousand (250,000) dollars, or so much thereof as may be necessary, for the farm commodity division to be used to pay initial costs of establishing the Iowa agricultural export trading company. Moneys appropriated under this section may be used for salaries and support for not more than four full-time equivalent positions. These full-time equivalent positions are included in the farm commodity division total in section 201, subsection 2, paragraph "a", of this Act.*

Notwithstanding section 8.33, moneys which remain unobligated or unencumbered for the purposes provided in this section for the fiscal year beginning July 1, 1986 and ending June 30, 1987 shall remain available for expenditure by the department of agriculture and land stewardship for the purposes specified for the fiscal year beginning July 1, 1987 and ending June 30, 1988.

*The moneys appropriated in this section shall revert to the general fund of the state upon successful completion of the public stock offering of the Iowa agricultural export trading company as required by Senate File 274.**

Sec. 211. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1986 and ending June 30, 1987, to the department of agriculture and land stewardship the sum of one hundred twenty-five thousand (125,000) dollars for startup funding for the Iowa grain quality program. Moneys appropriated in this section may be used for salaries and support for one full-time equivalent position.

Notwithstanding section 8.33, the funds which remain unobligated or unencumbered for the purposes provided in this section for the fiscal year beginning July 1, 1986 and ending June 30, 1987 shall remain available for expenditure by the department of agriculture and land stewardship for the purposes specified in the fiscal year beginning July 1, 1987 and ending June 30, 1988.

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*Item veto, see message at end of the Act

Sec. 212. Funds appropriated by section 204, except subsection 3 of that section, and sections 205 and 206 of this Act are for salaries and support for not more than nine hundred twelve point thirty-six full-time equivalent positions.

Sec. 213. The natural resource commission shall give priority to the acquisition of private property along the Cedar Valley nature trail in Black Hawk, Buchanan, Benton, and Linn counties and its extension into Johnson and Cedar Counties; the Heritage trail in Dubuque county; the Comet trail in Grundy county; and the trail from Des Moines to Arispe in Polk, Warren, Madison and Union counties. The department of transportation shall provide technical assistance to the natural resources commission with regard to acquisition proceedings. State funds shall not be used unless appropriated by the general assembly.

Sec. 214. During the fiscal year for which funds are appropriated by section 204 of this Act, the department of natural resources 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.

Sec. 215. The natural resources 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 the appropriations to the department of agriculture and land stewardship for permanent soil conservation practices.

Sec. 216. An employee of the department of natural resources 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 were covered by that agreement. This section shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

Sec. 217. Effective July 1, 1987, the department of natural resources shall establish prices of plant material grown at the state forest nurseries to cover half of all expenses directly related to the growing of the plants.

Effective July 1, 1988, the department shall establish prices of plant material grown at the state forest nurseries to cover eighty percent of all expenses directly related to the growing of plants.

Effective July 1, 1989, the department shall establish prices of plant material grown at the state forest nurseries to cover all expenses directly related to the growing of the plants.

The department shall develop additional programs to encourage the wise management and preservation of existing woodlands and shall increase its efforts to encourage forestation and reforestation on private and public lands in the state.

The department shall encourage a cooperative relationship between the state forest nurseries and private nurseries in the state in order to achieve these goals.

Sec. 218. The natural resources commission shall not authorize the reconstruction of the bridge over the canal at Black Hawk state park.

Sec. 219. Of the appropriations made from the jobs now account of the Iowa plan fund, under section 99E.32, subsection 3, paragraph "a", to the department of natural resources for the fiscal year beginning July 1, 1987, at least two hundred fifty thousand dollars shall be used for grants-in-aid to county conservation boards; two hundred fifty thousand dollars shall be

used, only if federal funds are available, for acquisition and development of facilities under the western trails historical project; two hundred fifty thousand dollars for the Union Grove lake restoration development project; forty thousand dollars for the A. A. Call state park restoration project; fifteen thousand dollars for bike and recreational trail development projects in the greenbelt area located in or near the Iowa river corridor; one hundred sixty-five thousand dollars to Marshall county conservation board for restoration work including dam repair at Green Castle lake; one hundred thousand dollars for the civilian conservation corps museum and memorial at Backbone state park; and thirty-five thousand dollars for additional acquisition at Maquoketa caves park.

**Sec. 220. There is appropriated from the general fund of the state to the Iowa agricultural development authority for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the amount of five million (5,000,000) dollars, or so much thereof as is necessary, to be used for providing assistance to Iowa farmers under and through the agricultural loan assistance programs. Not more than one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, shall be used for general administration, including salaries, support, maintenance, and miscellaneous purposes.*

Not more than one-half of the funds appropriated shall be committed for grants pursuant to agreements under section 175.35 entered into on or after April 1, 1987 but before October 1, 1987. Notwithstanding section 8.33, moneys appropriated by this section which are committed for grants pursuant to agreements under section 175.35 entered into on or after April 1, 1987 but before October 1, 1987, shall not revert to the general fund of the state.

Not more than one-half of the funds appropriated shall be committed for assistance, training, and management programs for agricultural producers under the program established in House File 626, enacted by the Seventy-second General Assembly, 1987 Session. Notwithstanding section 8.33, the moneys appropriated for assistance, training, and management programs for agricultural producers under this section which are committed pursuant to agreements under House File 626 and entered into between April 1, 1987 and June 30, 1989 shall not revert to the general fund of the state.

*If House File 626 does not become law, the moneys allocated for that program under this section shall be used for grants pursuant to agreements under section 175.35.**

Sec. 221. Unless otherwise appropriated or provided by the general assembly, the agencies appropriated funds by this division of the Act are also appropriated their federal grants and federal receipts, for the purposes set forth in those federal grants or receipts.

Sec. 222. Section 15.227, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. A person participating in the "green thumb program" shall be sixty years of age or older to be eligible for employment. A lower income person shall be preferred for employment. "Lower income" means a person who meets the requirements for "lower income families" described in section 8f, of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, Pub. L. No. 93-383, 201a.

Sec. 223. Section 97B.49, subsection 7, paragraph c, Code 1987, is amended to read as follows:

c. There is appropriated from the state fish and game protection fund to the department of personnel an actuarially-determined amount determined by the Iowa public employees' retirement system sufficient to pay for the additional benefits to conservation peace officers provided by this section, as a percentage, in paragraph "a" and for the employer portion of the benefits provided in paragraph "b". The amount is in addition to the contribution paid by the employer under section 97B.11. The cost of the benefits relating to conservation peace officers within

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*Item veto; see message at end of the Act

the fish and game division of the department of natural resources shall be paid from the state fish and game protection fund and the cost of the benefits relating to the other conservation peace officers of the department shall be paid from the general fund.

Sec. 224. Chapter 109, Code 1987, is amended by adding the following new section:

NEW SECTION. 109.10A FARMER ADVISORY COMMITTEE.

The director shall establish a farmer advisory committee for the purpose of providing information to the department regarding crop and tree damage caused by deer, wild turkey, and other predators. The committee shall serve without compensation or reimbursement for expenses.

Sec. 225. Section 173.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

173.1 STATE FAIR AUTHORITY.

The Iowa state fair authority is established as a public instrumentality of the state. The authority is not an agency of state government. However, the authority is considered a state agency and its employees state employees for the purposes of chapter 17A, the merit system provisions of chapter 19A, and chapters 20, 25A, 91B, 97B, and 509A. The authority is established to conduct an annual state fair and exposition on the Iowa state fairgrounds and to conduct other interim events consistent with its rules. The powers of the authority are vested in the Iowa state fair board. The Iowa state fair board consists of the following:

1. The governor of the state, the secretary of agriculture, and the president of the Iowa State University of science and technology or their qualified representatives.
2. One director from each congressional district and three directors at large, to be elected at a convention as provided in section 173.2.
3. A president and vice president to be elected by the state fair board from the nine elected directors.
4. A secretary and a treasurer to be elected by the board, and who shall be nonvoting members.

Sec. 226. Section 173.9, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

173.9 SECRETARY.

The board shall appoint a secretary who shall hold office for one year. The secretary shall:

1. Administer the policies set by the board.
2. Employ other employees and agents as the secretary deems necessary for carrying out the policies of the board and to conduct the affairs of the state fair. The secretary may fix the duties and compensation of any employees or agents with the approval of the board.
3. Keep a complete record of the annual convention and of all meetings of the board.
4. Draw all warrants on the treasurer of the board and keep a correct account of them.
5. Perform other duties as the board directs.

Sec. 227. Section 173.10, Code 1987, is amended to read as follows:

173.10 SALARY OF SECRETARY.

The secretary shall receive ~~such~~ the salary ~~as~~ fixed by the ~~general assembly~~ board.

Sec. 228. Section 173.14, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

173.14 FUNCTIONS OF THE BOARD.

The state fair board has the custody and control of the state fairgrounds, including the buildings and equipment on it belonging to the state, and may:

1. Hold an annual fair and exposition on those grounds. All revenue generated by the fair and any interim uses shall be retained solely by the board.

2. Prepare premium lists and establish rules of exhibitors for the fair which shall be published by the board not later than sixty days prior to the opening of the fair.

3. Grant a written permit to persons as it deems proper to sell fruit, provisions, and other lawful articles under rules the board prescribes.

4. Appoint security personnel as the president deems necessary.

5. Take and hold property by gift, devise, or bequest for fair purposes. The president, secretary, and treasurer of the board shall have custody and control of the property, subject to the action of the board. Those officers shall give bonds as required in the case of executors, to be approved by the board and filed with the secretary of state.

6. Erect and repair buildings on the grounds and make other necessary improvements.

7. Grant written permission to persons to use the fairgrounds when the fair is not in progress.

8. Take, acquire, hold, and dispose of property by deed, gift, devise, bequest, lease, or eminent domain. The title to real estate acquired under this subsection and improvements erected on the real estate shall be taken and held in the name of the state of Iowa and shall be under the custody and control of the board. In the exercise of the power of eminent domain the board shall proceed in the manner provided in chapters 471 and 472.

9. Solicit and accept contributions from private sources for the purpose of financing and supporting the fair.

10. Make an agreement with the Iowa highway safety patrol to provide for security during the annual fair and exposition and interim events.

Sec. 229. NEW SECTION. 173.14A GENERAL CORPORATE POWERS OF THE AUTHORITY.

The authority has all of the general corporate powers needed to carry out its purposes and duties, and to exercise its specific powers including, but not limited to, the power to:

1. Issue its negotiable bonds and notes as provided in this chapter.

2. Sue and be sued in its own name.

3. Have and alter a corporate seal.

4. Make and alter bylaws for its management consistent with this chapter.

5. Make and execute agreements, contracts, and other instruments, with any public or private entity.

6. Accept appropriations, gifts, grants, loans, or other aid from public or private entities.

7. Make, alter, and repeal rules consistent with this chapter, subject to chapter 17A.

Sec. 230. NEW SECTION. 173.14B BONDS AND NOTES.

1. The board may issue and sell negotiable revenue bonds of the authority in denominations and amounts as the board deems for the best interests of the fair, for any of the following purposes after authorization by a constitutional majority of each house of the general assembly and approval by the governor:

a. To acquire real estate to be devoted to uses for the fair.

b. To pay any expenses or costs incidental to a building or repair project.

c. To provide sufficient funds for the advancement of any of its corporate purposes.

2. The board may issue negotiable bonds and notes of the authority in principal amounts which 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 board incident to and necessary or convenient to carry out its purposes and powers, subject to authorization and approval required under subsection 1. However, the total principal amount of bonds and notes outstanding at any time shall not exceed one hundred fifty million dollars. The bonds and notes are deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

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

4. Bonds shall:

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

b. Be either registered, registered as to principal only, or in coupon form, issued in denominations as the board prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the president or vice president, attested by the manual or facsimile signature of the secretary, have impressed or imprinted on it the seal of the authority or facsimile of it, and coupons attached shall be signed with the facsimile signature of the president or vice president, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places and with reserved rights of prior redemption, as the board prescribes, be sold at prices, at public or private sale, and in a manner as the board prescribes, and the board may pay all expenses, premiums, and commissions which it deems necessary or advantageous in connection with the issuance and sale; and be issued subject to the terms, conditions, and covenant 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 board for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the bonds as to those matters set forth in section 220.26, subsection 4, paragraph "b".

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

6. The board may issue negotiable bond anticipation notes of the authority and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the authority not otherwise pledged or from the proceeds of the sale of bonds in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the authority. Notes shall be issued in the same manner as bonds and notes and the resolution of the board may contain any provisions, conditions, or limitations, not inconsistent with this subsection, which the bonds or a bond resolution of the board 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 have all the remedies provided in this chapter for bondholders. Notes shall be as fully negotiable as bonds of the authority.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created is binding from and after the time it is made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Members of the board and any person executing the authority's bonds, notes, or other obligations are not liable personally on the bonds, notes, or other obligations or subject to personal liability or accountability by reason of the issuance of the authority's bonds or notes.

9. The board shall publish a notice of intention to issue bonds or notes in a newspaper published and of general circulation in the state. The notice shall include a statement of the maximum amount of bonds or notes proposed to be issued, and in general, what net revenues will be pledged to pay the bonds or notes and interest on them. An action shall not be brought questioning the legality of the bonds or notes, the power of the board to issue the bonds or notes, or the legality of any proceedings in connection with the authorization or issuance of the bonds or notes after sixty days from the date of publication of the notice.

Sec. 231. Section 173.16, Code 1987, is amended to read as follows:

173.16 MAINTENANCE OF STATE FAIR.

All expenses incurred in maintaining the state fairgrounds and in conducting the annual fair ~~thereon~~ on it, including the compensation and expenses of the officers, members, and employees of the board, shall be recorded by the secretary and paid from the state fair receipts, unless a specific appropriation has been provided for ~~such~~ that purpose. ~~An individual member of the state fair board shall not be personally liable because of any act performed or debt created by action of the board in carrying out the purposes and provisions of this chapter.~~ The board may request special capital improvement appropriations from the state and may request emergency funding from the executive council for natural disasters. The board may request that the department of transportation provide maintenance in accordance with section 307A.2, subsection 11.

Sec. 232. Section 173.21, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The ~~state fair~~ board shall file with the governor each year ~~at the time provided by law make~~ by February 15 a report ~~to the governor~~ containing the following information relative to the state fair and exposition and the district and county fairs:

Sec. 233. NEW SECTION. 173.23 LIEN ON PROPERTY.

The board has a prior lien upon the property of any concessionaire, exhibitor, or person, immediately upon the property being brought onto the grounds, to secure existing or future indebtedness.

Sec. 234. NEW SECTION. 173.24 EXEMPTION OF STATE FAIR BY THE STATE'S PURCHASING PROCEDURES.

The state fair is exempt from the state system of uniform purchasing procedures. However, the board may contract with the department of general services to purchase any items through the state system. The board shall adopt its own system of uniform standards and specifications for purchasing.

Sec. 235. STATE FAIR BOARD — BONDS AND NOTES. The Iowa state fair board shall conduct a study and file its recommendations with the general assembly by January 15, 1988. The study shall examine whether the cultural and exposition objectives of the state fair would,

in the long term, be better served by a relocation of the state fairgrounds and by the development of more multipurpose buildings on a new or the present fairgrounds.

Only fifteen million dollars of the bonds and notes authorized by section 173.14B, as enacted in this Act, may be issued before and by January 15, 1988.

DIVISION III
ECONOMIC DEVELOPMENT

Sec. 301. *There is appropriated from the general fund of the state to the department of* economic development for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For salaries and support for not more than thirty-five point zero eight full-time equivalent positions, maintenance, and other operational purposes	$ 1,691,788

As a condition of the appropriation made in this subsection, the department shall enter into a 28E agreement with the state board of regents for purposes of insuring, to the greatest extent possible, that research conducted at institutions under the control of the state board of regents may be developed and marketed by Iowa businesses.

The department and the cooperative extension service in agriculture and home economics of the Iowa State University of science and technology shall enter into an agreement under chapter 28E that provides a procedure for coordinating the economic development activities of the department with the economic development activities of the cooperative extension service in agriculture and home economics of the Iowa State University of science and technology.

2. For domestic marketing programs, including salaries and support for not more than eight point six full-time equivalent positions	$ 665,900
3. For small business programs, including salaries and support for not more than six full-time equivalent positions	$ 319,533

The department shall develop and administer a small business information center with a portion of the funds appropriated by this subsection.

4. For community progress programs, including salaries and support for not more than nine point five full-time equivalent positions	$ 411,054
5. For tourism and promotion programs, including salaries and support for not more than sixteen point four full-time equivalent positions	$ 1,490,000

Of the funds appropriated by this subsection, fifty thousand (50,000) dollars, or so much thereof as is necessary, may be used to purchase or support the Grant Wood gothic house in Eldon, Iowa. The department shall cooperate with the historical division of the department of cultural affairs to acquire and maintain the Grant Wood gothic house and to promote the property as a tourist attraction. Of the funds allocated for the purchase of the house, unexpended funds shall be credited to the Grant Wood gothic house trust fund which is created in the office of the treasurer of state. The moneys in this fund shall be administered by the historical division of the department of cultural affairs and shall be used to provide for the maintenance of the house and to receive local public and private contributions for the promotion and maintenance of the house as a tourist site.

As a condition of funds appropriated under this subsection, fifteen thousand (15,000) dollars, or so much thereof as is necessary, shall be used for the construction of a storage and multi-use facility in Stone City, Iowa for the storage of replicas of Grant Wood ice wagons in which artists lived in Stone City, Iowa. The funds available under this unnumbered paragraph shall be matched on a dollar-for-dollar basis with moneys or in-kind contributions from other sources.

As a condition of funds appropriated under this subsection, twenty-five thousand (25,000) dollars, or so much thereof as is necessary, shall be used for providing a permanent Grant

Wood information center and art gallery in Anamosa, Iowa. The funds available under this unnumbered paragraph shall be matched on a dollar-for-dollar basis with moneys or in-kind contributions from other sources.

As a condition of funds appropriated under this subsection, one hundred twenty-five thou sand (125,000) dollars, or so much thereof as is necessary, shall be used by the historical divi sion of the department of cultural affairs to acquire by negotiated sale part of the land encompassing the Blood Run national historic landmark in Lyon county, Iowa.

As a condition of funds appropriated by this subsection, one hundred thousand (100,000) dollars, or so much thereof as is necessary, shall be used by the department of economic develop ment for professional preparation of a statewide tourism development, marketing, and information delivery plan covering needs and opportunities for the period 1988 through 1992 and for implementation of the initial phases of the plan.

As a condition of funds appropriated by this subsection, seventy-five thousand (75,000) dollars, or so much thereof as is necessary, shall be used for state aid, distributed equally to three tourism regions for planning and operations of regional and local tourism development programs.

6. For advertising and marketing $ 89,563

7. For operation and maintenance of an Asian trade office, including salaries and support for not more than two full-time equivalent positions $ 291,000

8. Community development block grant administration and related federal housing and urban development grant administration

For salaries and support for not more than fourteen full-time equivalent positions, maintenance, and miscellaneous purposes $ 54,285

9. Job training partnership Act: dislocated workers

For salaries and support for not more than twenty-eight point seven full-time equivalent positions, maintenance, and miscellaneous purposes $ 960,151

10. Mississippi river parkway commission

For support, maintenance, and miscellaneous purposes $ 14,550

11. Youth services administration

For salaries and support for not more than two full-time equivalent positions, maintenance, and miscellaneous purposes to develop and administer employment opportunities for youth $ 76,516

In expending the funds appropriated by this subsection, the department of economic development shall consider the level of training and education in the areas of work skills, job retention, job searching, and work ethics in evaluating requests or proposals for funds to be used for local youth corps projects or programs.

12. Iowa conservation corps

For program purposes $ 291,000

13. For additional and supplemental funding for the child care services programs including employer sponsored child day care services and child day care services for ill children, and the displaced homemakers program, including salaries and support for not more than zero point eight full-time equivalent positions $ 728,000

14. The division of financial assistance of the department of economic development shall maintain a list of all state programs, grants, and other assistance available to the political subdivisions of the state. The division shall work with other state agencies in developing the list, including but not limited to, the department of management, the department of natural resources, the Iowa department of public health, and the department of human services.

**15. It is the intent of the general assembly that the department of economic development, in its operation of the agricultural marketing program, shall conform its activities to the mission, goals, and objectives provided in this subsection and collect information pertaining to performance measures developed by the legislative fiscal bureau. The department shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the economic development appropriations subcommittee on the performance measures. The department shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.*

The department exists for the purpose of enhancing economic development in the state and to provide for job creation and increased prosperity and opportunities for the citizens of the state by providing direct financial and technical assistance and training to businesses and individuals and by coordinating other state, local, and federal economic development programs.

The department shall operate an agricultural marketing program designed to lead to more advantageous marketing of Iowa agricultural products to accomplish the following objectives:

a. Investigate the subject of marketing agricultural products and recommend efficient and economical methods of marketing.

b. Promote the sales, distribution, and merchandising of agricultural products to be indicated by the number of trade or sales leads originated through the agricultural marketing programs, by the number of Iowa companies represented at trade shows, and by the number of out-of-state buyers contacted through trade shows and other promotional events.

c. Furnish information and assistance to the public concerning the marketing of agricultural products to be indicated by the number of Iowa companies that receive counseling or assistance.

d. Cooperate with the college of agriculture of Iowa State University of science and technology in farm marketing education and research and avoid unnecessary duplications to be indicated by the number of meetings with the university staff to discuss marketing research and education and number and type of recommendations generated from these meetings.

e. Gather and diffuse useful information concerning all phases of the marketing of Iowa farm products in cooperation with other public and private agencies.

f. Ascertain sources of supply of Iowa agricultural products and prepare and publish from time to time lists of names and addresses of producers and consignors and furnish lists to persons applying for them to be indicated by the number of potential out-of-state buyers that receive the list of Iowa suppliers.

*g. Aid in the promotion and development of the agricultural processing industry in the state to be indicated by the number of trade or sales leads originated through the agricultural marketing programs, the number of Iowa companies represented at trade shows, the number of out-of-state buyers contacted through trade shows and other promotional events, and the number of Iowa companies meeting with out-of-state buyers brought to Iowa as part of the agricultural marketing programs.**

**Sec. 302. State departments or agencies handling or in charge of the community economic betterment account of the Iowa plan fund, the RISE fund, the jobs training programs under chapters 7B, 280B, and 280C, and other funds or programs for providing assistance to business in furtherance of economic development shall not provide assistance from those funds or under those programs until the department or agency has studied the effect of such assistance on the competitiveness of the business compared with existing businesses and the potential for the displacement of jobs from other businesses in the state.*

In determining which businesses are to receive the assistance from these funds or programs, consideration should be given to the quality of jobs to be provided. Jobs that have a higher wage scale, have a lower turnover rate, are full-time, or are career-type positions are considered higher in quality. When the assistance is in the form of grants, businesses that have

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*wage scales substantially below that of existing Iowa businesses should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.**

Sec. 303. 1986 Iowa Acts, chapter 1246, section 1, subsection 4, is amended to read as follows:

4. For establishment and maintenance of an ambassador's program ..... $ 1,000,000

The funds appropriated by this subsection shall be matched on a dollar for dollar basis with capital provided by private sources and be expended to attract private capital to be used by the department to develop a comprehensive national and international marketing program. These funds shall be utilized to implement a statewide initiative that includes, but is not limited to, the development of a trade network, national and international marketing research, business recruitment, utilization of national advertising features, a toll-free number, billboards, displays in key business locations, a direct marketing program, a "trade and marketing institute", and an "invest in Iowa" program. The department shall secure the necessary private participation from groups and organizations most appropriate for any particular function. In-kind expenditures from the private sector may be considered as a portion of the dollar for dollar match. The department shall give attention to using a portion of these funds to contract and coordinate with international programs at Iowa colleges and universities to develop a network of trade contacts overseas through the use of alumni from Iowa colleges and universities.

Notwithstanding section 8.33, funds appropriated under this subsection for the fiscal year beginning July 1, 1986 and ending June 30, 1987 shall not revert to the general fund of the state but shall remain available for expenditure in the fiscal year beginning July 1, 1987 and ending June 30, 1988.

**Sec. 304. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the sum of two hundred eighty-five thousand (285,000) dollars, or so much thereof as may be necessary, to be used for tourism and marketing purposes.*

*Notwithstanding section 8.33, moneys which remain unobligated or unencumbered for the purposes provided in this section on June 30, 1987 shall remain available for expenditure by the department of economic development during the fiscal year beginning July 1, 1987 for the purposes specified.**

Sec. 305. Notwithstanding section 8.33, moneys appropriated pursuant to 1986 Iowa Acts, chapter 1246, section 1, subsection 6, to the department of economic development for the establishment and maintenance of an export finance program for the fiscal year beginning July 1, 1986 and ending June 30, 1987, which remain unexpended or unencumbered shall carry forward to the fiscal year beginning July 1, 1987 and ending June 30, 1988, to be used for the same purpose as originally appropriated.

**Sec. 306. Section 15.108, subsection 7, Code 1987, is amended by adding the following new lettered paragraph:*

NEW LETTERED PARAGRAPH. i. Organizing and coordinating quarterly meetings of all state agencies which administer programs and activities developed to encourage and assist the development of small businesses in Iowa. The quarterly meetings shall be attended by, but not limited to: representatives of the State University of Iowa, representatives of the University of Northern Iowa, representatives from Iowa State University of science and technology concerning programs administered by the small business development centers, representatives from Iowa State University of science and technology concerning programs administered by the cooperative extension service, and representatives from the merged area schools. The

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department and the respective agency representatives shall meet, discuss, and make recommendations, including but not limited to, the following areas:

(1) Coordination of existing small business programs to avoid duplication of service delivery.

(2) Cataloging of all statewide small business programs and the respective locations and names of the service providers.

(3) Identification of the current and future economic, financial, marketing, and research issues and needs involving small business growth in the state.

(4) Development of coordinated technical and financial assistance programs which maximize accessibility to small businesses.

(5) Evaluation of existing small business programs to identify the effectiveness of the programs.

*The department shall submit quarterly reports to the legislative fiscal bureau. Each report shall contain recommendations derived from the quarterly meetings.**

Sec. 307. NEW SECTION. 15.110 TARGETED SMALL BUSINESS LOAN AND EQUITY GRANT PROGRAM.

A targeted small business loan and equity grant program is established within the Iowa department of economic development. The director shall adopt rules establishing the standards and procedures for distributing grants, providing loans, buying down the interest on loans, or buying down the principal on loans for newly created small businesses. The total amount of assistance to any one business shall not exceed five thousand dollars. Standards shall give top priority to applicants who establish targeted small businesses in industries or fields for which no targeted small business has been certified pursuant to section 15.108, subsection 7, paragraph "c", subparagraph (4).

Sec. 308. Section 15.241, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may provide grants of not more than five thousand dollars under the program, if the grants are used to secure additional financing from private sources. The department may provide a service fee to financial institutions for administering loans provided under this section.

Sec. 309. Notwithstanding section 28.120, subsection 6, twenty percent of the loan repayments received by the department of economic development under that section shall be deposited in the revolving loan fund to operate the self-employment loan program as established in section 15.241. Not more than twenty-five percent of the funds may be used to administer the program, and not less than fifty percent of the grants or loans provided under the program shall go to targeted small businesses as defined in section 15.102. It is the intent of the general assembly that the department of economic development coordinate the activity of the self-employment loan program with the small business development centers, satellite centers, area community colleges, and other technical assistance providers, and with the self-sufficiency programs established in 1987 Iowa Acts, House File 671, under the department of human rights and the department of human services.

Sec. 310. All federal grants to and the federal receipts of the agencies appropriated funds under this division of this Act are appropriated for the purposes set forth in such federal grants and receipts unless otherwise provided by the general assembly.

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DIVISION IV
EDUCATION

Sec. 401. There is appropriated from the general fund of the state, to the department of cultural affairs for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
1. For the administration division for salaries and support for not more than eight full-time equivalent positions, maintenance, and miscellaneous purposes	$ 259,214
2. For the arts division for salaries and support for not more than ten full-time equivalent positions, maintenance, and miscellaneous purposes including funds to match federal grants	$ 467,586
3. For the historical division for salaries and support for not more than forty-eight full-time equivalent positions, maintenance, and miscellaneous purposes	$ 1,442,685
4. For the library division for salaries and support for not more than forty point five full-time equivalent positions, maintenance, and miscellaneous purposes	$ 1,054,145
5. For the public broadcasting division for salaries and support for not more than one hundred full-time equivalent positions, maintenance, and miscellaneous purposes	$ 5,837,775
6. For the Terrace Hill commission for salaries and support for not more than five point twenty-five full-time equivalent positions, maintenance, and miscellaneous purposes for the operation of Terrace Hill and for conducting tours	$ 151,367
7. For the regional library system for state aid	$ 1,450,230
*8. *For the library division for increasing library accessibility, library usage, and the availability of library and media materials*	*$ 60,000*

*From moneys appropriated in this subsection, the library division shall provide grants to regional libraries and area education agencies for the implementation of cooperative programs. In addition, moneys appropriated in this subsection shall be used by the library division to conduct a study of methods to provide that public libraries, regional libraries, libraries administered by the state library division, libraries of institutions of higher education under the state board of regents, libraries and media centers of the area education agencies, and libraries of merged area schools are accessible to the citizens of this state, to provide additional library and media resources, and to increase the utilization of libraries and media centers as lifelong learning centers. Notwithstanding limitations on the activities of area education agencies under chapter 273, area education agencies may cooperate with regional libraries for the purposes of implementation of cooperative programs funded under this section. Reimbursement to area education agencies shall be only for marginal costs incurred.**

Sec. 402. There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1987 and ending June 30, 1988, 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:

	1987-1988 Fiscal Year
1. COLLEGE AID COMMISSION	
For salaries and support for not more than five point two full-time equivalent positions, maintenance, and miscellaneous purposes	$ 264,309

*Item veto, see message at end of the Act

*2. *OCCUPATIONAL THERAPIST LOAN PROGRAM*
For the occupational therapist loan program under section 261.46 *$ 30,000**

Sec. 403. There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of seven hundred twenty-five thousand four hundred ten (725,410) 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, 1987, 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.

Sec. 404. There is appropriated from the guaranteed student loan reserve fund to the college aid commission for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as may be necessary, to be used for the funding of the following programs for the guaranteed student loan program:

1. OPERATING COSTS
For operating costs $ 2,126,304

2. LOAN CONSOLIDATION SERVICES
For loan consolidation services $ 375,000

Sec. 405. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987 and ending June 30, 1988, to the department of education the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

1987-1988
Fiscal Year

1. GENERAL ADMINISTRATION
For salaries and support for not more than one hundred twenty-one full-time equivalent positions, maintenance, and miscellaneous purposes $ 5,150,708

It is the intent of the general assembly that the department of education expend, from funds appropriated in this subsection, at least two hundred fifty thousand (250,000) dollars for the administration of the educational excellence program established by law, four hundred thousand (400,000) dollars to be used by the department to provide technical assistance and monetary grants to school districts for developing elementary and secondary school foreign language programs, and one hundred thousand (100,000) dollars to be used to contract with institutions of higher education to provide a summer residence program for gifted and talented elementary and secondary school students. Of the moneys appropriated for the summer residence program under this subsection, an amount not exceeding twenty-five thousand (25,000) dollars shall be used to support existing law-related education centers for training seminars and workshops in law-related education, summer institutes relating to law-related education methodology and substance, and mock trial competitions for junior and senior high school students.

As a condition of the appropriation made in this subsection, the department of education shall expend at least one hundred fifty thousand (150,000) dollars of the moneys appropriated in this subsection to increase the salaries of 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 comparable educational requirements.

It is the intent of the general assembly that the department provide assistance to area education agencies and school districts in administering programs for autistic children.

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2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries and support for not more than forty-two full-time equivalent positions, maintenance, and miscellaneous purposes $ 891,399

It is the intent of the general assembly that an amount up to forty thousand (40,000) dollars, or so much thereof as is necessary, be used for salaries and support for two additional full-time equivalent consultant positions to assist in the implementation and improvement of secondary school vocational agriculture programs.

3. VOCATIONAL EDUCATION AID

For vocational education aid to secondary schools $ 3,683,061

Funds appropriated by this subsection 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. VOCATIONAL YOUTH ORGANIZATION FUND

To carry out section 258.14 $ 9,252

5. SCHOOL FOOD SERVICE

For the purpose of providing assistance to students enrolled in public school districts and approved 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, including salaries and support for not more than sixteen full-time equivalent positions $ 3,173,131

6. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends an approved 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

7. PROFESSIONAL TEACHING PRACTICES COMMISSION

For the use of the commission to carry out chapter 272A, including salaries and support for not more than one point forty-six full-time equivalent positions $ 57,591

8. NON-ENGLISH SPEAKING

To provide funding to public schools and for nonpublic school students attending approved nonpublic schools for special instruction for non-English speaking students as provided in section 280.4 $ 150,000

9. IOWA ACADEMY OF SCIENCE

For support and maintenance $ 57,494

10. VOCATIONAL REHABILITATION DIVISION

For salaries and support for not more than three hundred eight point five full-time equivalent positions, maintenance, and miscellaneous purposes $ 2,696,461

11. EDUCATIONAL AID TO AMERICAN INDIANS

For educational aid to American Indians under section 256.30 $ 100,000

*12. *MERGED AREA XI*

For meeting educational needs of the Carroll service area *$ 250,000**

13. MERGED AREA SCHOOLS

For general state financial aid to merged areas as defined in section 280A.2 and for vocational education programs in accordance with chapters 258 and 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools, the amount of fifty-two million seven hundred seventy-seven thousand three hundred nine (52,777,309) dollars to be allocated as follows:

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a. Merged Area I	$ 2,436,434
b. Merged Area II	$ 2,952,226
c. Merged Area III	$ 2,831,298
d. Merged Area IV	$ 1,362,535
e. Merged Area V	$ 3,241,957
f. Merged Area VI	$ 3,142,360
g. Merged Area VII	$ 4,214,363
h. Merged Area IX	$ 4,345,039
i. Merged Area X	$ 7,057,496
j. Merged Area XI	$ 6,854,784
k. Merged Area XII	$ 3,099,604
l. Merged Area XIII	$ 3,342,548
m. Merged Area XIV	$ 1,367,270
n. Merged Area XV	$ 4,018,116
o. Merged Area XVI	$ 2,511,279

Sec. 406. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1988 and ending June 30, 1989, for general state financial aid to merged areas the amount of twenty-two million six hundred eighteen thousand eight hundred forty-five (22,618,845) dollars, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1987 and ending June 30, 1988, to be allocated to each area school as follows:

1. Merged Area I	$ 1,044,186
2. Merged Area II	$ 1,265,240
3. Merged Area III	$ 1,213,414
4. Merged Area IV	$ 583,943
5. Merged Area V	$ 1,389,410
6. Merged Area VI	$ 1,346,726
7. Merged Area VII	$ 1,806,155
8. Merged Area IX	$ 1,862,159
9. Merged Area X	$ 3,024,641
10. Merged Area XI	$ 2,937,764
11. Merged Area XII	$ 1,328,402
12. Merged Area XIII	$ 1,432,520
13. Merged Area XIV	$ 585,973
14. Merged Area XV	$ 1,722,050
15. Merged Area XVI	$ 1,076,262

Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1988.

Sec. 407. General state aid paid to area schools under section 405, subsection 13, of this Act, for expenditures incurred during the fiscal year beginning July 1, 1987 and ending June 30, 1988, shall be paid by the department of revenue and finance 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, 1988 under section 406 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 department of management, taking into consideration the relative budget and cash position of the state resources.

Sec. 408. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as may be necessary, for use for the following designated purposes:

1987-1988
Fiscal Year

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries and support for not more than eighteen point sixty-three full-time equivalent positions, maintenance, equipment, and miscellaneous purposes and for the establishment of a consortium consisting of representatives of Iowa State University, the University of Iowa, and the University of Northern Iowa as equal participants to establish and use a process for the exchange and integration of knowledge among the universities in the fields including but not limited to food production, food processing, food preservation, nutrition, medicine, pharmacy, chemical-free water, clean air, and environmental safety. The consortium shall also establish a means for the integration of knowledge across disciplines in each of the universities. In the establishment of the process for integration and exchange of knowledge for these purposes, the consortium shall also develop a process for disseminating this knowledge to the public for personal and business use by Iowans $ 483,370

As a condition of the appropriation made in this paragraph, the office of the state board of regents shall direct that copies of the student newspapers of each of the three institutions of higher education be transmitted to the chairpersons and ranking members of the education appropriations subcommittees, to the legislative fiscal bureau, and to the department of management.

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 $ 16,220,946

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

(1) For salaries and support for not more than four thousand two hundred twenty-one point sixty-eight full-time equivalent positions, maintenance, equipment, and miscellaneous purposes $130,619,205

It is a condition of the appropriation in this subparagraph that from the moneys appropriated, three hundred seventy-eight thousand (378,000) dollars be expended for salary increases for professional and scientific employees of the institution, one hundred forty-five thousand (145,000) dollars be expended for an emergency supplement for graduate students adversely affected by the federal Tax Reform Act of 1986, and one million seven hundred eighty thousand (1,780,000) dollars be expended for educational quality projects approved by the state board of regents. For the purpose of implementing educational quality projects, the State University of Iowa may exceed the limitation on full-time equivalent positions included in this subparagraph.

(2) Agriculture health and safety service pilot programs $ 60,000

The state board of regents shall establish an agricultural health and safety service as part of the college of medicine of the University of Iowa. In order to establish the effectiveness of the service, the state board of regents shall undertake an agricultural health and safety service pilot program for two years. The pilot program will consist of a service to be located at the Oakdale campus at the University of Iowa. The pilot program shall provide medical

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and engineering services to any person engaged in farming, as defined in section 89B.4, in cooperation with the Iowa department of public health, the department of agriculture and land stewardship, and the Iowa State University of science and technology.

By January 1, 1989, the dean of the college of medicine of the University of Iowa shall report to the Iowa general assembly, the secretary of agriculture, and the director of public health on the effectiveness of the service and shall make recommendations regarding continuation, termination, or expansion of the agricultural health and safety service program. Moneys appropriated in this subparagraph shall be used to establish the pilot program.

b. University hospitals

(1) For salaries and support for not more than four thousand seven hundred eighteen point eighty-three full-time equivalent positions, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter 255 $ 25,529,058

(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, including salaries and support for not more than one hundred seventy-six point eighty-four full-time equivalent positions $ 1,449,437

(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, including salaries and support for not more than twelve point thirty-nine full-time equivalent positions $ 316,038

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, 1987 shall not be lower than the county quotas for the fiscal year commencing July 1, 1986. Before a patient is eligible for the indigent patient program, the county general relief director shall first ascertain from the local office of human services if the applicant would qualify for medical assistance or the medically needy program without the spend-down provision under chapter 249A. If the applicant qualifies, then the patient shall be certified for medical assistance and shall not be counted under chapter 255. It is the intent of the general assembly that university hospitals shall not perform heart, liver, pancreas, artificial heart, or heart/lung transplantations on indigent patients referred under chapter 255 unless the patient meets criteria developed by the national heart, lung and blood institute's special advisory group for heart recipients, or the 1983 national institute of health's concensus conference on liver transplants for liver recipients, or unless the patient meets nationally recognized criteria for pancreas transplantations. The total amount of state funds expended for heart, liver, pancreas, artificial heart, or heart/lung transplantations shall not exceed nine-tenths of one percent of the total state indigent funds received by the university hospitals for the fiscal year beginning July 1, 1987 and ending June 30, 1988.

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 department of management 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 and support for not more than two hundred eighty-seven point twenty-six full-time equivalent positions, maintenance, equipment, and miscellaneous purposes and for the care, treatment and maintenance of committed and voluntary public patients $ 5,770,862

g. State hygienic laboratory

For salaries and support for not more than one hundred ten point zero four full-time equivalent positions, maintenance, equipment, and miscellaneous purposes $ 2,375,932

h. Hospital school

For salaries and support for not more than one hundred eighty-five point seventy-three full-time equivalent positions, maintenance, equipment, and miscellaneous purposes $ 4,317,764

i. Oakdale campus

For salaries and support for not more than eighty-two full-time equivalent positions, maintenance, equipment, and miscellaneous purposes $ 2,422,797

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries and support for not more than three thousand seven hundred seventy-five full-time equivalent positions, maintenance, equipment, and miscellaneous purposes $107,873,792

It is a condition of the appropriation in this subparagraph that from the moneys appropriated, two hundred fifty-nine thousand (259,000) dollars be expended for salary increases for professional and scientific employees of the institution, eighty-five thousand (85,000) dollars be expended for an emergency supplement for graduate students adversely affected by the federal Tax Reform Act of 1986, and one million seven hundred eighty thousand (1,780,000) dollars be expended for educational quality projects approved by the state board of regents for the general university, agricultural experiment station or the cooperative extension service in agriculture and home economics. For the purpose of implementing educational quality projects, Iowa State University may exceed the limitation on full-time equivalent positions included in this paragraph.

b. Agricultural experiment station

For salaries and support for not more than four hundred thirteen point five full-time equivalent positions, maintenance, equipment, and miscellaneous purposes $ 12,111,042

c. Cooperative extension service in agriculture and home economics

For salaries and support for not more than four hundred ninety-six point ninety-eight full-time equivalent positions, maintenance, and miscellaneous purposes $ 12,253,345

d. For continuation of the rural concern hotline, including salaries and support for not more than four point five full-time equivalent positions $ 90,000

e. Fire service education, including salaries and support for not more than eleven full time equivalent positions $ 389,846

f. Iowa state water resources research institute

For research approved by the panel created in 1984 Iowa Acts, chapter 1303, section 20, including salaries and support for not more than two full-time equivalent positions $ 100,000

4. UNIVERSITY OF NORTHERN IOWA

For salaries and support for not more than one thousand three hundred twenty-four full time equivalent positions, maintenance, equipment, and miscellaneous purposes $ 42,418,679

For the purpose of implementing educational quality projects, the University of Northern Iowa may exceed the limitation on full-time equivalent positions included in this subsection.

As a further condition of the appropriation made in this subsection, the state board of regents shall ensure that students at each institution of higher education shall not be discriminated against in having access to a year-round on-campus self-supporting student operated book exchange.

5. STATE SCHOOL FOR THE DEAF

For salaries and support for not more than one hundred thirty-five point three full-time equivalent positions, maintenance, and miscellaneous purposes $ 4,669,620

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries and support for not more than ninety-five point thirty-three full-time equivalent positions, maintenance, and miscellaneous purposes $ 2,632,055

7. The provisions of section 8.33, unnumbered paragraph 2, shall not apply to the funds appropriated in this section. No later than September 15, 1988, the state board of regents shall submit to the department of management and the legislative fiscal bureau a list of all obligations of appropriations made for the fiscal year beginning July 1, 1987 which have been incurred for goods and services that have not been received or rendered as of September 1, 1988.

*Sec. 409. *There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the sum of two million (2,000,000) dollars, or so much thereof as is necessary, to be used by Iowa State University of science and technology for research for amorphous silicon. As a condition of this appropriation, Iowa State University of science and technology shall negotiate for the first production facility or pilot plant to be located in Iowa resulting from the research and an equitable arrangement for the sharing of the rights to copyrights, patents, licenses or other intellectual property.*

*Notwithstanding section 8.33, moneys appropriated in this section which remain unobligated and unencumbered on June 30, 1987 shall remain available to Iowa State University for the purposes specified during the fiscal year beginning July 1, 1987 and ending June 30, 1988.**

Sec. 410. Of the appropriations made from the jobs now account of the Iowa plan fund, under section 99E.32, subsection 3, paragraph "c", to the department of cultural affairs for the fiscal year beginning July 1, 1987, fifty thousand dollars shall be provided as a grant to greater Des Moines grand prix, inc. for the 1988 greater Des Moines metropolitan grand prix auto race. If the grand prix auto race is not held in Des Moines during the 1988 calendar year, all moneys provided under this section for the grand prix shall revert to the Iowa plan fund.

Sec. 411. 1986 Iowa Acts, chapter 1246, section 111, subsection 7, is amended to read as follows:

7. There is appropriated from the general fund of the state to a special account in the state treasury to be known as the obstetrical patient care fund, for the fiscal year beginning July 1, 1986, and ending June 30, 1987, one million one hundred thousand (1,100,000) dollars, or so

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much thereof as is necessary, for the development and operation, commencing October 1, 1986, of a statewide obstetrical patient care program as provided in this section. The department of public health shall be the administrator of the fund.

If moneys appropriated to the obstetrical patient care fund by this section remain unobligated and unencumbered on June 30, 1987, the moneys shall not revert to the general fund of the state ~~but shall be transferred to the indigent patient care fund established pursuant to chapter 255~~ but shall be available for expenditure by the Iowa department of public health for the purposes specified in this section during the fiscal year beginning July 1, 1987. Of the funds available under this section during the fiscal year beginning July 1, 1987 and ending June 30, 1988, three hundred thousand dollars shall be used to supplement moneys appropriated to the Iowa department of public health for salaries and support for the family and community health division and seventy-seven thousand five hundred sixty dollars shall be used to supplement moneys appropriated to the Iowa department of public health for the mobile and regional child health specialty clinics.

Sec. 412. Notwithstanding section 8.33, unobligated or unencumbered funds appropriated in 1986 Iowa Acts, chapter 1246, section 110, subsection 1, paragraph "b", shall not revert to the general fund of the state on June 30, 1987, but shall be available for expenditure for the purposes listed in section 408, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1987 and ending June 30, 1988.

Sec. 413. Notwithstanding the appropriation provided in section 261.53, there is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of fifty thousand (50,000) dollars, or so much thereof as is necessary, for science and mathematics loans.

Sec. 414. Notwithstanding section 302.1A, the department of revenue and finance shall transfer the interest earned on the permanent school fund to the first in the nation in education foundation in the manner provided in this section. Prior to July 1, 1987, October 1, 1987, January 1, 1988, and March 1, 1988, the governing board of the first in the nation in education foundation established in section 257A.2 shall certify to the department of management the total amount of the endowment in the first in the nation in education foundation fund. The portion of the permanent school fund that is equal to the total amount of the endowment is dedicated to the first in the nation in education foundation for that quarter. The interest from this dedicated amount shall be transferred to the credit of the first in the nation in education foundation. The remaining portion of the interest earned on the permanent school fund shall become a part of the permanent school fund.

Sec. 415. Notwithstanding the appropriation provided in section 261.25, subsection 3, there is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of six hundred forty-six thousand five hundred eighty-two (646,582) dollars, or so much thereof as is necessary, for vocational-technical grants.

Sec. 416. Notwithstanding the appropriation of moneys for state school foundation aid made in section 442.26, payments to a school district for the fiscal year beginning July 1, 1987 will begin when the school district has met the requirements of 1986 Iowa Acts, chapter 1226, section 15.

Sec. 417. The director of the department of education shall review the number and type of consultant positions that can be funded with moneys appropriated under section 405,

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subsections 1 and 2, of this Act, and report to the general assembly by January 15, 1988 if additional consultant positions are needed and the costs associated with their employment.

Sec. 418. The department of education shall review the actions of the college aid commission and the council for postsecondary education as they relate to the establishment and operation of the summer institute program established in section 99E.31, subsection 4, paragraph "b" and shall recommend to the college aid commission and the council for postsecondary education programs to be funded. A summer institute program shall consist of an intensive immersion of at least eight weeks duration in the subject area of the program. In determining programs to be funded, preference shall be given to programs that will allow teachers to gain endorsements in other subject areas, or to add to their endorsements in subject areas, that the department of education has determined are areas in which a shortage of teachers currently exists or is predicted to occur. From the moneys appropriated for the fiscal year beginning July 1, 1987 and ending June 30, 1988, under section 99E.32, thirty-five thousand (35,000) dollars shall be expended for a program to assist teachers both as instructors of classes that are offered by means of telecommunications and as monitors of classes offered by means of telecommunications.

Sec. 419. The department of cultural affairs, in cooperation with the department of economic development, shall develop a tourism program that provides for promotion of Iowa cultural, artistic, and humanitarian activities and the locations where these activities take place. A report on the implementation of the program shall be transmitted to the chairpersons and ranking members of the joint education appropriations subcommittee not later than January 1, 1988.

Sec. 420. The state historical society, historical division of the department of cultural affairs, may sell all or a portion of lot 6, in block 45, in Iowa City, Iowa, and the proceeds from the sale are appropriated to the historical division of the department of cultural affairs.

*Sec. 421. *It is the intent of the general assembly that the seven regional library boards, in performing their respective duties required by law, shall conform their activities to the mission, goals, and objectives and collect information pertaining to performance measures developed by the legislative fiscal bureau. The seven regional library boards shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the education appropriations subcommittee on the performance measures. The seven regional library boards shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.*

The regional library system exists for the purpose of providing supporting services to libraries and to encourage local financial support for library services to accomplish the following objectives:

1. Provide consultation and educational programs for library staff and trustees concerning facets of library management and operation to be indicated by the number of phone contacts, the number of individual contacts at meetings, the number of libraries visited, the number of visits made, the number of local library, county library, and other meetings attended, the number and type of workshops, continuing education, and special presentations made, and the percentage of work time spent consulting with libraries and trustees on the topics of library administration, public services, technical services, computer automation, facilities, and intellectual freedom.

2. 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 to be indicated by the total number of intraregional books loaned, the total number of interregional books loaned, the total number of requests, filled and unfilled, the total

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number of photocopies provided, the total number of audio-visual items loaned, the total number of photocopies received, the total number of bulk loans, and the total number of reference questions received.

3. Require, as a condition to receiving services, that a governmental subdivision assure maintenance of local effort to support the operating expenses of a local library.

*4. Require, as a condition for receiving services under section 303B.6, that a governmental subdivision maintain any tax levy for library maintenance purposes that is in effect on July 1, 1973.**

Sec. 422. It is the intent of the general assembly that the college aid commission shall study the feasibility of implementing a program that combines the state scholarship program and the supplemental grant program and provides for both need-based and nonneed-based awards. A report of the commission's conclusions and recommendations for the fiscal year beginning July 1, 1988 shall be transmitted to the joint education appropriations subcommittee not later than November 1, 1987.

Sec. 423. If any school district has utilized funds available under section 281.9 for services authorized under section 273.5, that district is eligible to apply to the department of education for an amount not to exceed fifty thousand dollars in order to continue to provide those services for the fiscal year beginning July 1, 1987 and ending June 30, 1988.

Sec. 424. The legislative fiscal bureau shall study options for providing guaranteed student loan services to eligible borrowers and make recommendations to the education appropriations subcommittee chairpersons and ranking members not later than November 1, 1987.

Sec. 425. Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts, chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

Sec. 426. 1986 Iowa Acts, chapter 1246, section 2, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the department of cultural affairs for the historical division for the fiscal period beginning July 1, 1986 and ending June 30, 1988 the sum of one hundred twenty-five thousand (125,000) dollars, or so much thereof as is necessary, to acquire by negotiated sale part of the land encompassing the Blood Run national historic landmark in Lyon county, Iowa. ~~This appropriation shall be matched by revenue from other sources.~~

Sec. 427. Section 135B.31, Code 1987, is amended to read as follows:

135B.31 EXCEPTIONS.

Nothing in this division is intended or should affect in any way that obligation of public hospitals under chapter 347 or municipal hospitals, as well as the state hospital at Iowa City, to provide medical ~~treatment~~ or obstetrical and newborn care for indigent persons under chapter 255 or 255A, wherein medical treatment is provided by hospitals of that category to patients of certain entitlement, nor to the operation by the state of mental or other hospitals authorized by law. Nothing herein shall in any way affect or limit the practice of dentistry or the practice of oral surgery by a dentist.

Sec. 428. Section 144.13A, Code 1987, is amended to read as follows:

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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 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, 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. 429. Section 155.37, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 239, 249, 249A, 252, 253, ~~or~~ 255, or 255A, the pharmacist shall exercise professional judgment by selecting a drug product of the same generic name and demonstrated bioavailability but of a lesser cost than the one prescribed for dispensing and sale to the person unless the physician, dentist, or podiatrist specifically states that only that designated brand or trade name drug product is to be dispensed. However, a pharmacy to which the prescription is presented or communicated is not required to substitute a drug product of the same generic name and demonstrated bioavailability but of lesser cost unless the pharmacy has in stock one or more such drug products.

*Sec. 430. NEW SECTION. *234A.1 ADOLESCENT TASK FORCE.*

1. A task force on adolescents is established. The task force is composed of the following voting members:

a. The lieutenant governor or the lieutenant governor's designee.

b. One member of the senate appointed by the majority leader of the senate and one member of the senate appointed by the minority leader of the senate.

c. One member of the house of representatives appointed by the speaker of the house and one member of the house of representatives appointed by the minority leader of the house.

d. Four state government employees, appointed by the legislative council, one from each of the following departments: the department of education, the department of human rights, the department of human services, and the Iowa department of public health.

e. Two public members appointed by the governor.

f. Six to twelve public members, with one or two from each of the following seven categories, appointed by the legislative council, with expertise in the area of adolescent pregnancy prevention or the provision of services to pregnant adolescents or adolescent parents:

(1) Health care professionals.

(2) Psychologists or social workers.

(3) Family planning service workers.

(4) Appropriate public school professional staff.

(5) Service providers for adolescents.

(6) Job training and counseling workers.

(7) Adolescent parents or adolescent peer counselors.

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2. The legislative council shall designate a chairperson or co-chairpersons. The task force shall meet at the call of the chairperson or co-chairpersons or ten task force members. The public members appointed by the legislative council and the governor shall be paid their actual and necessary expenses pursuant to section 2.12. The lieutenant governor shall be reimbursed and compensated as provided in section 2.10, and the legislative members shall be reimbursed and compensated as provided in section 2.44.

3. The task force shall:

a. Analyze problems confronting adolescents in this state and assess the symptoms of those problems, including but not limited to a review of problems relating to adolescent pregnancy, substance abuse, and suicide prevention.

b. Investigate and promote the development of viable family units and adolescent self-worth and self-esteem.

c. Assess the need for adolescent pregnancy prevention and services programs in Iowa.

d. Inventory existing programs and services relating to adolescent pregnancy prevention and services.

e. Investigate alternative funding sources relating to adolescent pregnancy prevention and services.

f. Investigate existing and needed maternity care health benefit coverages for pregnant adolescents.

g. Make legislative recommendations to the legislative council and issue a final report to the general assembly by January 1, 1988 regarding adolescent pregnancy prevention and services.

4. The legislative council shall authorize the legislative service bureau and the legislative fiscal bureau to provide assistance to the task force, and may authorize the use of funds available to the legislative council to pay the expenses of the task force.

*5. As used in this section, "adolescent" means a person under eighteen years of age or a person in attendance at an accredited school pursuing a course of study leading to a high school diploma, or its equivalent.**

Sec. 431. PREGNANCY PREVENTION AND SERVICES GRANTS.

The commissioner of human services, the director of the department of education, the director of the department of human rights, and the director of public health, or their designees, shall jointly designate and award, and the department of human services shall administer grants, which may be awarded to public school corporations, adolescent service providers, and nonprofit organizations involved in adolescent issues for two-year pilot projects targeted toward those areas of the state with the highest incidence of adolescent pregnancy, from one or more of the following programmatic areas:

1. Pregnancy prevention programs for adolescents and workshops for parents of adolescents to improve parent-child communications regarding human sexuality.

2. Communications media campaigns to discourage adolescent sexual activity and to encourage the assumption of responsibility by adolescents, both male and female, for their sexual activity and for parenting.

3. Residential facilities for pregnant adolescents and adolescent parents in need of shelter.

4. Early pregnancy detection for adolescents and prenatal services and adoption counseling for pregnant adolescents.

5. Child care and case management services provided to adolescent parents, both male and female, for a predetermined fee under purchase-of-service contracts, which include child care services, instruction in child development and parenting skills, support services for completion of school and for job training and placement, and other personal services.

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6. Teacher training, including transportation costs and workshop, conference, and course work expenses, designed to improve the teaching of components of the human growth and development curricula in grades kindergarten through twelve. A preference shall be given for the funding of teacher training grant projects which would qualify participating teachers for continuing education unit credits.

7. Pregnancy prevention programs which teach and encourage teen sexual abstinence.

As used in this section, "adolescent" means a person under eighteen years of age or a person in attendance at an accredited school pursuing a course of study leading to a high school diploma, or its equivalent. Pilot projects providing services to an adolescent under eighteen years of age may continue to provide the services beyond the adolescent's eighteenth birthday in accordance with guidelines adopted by the four state administrators authorized to award grants under this section. Pilot projects shall not use funds appropriated from the general fund of this state for the purpose of providing abortion services which are not medically necessary as defined under the medical assistance program administered pursuant to chapter 249A or for the purpose of dispensing or providing birth control items on property owned or controlled by a public school corporation.

Sec. 432. Section 255.16, Code 1987, is amended to read as follows:

255.16 COUNTY QUOTAS.

Subject to subsequent qualifications in this section, there shall be treated at the university hospital during each fiscal year a number of committed indigent patients from each county which shall bear the same relation to the total number of committed indigent patients admitted during the year as the population of such county shall bear to the total population of the state according to the last preceding official census. This standard shall apply to indigent patients, the expenses of whose commitment, transportation, care and treatment shall be borne by appropriated funds and shall not govern the admission of either obstetrical patients under chapter 255A or obstetrical or orthopedic patients under this chapter in accordance with eligibility standards pursuant to section 255A.5. If the number of patients admitted from any county shall exceed by more than ten percent the county quota as fixed and ascertained under the first sentence of this section, the charges and expenses of the care and treatment of such patients in excess of ten percent of the quota shall be paid from the funds of such county at actual cost; but if the number of excess patients from any county shall not exceed ten percent, all costs, expenses, and charges incurred in their behalf shall be paid from the appropriation for the support of the hospital.

Sec. 433. Section 255.19, unnumbered paragraph 2, Code 1987, is amended to read as follows:

All of the provisions of this chapter except as to commitment of patients shall apply to such patients. The university hospital authorities shall collect from the person or persons liable for the support of such patients reasonable charges for hospital care and service and deposit the same with the treasurer of the university for the use and benefit of the university hospital except as specified for obstetrical patients pursuant to section 255A.9. Earnings of the hospital whether from private patients, cost patients, or indigents shall be administered so as to increase as much as possible, the service available for indigents, including the acquisition, construction, reconstruction, completion, equipment, improvement, repair, and remodeling of medical buildings and facilities and additions thereto and the payment of principal and interest on bonds issued to finance the cost thereof as authorized by the provisions of chapter 263A. The physicians and surgeons on the hospital staff who care for patients provided for in this section may charge for their medical services under such rules, regulations and plan therefor as approved by the state board of regents.

Sec. 434. Section 255.26, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Warrants issued under section 255.25 shall be promptly drawn on the treasurer of state and forwarded by the director of revenue and finance to the treasurer of the state university, and the same shall be by the treasurer of the state university placed to the credit of the funds

which are set aside for the support of said hospital. However, warrants shall not be paid unless the UB-82 claim required pursuant to section 255A.13 has been filed with the Iowa health data commission. The superintendent of the said university hospital shall certify to the auditor of state on the first day of January, April, July and October of each year, the amount as herein provided not previously certified by the superintendent due the state from the several counties having patients chargeable thereto, and the auditor of state shall thereupon charge the same to the county so owing. A duplicate certificate shall also be mailed to the auditor of each county having patients chargeable thereto. Expenses for obstetrical patients served under section 255A.9 shall be reimbursed as specified in section 255A.9.

Sec. 435. NEW SECTION. 255A.1 STATE POLICY.

It is the policy of the state to provide obstetrical and newborn care to medically indigent individuals in this state, at the appropriate and necessary level, at a licensed hospital or health care facility closest and most available to the residence of the indigent individual.

Sec. 436. NEW SECTION. 255A.2 OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE PROGRAM.

A statewide obstetrical and newborn indigent patient care program is established for the purpose of providing obstetrical and newborn care to medically indigent residents of this state. Appropriations by the general assembly for this chapter shall be allocated for the obstetrical and newborn patient care fund within the Iowa department of public health and shall be utilized for the obstetrical and newborn indigent patient care program as specified in this chapter. Indigent patients in need of such care residing in the counties of Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, and Washington shall be provided the care at the university hospitals under the nonquota obstetrical program under chapter 255.

Sec. 437. NEW SECTION. 255A.3 ADMINISTRATION OF PROGRAM.

The Iowa department of public health shall administer the statewide obstetrical and newborn indigent patient care program. The department shall adopt administrative rules to implement the program pursuant to chapter 17A. Administrative costs of the department shall not exceed three percent of the annual funds appropriated for the obstetrical and newborn patient care fund.

Sec. 438. NEW SECTION. 255A.4 PATIENT QUOTA FORMULA.

The Iowa department of public health shall establish a patient quota formula for determining the maximum number of obstetrical and newborn patients eligible for the program from each county. The formula shall be based upon the annual appropriation for the program, the average number of live births in each county during the most recent three-year period for which statistics are available, and the per capita income for each county during the most recent one-year period for which statistics are available. In accordance with this formula the department shall allocate a patient quota to each county at the beginning of each fiscal year. The department shall provide for the reassignment of an unused county quota allotment on April 1 of each year. The reassignment shall be taken only from a county which has an unused quota allotment for the portion of the fiscal year ending March 31. A county may utilize its quota allotment for a patient determined to be eligible before the end of the fiscal year but scheduled to need care after the end of the fiscal year. The reassignment of an unused county allotment shall be made to other counties on the basis of rules adopted by the department pursuant to chapter 17A.

A woman who resides in a county which exceeds the patient quota allocated for the county, and who has been deemed eligible under section 255A.5, shall be served at the University of Iowa hospitals and clinics pursuant to section 255.16.

Sec. 439. NEW SECTION. 255A.5 MINIMUM ELIGIBILITY STANDARDS.

The Iowa department of public health, in collaboration with the department of human services and in consultation with the Iowa state association of counties, shall adopt rules, pursuant to chapter 17A, establishing minimum standards for eligibility for obstetrical and newborn care, including physician examination, medical testing, ambulance services, and inpatient transportation costs, for indigent obstetrical and newborn care provided by the University of Iowa hospitals and clinics and by other licensed hospitals and physicians. The minimum standards for eligibility shall provide eligibility for persons with incomes at or below one hundred fifty percent of the annual revision of the poverty income guidelines published by the United States department of health and human services, and shall provide, but shall not be limited to providing, eligibility for uninsured and underinsured persons financially unable to pay for necessary obstetrical and newborn care and orthopedic care. The minimum standards may include a spend-down provision. The resource standards shall be set at or above the resource standards under the federal supplemental security income program. The resource exclusions allowed under the federal supplemental security income program shall be allowed and shall include resources necessary for self-employment.

Sec. 440. NEW SECTION. 255A.6 APPLICATION AND CERTIFICATION FOR CARE.

A person desiring obstetrical and newborn care, the cost of which is payable from the obstetrical and newborn patient care fund, or the parent or guardian of a minor desiring or in need of such care, may apply to the director of a maternal health center, operated by the Iowa department of public health, to have the cost of such care paid from the fund. In counties not served by such a center, the department shall contract with another agency, institution or organization to receive and process applications for care. The director of the center shall first ascertain from the local office of the department of human services if the applicant would be eligible for medical assistance or for assistance under the medically needy program without any spend-down requirement, pursuant to chapter 249A. If the applicant is eligible for assistance pursuant to chapter 249A, or if the applicant is eligible for maternal and child health care services covered by a maternal and child health program, the obstetrical patient care program shall not provide such assistance, care, or covered services provided under other programs. The Iowa department of public health, with the department of human services, shall jointly develop a standardized application form and shall coordinate the determination of eligibility for medical assistance and the obstetrical patient care program. In counties in which the maternal and child health clinic processes the application, the clinic shall notify the county relief office of the application process.

Sec. 441. NEW SECTION. 255A.7 FREEDOM OF CHOICE OF PROVIDER.

A person certified for obstetrical and newborn care under this chapter may choose to receive the appropriate level of care at the University of Iowa hospitals and clinics or any other licensed hospital or health care facility.

Sec. 442. NEW SECTION. 255A.8 REIMBURSABLE COSTS OF CARE.

The obstetrical and newborn care costs of a person certified for such care under this chapter at a licensed hospital or health care facility or from licensed physicians shall be paid by the Iowa department of public health from the obstetrical and newborn patient care fund. However, a physician who provides obstetrical or newborn care at the University of Iowa hospitals and clinics to a person certified for care under this chapter is not entitled to receive any compensation for the provision of such care in accordance with section 255.23.

Sec. 443. NEW SECTION. 255A.9 ALLOWABLE REIMBURSEMENTS.

All providers of services to obstetrical and newborn patients under this chapter shall agree to accept as full payment the reimbursements allowable under the medical assistance program established pursuant to chapter 249A, adjusted for intensity of care. However, the total reimbursement from the obstetrical and newborn patient care fund to providers of services for

residents of a county is limited to that county's obstetrical and newborn patient quota multiplied by the medical assistance program's average reimbursement for obstetrical and newborn care for the most recent fiscal year except as otherwise provided in this section. The Iowa department of public health shall reserve ten percent of the fund annually for payment of the costs of care of a patient certified for care under this chapter in excess of the medical assistance program's average reimbursements if the nature and extent of the care justifies such additional reimbursement. The department shall adopt rules pursuant to chapter 17A, establishing the requirements for such additional reimbursement.

Sec. 444. NEW SECTION. 255A.10 PROCEDURES FOR PAYMENT.

The Iowa department of public health shall establish procedures for payment for providers of services to obstetrical and newborn patients under this chapter from the obstetrical and newborn patient care fund. All billings from such providers shall be submitted directly to the department. However, payment shall not be made unless the application and certification for care pursuant to section 255A.6 is performed.

Sec. 445. NEW SECTION. 255A.11 COUNTY RESPONSIBILITY FOR COSTS OF CARE.

A county shall not be held responsible for the costs of providing obstetrical and newborn care, including physician examination, medical testing, ambulance services, and transportation costs, to pregnant women and their newborn infants who meet the eligibility requirements adopted by the Iowa department of public health.

Sec. 446. NEW SECTION. 255A.12 REVERSION OR TRANSFER OF MONEYS IN THE OBSTETRICAL AND NEWBORN PATIENT CARE FUND.

Moneys encumbered prior to June 30 of a fiscal year for a certified eligible pregnant woman scheduled to deliver in the next fiscal year shall not revert from the obstetrical and newborn patient care fund to the general fund of the state. Moneys allocated to the obstetrical and newborn patient care fund shall not be transferred nor voluntarily reverted from the fund within a given fiscal year.

Sec. 447. NEW SECTION. 255A.13 DATA COLLECTION.

Beginning July 1, 1987, the University of Iowa hospitals and clinics shall submit, on a quarterly basis, UB-82 claims for all patients discharged after being served under the indigent patient program under chapter 255. The UB-82 claim shall include all data elements which are required by the Iowa health data commission.

**Sec. 448.* NEW SECTION. *279.50 HUMAN GROWTH AND DEVELOPMENT INSTRUCTION.*

1. Each board of directors of a public school corporation shall appoint an advisory committee composed of at least one person from each of the following groups: parents, teachers, school administrators, school board directors, pupils, health care professionals, members of the clergy, and other residents of the school district. The advisory committee shall study the provision of instruction to pupils in grades kindergarten through twelve appropriate to the pupils' grade level, age, and level of maturity, in topics related to human growth and development in order to promote accurate and comprehensive knowledge in this area, to foster responsible decision making, based on cause and effect, and to support and enhance the efforts of parents to provide moral guidance to their children. The advisory committee in its study shall address and make recommendations on the inclusion or exclusion of each of the following topics of instruction:

a. Self-esteem, responsible decision making, and personal responsibility and goal setting.

b. Interpersonal relationships.

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c. Discouragement of adolescent sexual activity.

d. Family life and parenting skills.

e. Human sexuality, reproduction, contraception and family planning, prenatal development, childbirth, adoption, available prenatal and postnatal support, and male and female responsibility.

f. Sex stereotypes.

g. Protective behaviors to prevent sexual abuse or sexual harassment.

h. Sexually transmitted diseases, including acquired immune deficiency syndrome, and their causes and prevention.

2. The advisory committee shall make its recommendations regarding the implementation of human growth and development instruction for pupils in the school district, including the inclusion or exclusion of the instructional topics in subsection 1, paragraphs "a" through "h", to the school board at least every three years and shall file a written report with the state department of education indicating the date and contents of the advisory committee's recommendations to the school board.

3. The school board may designate the advisory committee appointed pursuant to section 280.12, subsection 2, as the advisory committee to perform the duties required by this section, provided the advisory committee appointed under section 280.12, subsection 2 meets the advisory committee composition requirements in subsection 1.

4. Each school board shall provide an instructional program in human growth and development in grades kindergarten through twelve. Each school board shall annually provide to a parent or guardian of any pupil enrolled in the school district, an outline of the human growth and development curriculum used in the pupil's grade level and information regarding the procedure for inspection of the complete curriculum and instructional materials, including inspection prior to their use in the classroom. A pupil shall not be required to take instruction in human growth and development or in the specific topics under subsection 1, paragraphs "a" through "h", if the pupil's parent or guardian files with the pupil's teacher or principal a written request that the pupil be excused from the instruction.

Each school board or merged area school which offers general adult education classes or courses shall periodically offer an evening instructional program in human growth and development for parents, guardians, prospective biological and adoptive parents, and foster parents.

*5. The state department of education shall make available model human growth and development curricula for grades kindergarten through twelve which shall include the instructional topics in subsection 1, paragraphs "a" through "h". The department of education shall distribute the model curricula to each school board and to each advisory committee appointed pursuant to subsection 1, and shall provide technical assistance to school boards and advisory committees in the use or adaptation of the curricula.**

Sec. 449. Section 256.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Adopt rules pursuant to chapter 17A relating to educational programs and budget limitations for educational programs pursuant to sections 282.28, 282.29, 282.30, and 282.31. The rules adopted pursuant to this subsection shall be written by June 30, 1987.

Sec. 450. NEW SECTION. 256.10A DUTIES OF CONSULTANTS.

Consultants employed by the director and paid from the fund created by section 8.41 from moneys received from Pub. L. No. 97-35, Title V, subtitle D, chapter 2, shall assist those employees designated by the department as school improvement specialists in helping school districts to participate in school improvement activities identified as a result of the accreditation process conducted pursuant to section 256.11. The department shall assign consultants to assist school districts that the department determines are most in need of participation in school improvement activities.

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For the purpose of this section, "school improvement specialist" means a consultant employed by the department who is responsible for the accreditation of school districts under section 256.11.

Sec. 451. Section 256.11, subsections 10, 11, and 12, Code 1987, are amended by striking the subsections and inserting in lieu thereof the following:

10. The state board shall establish an accreditation process for school districts and nonpublic schools seeking accreditation pursuant to this subsection and subsections 11 and 12. As required in section 256.17, by July 1, 1989, all school districts shall meet standards for accreditation. For the school year commencing July 1, 1989 and school years thereafter, the department of education shall use a two-phase process for the continued accreditation of schools and school districts.

Phase I consists of annual monitoring by the department of education of all accredited schools and school districts for compliance with accreditation standards adopted by the state board of education as provided by section 256.17. The phase I monitoring requires that accredited school districts and schools annually complete accreditation compliance forms adopted by the state board and file them with the department of education. In addition, employees of the department of education shall complete at least one onsite visit each year to each accredited school and school district to review the educational programs and the information included in the compliance forms.

Phase II requires the use of an accreditation committee, appointed by the director of the department of education, to conduct an onsite visit to an accredited school or school district if any of the following conditions exist:

a. When the annual monitoring of phase I indicates that a school or school district may be deficient or fails to be in compliance with accreditation standards.

b. In response to a petition filed with the director requesting such a committee visitation that is signed by twenty percent or more of the registered voters of a school district.

c. In response to a petition filed with the director requesting such a committee visitation that is signed by twenty percent or more of the parents or guardians who have children enrolled in the school or school district.

d. At the direction of the state board of education.

The number and composition of the membership of an accreditation committee shall be determined by the director and may vary due to the specific nature or reason for the visit. In all situations, however, the chairperson and a majority of the committee membership shall be from the instructional and administrative program specialty staff of the department of education. Other members may include instructional and administrative staff from school districts, area education agencies, institutions of higher education, local board members and the general public. An accreditation committee visit to a nonpublic school requires membership on the committee from nonpublic school instructional or administrative staff or board members. A member of a committee shall not have a direct interest in the nonpublic school or school district being visited.

Rules adopted by the state board may include provisions for coordination of the accreditation process under this section with activities of accreditation associations.

Prior to a visit to a school district or nonpublic school, members of the accreditation committee shall have access to all annual accreditation report information filed with the department by that nonpublic school or school district.

After visiting the school district or nonpublic school, the accreditation committee shall determine whether the accreditation standards have been met and shall make a report to the director, together with a recommendation whether the school district or nonpublic school shall remain accredited. The accreditation committee shall report strengths and weaknesses, if any, for each standard and shall advise the school or school district of available resources and technical assistance to further enhance strengths and improve areas of weakness. A school district or nonpublic school may respond to the accreditation committee's report.

11. The director shall review the accreditation committee's report, and the response of the school district or nonpublic school, and provide a report and recommendation to the state board along with copies of the accreditation committee's report, the response to the report, and other pertinent information. The state board shall determine whether the school district or nonpublic school shall remain accredited. If the state board determines that a school district or nonpublic school should not remain accredited, the director, in cooperation with the board of directors of the school district, or authorities in charge of the nonpublic school, shall establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the standards, and shall establish a deadline date for completion of the procedures. The plan is subject to approval of the state board.

12. During the period of time specified in the plan for its implementation by a school district or nonpublic school, the school or school district remains accredited. The accreditation committee shall revisit the school district or nonpublic school and shall determine whether the deficiencies in the standards have been corrected and shall make a report and recommendation to the director and the state board. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected. If the deficiencies have not been corrected, the state board shall merge the territory of the school district with one or more contiguous school districts. Division of assets and liabilities of the school district shall be as provided in sections 275.29 through 275.31. Until the merger is completed, the school district shall pay tuition for its resident students to an accredited school district under section 282.24.

*Sec. 452. NEW SECTION. *256.20 APPROPRIATION FOR SALARIES FOR AREA SCHOOL EMPLOYEES.*

1. There is appropriated from the general fund of the state to the department for each fiscal year the sum of three million two hundred fifty thousand (3,250,000) dollars to be allocated to the merged area schools for pay adjustments for full-time nonadministrative employees in addition to any agreement negotiated under chapter 20 or other salary adjustments or agreements. The allocation shall be distributed to merged area schools as follows:

a. Merged Area I	*$*	*124,850*
b. Merged Area II	*$*	*159,548*
c. Merged Area III	*$*	*118,658*
d. Merged Area IV	*$*	*44,496*
e. Merged Area V	*$*	*372,808*
f. Merged Area VI	*$*	*131,372*
g. Merged Area VII	*$*	*152,560*
h. Merged Area IX	*$*	*171,630*
i. Merged Area X	*$*	*258,505*
j. Merged Area XI	*$*	*897,675*
k. Merged Area XII	*$*	*105,944*
l. Merged Area XIII	*$*	*436,499*
m. Merged Area XIV	*$*	*50,853*
n. Merged Area XV	*$*	*125,015*
o. Merged Area XVI	*$*	*99,587*

2. Moneys appropriated in subsection 1 for a pay adjustment shall be added to the salary of a full-time nonadministrative employee and shall supplement, not supplant, the results of a collective bargaining agreement negotiated under chapter 20, if any. The amount of a pay adjustment is for the adjustment of base pay only.

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*In addition, this subsection applies to pay adjustments funded by moneys appropriated in 1985 Iowa Acts, chapter 254, section 2, subsection 1, for the fiscal year beginning July 1, 1986.**

Sec. 453. NEW SECTION. 256.30 EDUCATIONAL EXPENSES FOR AMERICAN INDIANS.

The department of education shall provide moneys to pay the expense of educating American Indian children residing in the Sac and Fox Indian settlement on land held in trust by the secretary of the interior of the United States in excess of federal moneys paid to the tribal council for educating the American Indian children when moneys are appropriated for that purpose. The tribal council shall administer the moneys distributed to it by the department and shall submit an annual report and other reports as required by the department to the department on the expenditure of the moneys.

The tribal council shall first use moneys distributed to it by the department of education for the purposes of this section to pay the additional costs of salaries for certificated instructional staff for educational attainment and full-time equivalent years of experience to equal the salaries listed on the proposed salary schedule for the school at the Sac and Fox Indian settlement for the school year beginning July 1, 1987 as that salary schedule existed on May 1, 1987, but the salary for a certificated instructional staff member employed on a full-time basis shall not be less than eighteen thousand dollars. The department of management shall approve allotments of moneys appropriated in this section when the department of education certifies to the department of management that the requirements of this section have been met.

**Sec. 454. Section 261.2, Code 1987, is amended by adding the following new subsection:*

NEW SUBSECTION. *10. Prepare and administer the occupational therapists loan program under this chapter.**

Sec. 455. Section 261.9, subsection 5, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Which was eligible to participate in the tuition grant program during the school year beginning July 1, 1986 under section 261.9, subsection 5, paragraph "c", Code 1987, and will continue to be eligible during the school year beginning July 1, 1987, and which is making satisfactory progress to achieve accreditation from the North Central Association of Colleges and Secondary Schools accrediting agency, and the institution meets the thirteen general institutional requirements of the North Central Association of Colleges and Secondary Schools accrediting agency by July 1, 1988 and meets the requirements for candidacy status of the North Central Association of Colleges and Secondary Schools accrediting agency by July 1, 1989, and attains full accreditation under a time period established by the North Central Association.

Sec. 456. Section 261.17, subsections 1 and 4, Code 1987, are amended to read as follows:

1. A vocational-technical tuition grant may be awarded to any resident of Iowa who is admitted and in attendance as a full-time student in a vocational-technical or career option program at an area school in the state, and who establishes financial need.

4. A vocational-technical tuition grant shall be awarded on an annual basis, requiring reapplication by the student for each year. Payments under the grant shall be allocated equally among the semesters or quarters of the year upon certification by the institution that the student is in full-time attendance in a vocational-technical or career option program, as defined under rules of the department of education. If the student discontinues attendance before the end of any term after receiving payment of the grant, the entire amount of any refund due

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that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state.

Sec. 457. Section 261.18, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Of the funds appropriated for the subvention program, the commission shall provide three thousand dollars of subvention to the college of osteopathic medicine and surgery for each Iowa student, to be credited against the tuition charged for the Iowa student by the college of osteopathic medicine and surgery, and the remaining funds shall be allocated to the college of osteopathic medicine and surgery.

Sec. 458. Section 261.25, subsections 1 and 2, Code 1987, are 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 ~~twenty~~ twenty-four million ~~six~~ three hundred nineteen thousand eighty-four dollars for tuition grants.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~three~~ four hundred ~~fifty~~ thousand dollars for scholarships.

Sec. 459. Section 261.37, subsection 8, Code 1987, is amended to read as follows:

8. To develop and disseminate informational and educational materials to lenders, postsecondary institutions and borrowers. The commission shall provide applicants, as deemed necessary by the commission, with information about the past default rate of borrowers by postsecondary institutions.

Sec. 460. Section 261.45, unnumbered paragraph 3, Code 1987, is amended to read as follows:

There is appropriated from the general fund of the state to the Iowa college aid commission, the sum of ~~thirty~~ eighty-five thousand dollars, or as much thereof as is necessary, ~~for the fiscal years beginning July 1, 1983 and July 1, 1984, and the sum of sixty thousand dollars, or as much thereof as is necessary,~~ for the fiscal year beginning July 1, ~~1985~~ 1987 and each succeeding fiscal year, to make the reimbursement payments required under this section.

**Sec. 461.* NEW SECTION. *261.46 OCCUPATIONAL THERAPIST LOAN PAYMENTS.*

An occupational therapist loan repayment program is established to be administered by the commission.

An occupational therapist is eligible for reimbursement payments under this section if the individual:

1. Has entered into a payment agreement with the commission on or after July 1, 1987.

2. Is a licensed occupational therapist under chapter 148B.

3. Is an Iowa resident employed in Iowa as an occupational therapist as certified by the board of physical and occupational therapy examiners.

4. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program or has parents with an outstanding debt with an eligible lender under the Iowa PLUS loan program for the third and fourth years of an occupational therapist program.

The commission shall adopt rules under chapter 17A to provide for the administration of the program. The maximum annual reimbursement to an eligible occupational therapist for loan payments made during a year for loans qualifying under subsection 4 shall be equal to four thousand dollars or the remainder of a loan, whichever is less. Total payments for an eligible occupational therapist are limited to a two-year period and shall not exceed a total of eight thousand dollars.

*If an occupational therapist fails to complete a year of employment as provided in subsection 3, the individual shall not be reimbursed for payments made during that year.**

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Sec. 462. Section 261.63, Code 1987, is amended to read as follows:

261.63 APPROPRIATION.

Commencing July 1, ~~1984~~ 1987, there is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~one million~~ eight hundred thousand dollars for supplemental grants.

Sec. 463. NEW SECTION. 261.85 APPROPRIATION.

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million one hundred fifty thousand dollars for the work-study program.

From moneys appropriated in this section, one million one hundred fifty thousand dollars shall be allocated to institutions of higher education under the state board of regents and merged area schools and the remaining one million dollars shall be allocated by the commission on the basis of need as determined by the portion of the federal formula for distribution of work study funds that relates to the current need of institutions.

Sec. 464. Section 262.9, subsection 15, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

15. In its discretion, adopt rules relating to the classification of students enrolled in institutions of higher education under the board who are residents of Iowa's sister states as residents or nonresidents for fee purposes.

Sec. 465. Section 262.9, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Not less than thirty days prior to action by the board on any proposal to increase tuition, fees, or charges at one or more of the institutions of higher education under its control, send written notification of the amount of the proposed increase including a copy of the proposed tuition increase docket memorandum prepared for its consideration to the presiding officers of the student government organization of the affected institutions. The final decision on the increase in tuition for a fiscal year shall be made no later than the regular meeting held in November of the preceding fiscal year. The regular meeting held in November shall be held in Ames, Cedar Falls, or Iowa City and shall not be held during the period in which classes have been suspended for Thanksgiving vacation.

Sec. 466. Section 262.44, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Set aside and use portions of the respective campuses of the institutions of higher education under its control, namely, the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa, as the board determines are suitable for the acquisition or construction of ~~the following~~ self-liquidating and revenue producing buildings and facilities which the board deems necessary for the students and suitable for the purposes for which the institutions were established including without limitation: Student unions, recreational buildings, auditoriums, stadiums, field houses, athletic buildings and areas, parking structures and areas, electric, heating, sewage treatment and communication utilities, research equipment ~~if the debt incurred in its acquisition will be retired by federal, private, or other lawfully available nonappropriated funds,~~ and additions to or alterations of existing buildings or structures.

Sec. 467. Section 262.44, subsection 1, unnumbered paragraph 2, Code 1987, is amended by striking the unnumbered paragraph.

Sec. 468. Section 262.61, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the amount of bonds or notes issued under this chapter exceeds the actual costs of the projects for which the bonds or notes were issued, the amount of the difference shall be used to pay the principal and interest due on bonds or notes issued under this chapter.

Sec. 469. Section 262A.9, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the amount of bonds issued under this chapter exceeds the actual costs of the projects for which bonds were issued, the amount of the difference shall be used to pay the principal and interest due on bonds issued under this chapter.

Sec. 470. Section 263A.7, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the amount of bonds or notes issued under this chapter exceeds the actual costs of the projects for which the bonds or notes were issued, the amount of the difference shall be used to pay the principal and interest due on bonds or notes issued under this chapter.

*Sec. 471. NEW SECTION. *269.3 CLASSROOM TEACHERS.*

*For purposes of chapter 20, classroom teachers employed by the Iowa braille and sight-saving school may be accreted to the faculty employee organization at the University of Northern Iowa or any other approved employee organization.**

*Sec. 472. NEW SECTION. *270.11 CLASSROOM TEACHERS.*

*For purposes of chapter 20, classroom teachers employed by the school for the deaf may be accreted to the faculty employee organization at the University of Northern Iowa or any other approved employee organization.**

Sec. 473. Section 271.6, Code 1987, is amended to read as follows:

271.6 INTEGRATED TREATMENT OF UNIVERSITY HOSPITAL PATIENTS.

The authorities of the Oakdale campus may authorize patients for admission to the hospital on the Oakdale campus who are referred from the university hospitals and who shall retain the same status, classification, and authorization for care which they had at the university hospitals. Patients referred from the university hospitals to the Oakdale campus shall be deemed to be patients of the university hospitals. ~~The provisions of chapter~~ Chapters 255 and 255A and operating policies of the university hospitals shall apply to the patients and to the payment for their care the same as the provisions apply to patients who are treated on the premises of the university hospitals.

Sec. 474. Section 273.3, subsection 6, Code 1987, is 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. Area education agencies may provide print and nonprint materials to public and private colleges and universities that have teacher education programs approved by the state board of education.

Sec. 475. Section 273.3, subsection 10, Code 1987, is amended by striking the subsection.

Sec. 476. Section 280A.22, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. In addition to the tax authorized under section 280A.17, the voters in any merged area may at the annual school election vote a tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value in any one year for a period not to exceed ten years for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, for the purpose of paying costs of utilities, and for the purpose of maintaining, remodeling, improving, or expanding the area vocational school or area community college of

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the merged area. If the tax levy is approved under this section, the costs of utilities shall be paid from the proceeds of the levy. The tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as provided in section 331.552, subsection 29. The proceeds of the tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was voted.

Sec. 477. Section 280A.22, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The proceeds of the tax voted under subsection 1, paragraph "a", prior to July 1, 1987 shall be used for the purposes for which it was approved by the voters and may be used for the purpose of paying the costs of utilities.

Sec. 478. Section 280A.23, subsection 2, Code 1987, is amended to read as follows:

2. Have authority to determine tuition rates for instruction. Tuition for residents of Iowa shall not exceed the lowest tuition rate per semester, or the equivalent, charged by an institution of higher education under the state board of regents for a full-time resident student. However, if a local school district pays tuition for a resident pupil of high school age, the limitation on tuition for residents of Iowa shall not apply, the amount of tuition shall be determined by the board of directors of the area school with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the area school for the purpose of computing general aid to the area school. Tuition for nonresidents of Iowa shall be not less than one hundred fifty percent and not more than two hundred percent of the tuition established for residents of Iowa. Tuition for resident or nonresident students may be set at a higher figure with the approval of the state board. A lower tuition for nonresidents may be permitted under a reciprocal tuition agreement between a merged area and an educational institution in another state, if the agreement is approved by the state board. The board may designate that portion of the tuition moneys collected from students be used for student aid purposes.

Sec. 479. Section 280A.42, Code 1987, is amended to read as follows:

280A.42 PAYMENT OF EXPENSES.

The board of directors of a merged area shall audit and allow all just claims against the area school and an order shall not be drawn upon the treasury until the claim has been audited and allowed. However, the board of directors, by resolution, may authorize the secretary of the board, when the board is not in session, to issue payments for salaries pursuant to the terms of a written contract and to issue payments upon the receipt of verification filed with the secretary for ~~expenses for freight; drayage; express; postage; printing; utilities including electricity, water, waste collection, heating, air conditioning, telephone, and telegraph charges~~ all other general fund and plant fund expenses within limits established by resolution of the board; expenses involving auxiliary, agency, and scholarship and loan accounts; and refunds to students for tuition and fees. The secretary shall either deliver in person or mail the payments to the payees. A payment shall be made payable only to the person performing the service or furnishing the supplies for which the payment is issued. Payments issued prior to audit and allowance by the board shall be allowed by the board at the first meeting held after the issuance and shall be entered in the minutes of the meeting.

Sec. 480. Section 282.19, Code 1987, is amended to read as follows:

282.19 CHILD LIVING IN FOSTER CARE FACILITY.

A child who is living in a licensed child foster care facility as defined in section 237.1 in this state which is located in a school district other than the school district in which the child resided before receiving foster care may enroll in and attend an accredited school in the school district in which the child is living. ~~If a child does not require special education and was not counted in the basic enrollment of a school district for a budget year under section 442.4, the tuition~~

~~and transportation, when required by law, shall be paid by the treasurer of state from funds in the state treasury not otherwise appropriated, and upon warrants drawn by the director of revenue and finance upon requisition of the director of the department of education.~~ The instructional costs for students who do not require special education shall be paid as provided in section 282.31, subsection 1, paragraph "b" or for students who require special education shall be paid as provided in section 282.31, subsections 2 or 3.

Sec. 481. NEW SECTION. 282.28 CHILDREN AT ELDORA AND TOLEDO.

Annually, the area education agency in which the state training school and the Iowa juvenile home are located and the department of human services on behalf of the training school and juvenile home shall submit an annual joint application by January 1 for the next succeeding school year to the department of education describing the proposed special education instructional and support programs and service improvements for the training school and juvenile home. The department of education shall review and approve or modify the program and proposed budget by February 1 and shall notify the area education agency and the department of human services of the approved budget. The moneys for the approved budget shall supplement and not supplant moneys equal to the moneys expended for education for the fiscal year beginning July 1, 1986 by the department of human services. The moneys for the approved budget shall be used to ensure that the training school and juvenile home comply with appropriate administrative rules relating to special education adopted by the department of education.

The area education agency shall submit a claim to the department of education by August 1 following the school year for the actual costs of the special education programs and services provided at the training school and juvenile home. The department shall review and approve or modify the claims by September 1 and shall notify the department of revenue and finance of the approved claim amount. The total amount of the approved claim shall be paid by the department of revenue and finance to the area education agency by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 442.26 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claim that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year. The department of revenue and finance shall transfer the total amount of the approved claim from the moneys appropriated under section 442.26 for payment to the area education agency.

Sec. 482. NEW SECTION. 282.29 CHILDREN PLACED BY DISTRICT COURT.

Notwithstanding section 282.31, subsection 1, a child who has been identified as requiring special education, who has been placed in a facility or home by the district court, and for whom parental rights have been terminated by the district court, shall be provided special education programs and services on the same basis as the programs and services are provided for children requiring special education who are residents of the school district in which the child has been placed. The special education instructional costs shall be paid as provided in section 282.31, subsections 2 or 3.

Sec. 483. NEW SECTION. 282.30 SPECIAL PROGRAMS.

1. a. An area education agency shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

(1) An approved or licensed shelter care home, as defined in section 232.2, subsection 31.

(2) An approved juvenile detention home, as defined in section 232.2, subsection 28.

b. The area education agency shall provide the educational program by any one of, but not limited to, the following:

(1) Providing for the enrollment of the child in the district of residence of the child, subject to the approval of the district in which the child is living.

(2) Cooperating with the district of residence of the child and obtaining the course of study and textbooks of the child for use in the special facility into which the child has been placed.

(3) Providing for the enrollment of the child in the district in which the child is living, subject to the approval of the district in which the child is living.

An area education agency shall not provide educational services to a facility specified in paragraph "a" unless the facility makes a request for educational services to the area education agency by December 1 of the school year prior to the beginning of the school year for which the services are being requested.

2. The area education agency where the child is living, the school district of residence, the other appropriate area education agency or agencies, and other appropriate agencies involved with the care or placement of the child shall cooperate with the school district where the child is living in sharing educational information, textbooks, curriculum, assignments, and materials in order to plan and to provide for the appropriate education of the child living in such facility specified in subsection 1.

Sec. 484. NEW SECTION. 282.31 FUNDING FOR SPECIAL PROGRAMS.

1. a. A child who lives in a facility pursuant to section 282.30, subsection 1, paragraph "a", and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The area education agency shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the area education agency by February 1. The area education agency shall submit a claim to the department of education by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines pursuant to section 256.7, subsection 8, and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the area education agency by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 442.26 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year. The department of revenue and finance shall transfer the total amount of the approved claims from the moneys appropriated under section 442.26 for payment to the area education agencies.

b. A child who lives in a facility or home pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located.

2. a. The actual special education instructional costs incurred for a child who lives in a facility pursuant to section 282.19 or for a child who is placed in a facility or home pursuant to section 282.29, who requires special education and who is not enrolled in the educational program of the district of residence of the child but who receives an educational program from the district in which the facility or home is located, shall be paid by the district of residence of the child to the district in which the facility or home is located, and the costs shall include the cost of transportation.

b. A child shall not be denied special education programs and services because of a dispute over the determination of district of residence of the child. The director of the department of education shall determine the district of residence when a dispute arises regarding the determination of the district of residence for a child who requires special education pursuant to this subsection.

3. The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 281.9, and the payment pursuant to paragraph "a" was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the school district by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 442.26 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the budget year. The department of revenue and finance shall transfer the total amount of the approved claims from moneys appropriated under section 442.26 for payment to the school district.

4. For purposes of this section, "district of residence" means the school district in which the parent or legal guardian of the child resides or the district in which the district court is located if the district court is the guardian of the child.

5. Programs may be provided during the summer and funded under this section if the school district or area education agency determines a valid educational reason to do so.

Sec. 485. NEW SECTION. 282.32 APPEAL.

An area education agency or local school district may appeal a decision made pursuant to section 282.28 or 282.31 to the state board of education. The decision of the state board is final.

Sec. 486. Sections 273.11, 281.12, and 282.27, Code 1987, are repealed.

Sec. 487. TRANSITION.

1. The expenditures submitted to the department of education and approved by the department for providing programs for students residing in a shelter care home or juvenile detention home by an area education agency for the school year beginning July 1, 1986 and ending June 30, 1987 shall be paid during the fiscal year beginning July 1, 1987 and ending June 30, 1988 within sixty days after July 1, 1987. These payments shall be made to area education agencies pursuant to the payment method within section 282.31.

2. Notwithstanding section 282.28, the area education agency in which the state training school and the Iowa juvenile home are located and the department of human services shall submit the joint application for the special education program to the department of education by August 15, 1987 for the school year beginning July 1, 1987.

3. Notwithstanding section 282.30, a facility specified in section 282.30, subsection 1, paragraph "a" shall make a request to be served by an area education agency for the school year beginning July 1, 1987 by July 10, 1987. Notwithstanding section 282.31, an area education agency or local school district shall submit a proposed program and budget for a program under section 282.31 by July 20, 1987 for the school year beginning July 1, 1987 and ending June 30, 1988.

Sec. 488. Section 285.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Notwithstanding subsection 1, paragraph "a", a parent or guardian of an elementary pupil entitled to transportation pursuant to subsection 1, may request

that a child day care facility be designated for purposes of subsection 9 rather than the residence of the pupil. The request shall be submitted for a period of time of at least one semester and may not be submitted more than twice during a school year.

Sec. 489. Section 286A.8, Code 1987, is amended to read as follows:

286A.8 LIBRARY FUNCTION COST.

The library function cost for a ~~base~~ budget year for an area school is determined by the department of education by multiplying the total of the area school's support for the five instructional cost centers, for the general institutional support function, for the student services function, and for the physical plant function for that year by three and thirty-three hundredths percent, which is the average percent of the area schools' support expended for the library function cost. The department shall notify the department of management.

The foundation support level for the library services function for an area school for a base year is sixty-five percent of the area school's library function cost for that year.

~~For the budget year beginning July 1, 1986 and each succeeding budget year, the foundation support level for the library function for an area school is the foundation support level for the base year plus a library allowable growth amount. The allowable growth amount is determined by the department of education by multiplying the state percent of growth for the budget year by the state average library function cost for the base year for each area school. The department shall notify the department of management.~~

Sec. 490. NEW SECTION. 303.18 LOAN FOR EXHIBITS.

Notwithstanding sections 302.1 and 302.1A, and after moneys appropriated under section 99E.32, subsection 5, for the fiscal year beginning July 1, 1987 and ending June 30, 1988 have been expended or obligated, the administrator of the historical division of the department of cultural affairs may obtain a loan of not exceeding three million fifty thousand dollars from moneys designated as the permanent school fund of the state in section 302.1, to be used to pay for equipment, planning, and construction costs of educational exhibits for the state historical museum. The exhibits will teach common school children of Iowa about Iowa's history, culture, and heritage. The department of revenue and finance shall make the payment upon receipt of a written request from the administrator of the historical division. Moneys received under this section as a loan that are not expended are available for expenditure during the fiscal year beginning July 1, 1988.

The historical division shall repay a portion of the amount of the loan together with annual interest payments due on the balance of the loan over a ten-year period commencing with the fiscal year beginning July 1, 1987. Payments shall be made from gross receipts and other moneys available to the historical division. Annual payments shall not be less than the amount of interest on the permanent school fund required to be transferred to the first in the nation in education foundation under section 302.1A or seventy-five percent of the gross receipts, whichever is greater. Payments of both principal and interest made by the state historical division under this section shall be paid quarterly and shall be considered interest earned on the permanent school fund to the extent necessary for payment of interest to the first in the nation in education foundation under section 302.1A.

The treasurer of state shall determine the rate of interest that the historical division shall pay on the loan.

Sec. 491. NEW SECTION. 294A.25 APPROPRIATION.

1. For each fiscal year commencing with the fiscal year beginning July 1, 1987, there is appropriated from the general fund of the state to the department of education the amount of ninety-two million one hundred thousand eighty-five dollars to be used to improve teacher salaries. The moneys shall be distributed as provided in this section.

2. The amount of one hundred fifteen thousand five hundred dollars to be paid to the department of human services for distribution to its certificated classroom teachers at institutions under the control of the department of human services for payments for phase II based upon

the average student yearly enrollment at each institution as determined by the department of human services.

3. The amount of ninety-four thousand six hundred dollars to be paid to the state board of regents for distribution to certificated classroom teachers at the Iowa braille and sight-saving school and the Iowa school for the deaf for payments of minimum salary supplements for phase I and payments for phase II based upon the average yearly enrollment at each school as determined by the state board of regents.

*4. *For the fiscal year beginning July 1, 1987 only, the amount of two hundred thousand dollars for pilot projects for sabbaticals for teachers.*

*Notwithstanding section 256.21, if House File 499 is enacted by the Seventy-second General Assembly, 1987 Session, and becomes law, the department shall establish pilot projects for sabbatical programs for the school year beginning July 1, 1987. Notwithstanding section 8.33, moneys appropriated in this subsection and not expended for pilot projects by June 30, 1987 shall not revert on June 30, 1987, but shall carry over and may be expended during the fiscal year beginning July 1, 1988. It is the intent of the general assembly that projects authorized by this subsection shall meet requirements which are similar to the requirements specified in section 256.21 if House File 499 is enacted by the Seventy-second General Assembly, 1987 Session, and becomes law. Procedures for making applications for projects authorized by this subsection shall be established by the state board of education by rule under chapter 17A. The department shall send notification to school districts as soon as practicable concerning the requirements for applications for sabbaticals and shall encourage school districts to develop their own sabbatical programs using moneys available to them under phase III if House File 499 is enacted by the Seventy-second General Assembly, 1987 Session, and becomes law.**

5. For each fiscal year, the remainder of moneys appropriated in subsection 1 to the department of education shall be deposited in the educational excellence fund to be allocated in an amount to meet the minimum salary requirements of this chapter for phase I, in an amount of thirty-eight million five hundred thousand dollars for phase II, and the remainder of the appropriation for phase III.

As a condition of the appropriation in this section, and notwithstanding section 8.31, if at any time between July 1, 1987 and February 1, 1988, the governor determines that the estimated budget resources of the state will be insufficient to pay all appropriations in full for the fiscal year beginning July 1, 1987 and ending June 30, 1988, in lieu of using section 8.31 to modify allotments on a uniform basis, the governor shall certify to the department of education the amount by which budget resources are insufficient. The department of education shall notify the governor of the amount of moneys allocated for phase III under this chapter and pursuant to the appropriation made in this section. The governor shall order that the allocation for phase III be reduced by an amount equal to the amount that the budget resources are insufficient or by the amount contained in the department of education's notification to the governor under this section, whichever is less and shall certify to the department of education the amount of money available for phase III.

Sec. 492. Section 303.83, Code 1987, is amended to read as follows:

303.83 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, and interest earned on all funds credited to the division except funds appropriated to the division from the general fund of the state. The administrator may receive services from other divisions and state agencies.

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*Item veto; see message at end of the Act

Sec. 493. Section 422.9, subsection 2, Code 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Add the amount the taxpayer has paid to others, not to exceed one thousand dollars for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the United States Civil Rights Act of 1964 and chapter 601A. As used in this paragraph, "textbooks" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship, and does not include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. The deduction in this paragraph does not apply to a taxpayer whose adjusted gross income, as properly computed for federal tax purposes, is forty-five thousand dollars or more. In the case where the taxpayer is married, whether filing jointly or separately, the deduction does not apply if the combined adjusted gross income of the taxpayer and spouse is forty-five thousand dollars or more.

As used in this paragraph, "tuition" means any charges for the expenses of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching only of those subjects legally and commonly taught in public elementary and secondary schools in this state and which do not relate to the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship, and which do not relate to extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature.

Sec. 494. Section 422.12, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. For those who do not itemize their deduction, a tuition credit equal to five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the United States Civil Rights Act of 1964 and chapter 601A. As used in this paragraph, "textbooks" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship, and does not include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. Notwithstanding any other provision, all other credits allowed under section 422.10 through 422.12 shall be deducted before the tuition credit under this subsection. The credit in this subsection does not apply to a taxpayer whose adjusted gross income, as properly computed for federal tax purposes, is forty-five thousand dollars or more. In the case where the taxpayer is married, whether filing jointly or separately, the credit does not apply if the combined adjusted gross income of the taxpayer and spouse is forty-five thousand dollars or more.

As used in this subsection, "tuition" means any charges for the expenses of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching only of those subjects legally and commonly taught in public elementary and secondary schools in this state and which do not relate to the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets,

doctrines, or worship, and which do not relate to extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature.

Sec. 495. Section 427.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 40. PUBLIC TELEVISION STATION. All grounds and buildings used or under construction for a public television station and not leased or otherwise used or under construction for pecuniary profit.

Sec. 496. All federal grants to and the federal receipts of agencies appropriated funds under this division of this Act are appropriated for the purposes set forth in such federal grants or receipts.

Sec. 497. Moneys appropriated by this division of this Act shall not be used for capital improvements.

Sec. 498. Sections 122, 207, 209, 210, 211, 220, 304, 305, 409, 411, 412, and 449 of this Act, being deemed of immediate importance, take effect upon their enactment. Sections 493 and 494 of this Act are retroactive to January 1, 1987 and apply to tax years beginning on or after that date.

Approved June 9, 1987, except the items which I hereby disapprove and which are designated as that portion of section 107, subsection 1, which is herein bracketed in ink and initialed by me; section 109; that portion of section 114, which is herein bracketed in ink and initialed by me; section 122; section 126, subsection 2(b); section 126, subsection 3; that portion of section 126, subsection 4, which is herein bracketed in ink and initialed by me; section 126, subsection 6; section 127; section 133; section 201, subsection 6; section 205, subsection 5; section 207, subsection 2; section 210; section 211; section 220; section 301, subsection 15; section 302; section 304; section 306; section 401, subsection 8; section 402, subsection 2; that portion of section 405, subsection 1, which is herein bracketed in ink and initialed by me; section 405, subsection 12; that portion of section 408, subsection 1(a), which is herein bracketed in ink and initialed by me; section 409; section 416; section 421; section 430; section 448; section 452; section 454; section 461; section 471; section 472; section 491, subsection 4; that portion of section 491, subsection 5, which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated 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*

Dear Madam Secretary:

I hereby transmit Senate File 511, an Act relating to the financing of public agencies and programs and making appropriations to agencies, boards, commissions, departments, and programs of state government relating to elected officials, the executive council, management, revenue and finance, personnel, general services, economic development, agriculture, natural resources, and education, providing a property tax exemption for certain educational facilities, establishing an office of state-federal relations, providing for the education of American Indian children, establishing an occupational therapist loan program, providing for the sale of certain property and the purchase of certain property, providing tax exemption for certain property of a public television station, establishing a targeted small business linked deposit program and Iowa satisfaction and performance bond program, establishing a state fair authority, establishing an obstetrical and newborn indigent patient care program, accretion to bargaining units of certain teachers, providing for a loan of moneys in the permanent school fund, providing a tax deduction and a tax credit for certain purposes, making provisions retroactive, and providing effective dates.

Senate File 511 provides for appropriations and substantial statutory changes for agencies ranging from executive council to the Department of Education. This bill, in short, spends more than the state's taxpayers can afford. Senate File 511 authorizes a score of new programs; it attempts to hide the real level of spending in FY 88 by over $12 million by appropriating funds in the wrong fiscal year; and it contains substantial statutory language which encroaches upon executive branch discretion in the administration of programs.

As a result, action must be taken to clean up this bill and to substantially cut the level of spending.

With the recent action by the extraordinary session of the 72nd General Assembly, the Department of Management estimates that the state will face a revenue shortfall of up to $30 million in FY 88. This shortfall occurs despite the use of the additional one-time revenue achieved in FY 87 as a result of federal tax changes. Clearly, spending must be cut substantially in FY 88 if we are to have a balanced budget as required by the Iowa Constitution.

Therefore, I am taking action to remove $15.95 million of excessive spending from Senate File 511. I also am removing $19.203 million from House File 671 in order to provide the state with a balanced budget. Programs for which spending is cut or eliminated in this bill include those which have been recommended for elimination in the past, those new programs which impose upon the state's taxpayers new liabilities and additional spending for existing programs beyond that called for in my initial recommendations to the General Assembly.

Senate File 511 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 107, Subsection 1, unnumbered paragraph 1 in its entirety. This unnumbered paragraph requires the Department of General Services to continue the forms management program. This program was recommended for elimination by the recent restructuring and downsizing report for state government and I had recommended that we cut this program. The legislature provided an additional $40,000 in the lump sum appropriation to the department. With this veto, that $40,000 will revert to the state's general fund. The department can provide for appropriate controls on the use of forms by state agencies without the expenditure of these additional funds.

I am unable to approve the item designated as Section 109 in its entirety. Section 109 of Senate File 511 provides $3 million to the Department of General Services in FY 89 and FY 90 to be used for capitol complex construction. This program is designed to supplement funds appropriated in the lottery bill to construct an underground office building for the General Assembly.

I question the legislature's ability to obligate a future General Assembly for these funds. In addition, I believe it is inappropriate for the General Assembly to be spending millions of dollars to construct a new office building for the members.

I am unable to approve the item designated as that portion of Section 114 which reads as follows: "and the fiscal committee of the legislative council,".

This provision in Section 114 gives the fiscal committee of the legislative council the authority to, in effect, appropriate funds to the lottery division of the Department of Revenue and Finance. I believe this is an inappropriate delegation of responsibility to the fiscal committee of the legislature. The Department of Management will review the need for additional funds by the lottery division and will provide appropriate reports on those needs to the legislature.

I am unable to approve that item designated as Section 122 in its entirety. Section 122 of Senate File 511 appropriates $4.25 million in FY 87 for various projects to the Department of General Services. These include capitol renovation projects and moving the historical division into the new historical building.

I had recommended a number of these funds for appropriation in FY 88. However, the legislature is attempting to use budget gimmickery to mask the actual level of spending in Fiscal Year 1988. This "appropriate-now and spend-later" budgetary practice is dangerous and will result in excessive spending in FY 88 and FY 89. Iowa taxpayers cannot afford these double expenditures and therefore I cannot allow this budget gimmickery to be passed into law. The historical division move and the capitol renovation projects can be accomplished by use of lottery funds.

I am unable to approve that item designated as Section 126, Subsection 2, paragraph b; Section 126, Subsection 3 in its entirety; that portion of Section 126, Subsection 4 which reads as follows: "with oversight of the office to be provided by the state-federal relations commission."

And Section 126, Subsection 6 in its entirety.

This item in Section 126 establishes a state-federal relations commission which, in effect, is a fourth branch of government composed of the three branches established in the Constitution. To be effective, Iowa's Washington office must be managed by the executive branch, albeit with appropriate communication with the other branches of government. Setting up a three-party team to manage a new independent agency would be unworkable and would greatly hamper the ability of Iowa to use its Washington office to return a greater share of our federal tax dollars to Iowa.

I am unable to approve that item designated as Section 127 in its entirety.

This section requires the governor to transmit final drafts of the governor's proposed budget expenditures no later than seven days following delivery of the budget message. A good faith effort will be made to have the draft budget bills submitted within seven days of the message. However, the language in Section 127 is unduly restrictive.

I am unable to approve that item designated as Section 133 in its entirety.

This section of Senate File 511 establishes an audit expense fund by the Department of Revenue and finance. While I agree with the intent of this proposal — to provide additional auditors and to increase tax compliance — I cannot accept another fund separated from the state's general fund. Such action by the General Assembly tends to obscure the ability of taxpayers to view the real level of spending. Revolving funds should be used on only a very limited basis; direct appropriations from the general fund should be the general rule.

I am unable to approve that item designated as Section 201, Subsection 6 in its entirety.

This section of Senate File 511 imposes burdensome performance measures and reporting requirements on the Department of Agriculture and Land Stewardship. These management related goals and reporting mechanisms are the essence of executive branch administrative discretion. The Department of Management has developed performance measures for each department, consistent with the reorganization bill. The results of these measures can and will be shared with the legislative branch of government at appropriate times. Moreover, the agricultural marketing issue is now the subject of contention between the Department of Economic Development and the Department of Agriculture and Land Stewardship. These goals and mission statements simply tend to further confuse that marketing dichotomy. The legislature should take action to provide full marketing authority in the Department of Economic Development, as recommended in the recent reorganization legislation.

I am unable to approve that item designated as Section 205, Subsection 5 in its entirety.

This section of Senate File 511 imposes detailed performance measures on the law enforcement bureau of the fish and wildlife division of the Department of Natural Resources. Again, these management related goals and reporting mechanisms are the essence of executive branch administrative discretion. The Department of Management's performance measures can and will be shared at appropriate times with the legislative branch of government. However, some administrative discretion in the management of state government must be maintained.

I am unable to approve that item designated as Section 207, Subsection 2 in its entirety.

This subsection appropriates $60,000 to the Department of Natural Resources for Iowa's dues to the Midwest Interstate Low Level Radioactive Waste Compact for Fiscal Year 1988. However, even though the funds are to be used for FY 88, they are actually appropriated in FY 87. Again, this budget gimmickery is designed to mask the real level of spending provided for in the next fiscal year. The state must appropriate the funds necessary for this assessment from this important compact. I urge the General Assembly to take action to provide for those funds in an appropriate manner next fiscal year.

And I am unable to approve the item designated as Section 210 in its entirety.

Section 210 of Senate File 511 provides $250,000 in FY 87 to the Department of Agriculture and Land Stewardship to pay the initial costs of establishing the agricultural export trading company. Since this state trading company was vetoed in Senate File 274, the need for these funds no longer exists. In addition, the legislature is again appropriating these funds in the wrong fiscal year in order to avoid allowing the taxpayers to see the actual level of spending provided in FY 88. As such, this section cannot be approved.

I am unable to approve that item designated as Section 211 in its entirety.

This section provides $125,000 to the Department of Agriculture and Land Stewardship for the Iowa grain quality program. Again, funds are provided in the wrong fiscal year in order to hide the actual level of spending. In addition, Iowa has already established a certified Iowa quality grain program as a result of a cooperative effort with the private sector. Thus, additional state appropriations are not needed.

I am unable to approve that item designated as Section 220 in its entirety.

This section of Senate File 511 provides $5 million to the Iowa agricultural development authority for agricultural loan assistance programs. I originally recommended that these funds be appropriated in FY 88 in order to provide necessary credit assistance to farmers in difficult financial shape and to provide a financial incentive for Iowans to re-enter the cattle market. I continue to strongly support those efforts.

However, the General Assembly again provides funds for this purpose in FY 87 to be spent in FY 88. I vetoed a similar effort in Senate File 355 because it requires double spending of

state funds in future fiscal years. Given the state's fiscal situation, I cannot approve of this budget gimmickery. In the future, I plan to continue to urge the General Assembly to remove this buy-down program from the legislature's budgetary game playing. Funds are necessary to reinvigorate agriculture in Iowa and the legislature, in the future, ought to play it straight and provide the funds for the year in which they are to be spent.

I am unable to approve that item designated as Section 301, Subsection 15 in its entirety.

This subsection of Senate File 511 again imposes detailed performance measures and reporting requirements on the Department of Economic Development. The Department of Management's performance measures will be shared with the legislative branch at appropriate times. That method will avoid the unnecessary encroachment of the legislative branch into the administrative discretion of the executive branch.

I am unable to approve that item designated as Section 302 in its entirety.

This section of Senate File 511 imposes restrictions on the use of community economic betterment funds, RISE funds, and job training programs. These programs must be flexible in order to respond quickly and appropriately to opportunities for new jobs. By planning additional restrictions on these funds, the legislature will cost Iowa jobs. Certainly, the considerations placed in Section 302 can and are a part of the department's decision making process. However, detailed legal restrictions would hamstring the department's ability to act quickly to obtain new jobs for Iowa.

I am unable to approve the item designated as Section 304 in its entirety.

Section 304 allows funds for tourism and marketing purposes to be carried over into FY 88. The intent of this portion of Section 304 is to increase the department's real level of spending in FY 88, while appropriating the funds in FY 87. The General Assembly cut tourism funds below last year's levels despite my call for a $600,000 increase. I strongly support tourism marketing funding and will push hard to increase funds for that purpose next year.

I am unable to approve that item designated as Section 306 in its entirety.

This portion of Senate File 511 imposes detailed meeting and reporting requirements on the Department of Economic Development. These extensive requirements would add further bureaucratic weight to the Department of Economic Development's responsibilities. Such requirements would limit the department's ability to perform its primary mission — assistance in the creation of new jobs in our state. As a result, I cannot approve this section of Senate File 511.

I am unable to approve that item designated as Section 401, Subsection 8 in its entirety.

This subsection of Senate File 511 provides an additional $60,000 to the regional library system for new grant programs. The legislature restored substantial funds to the regional library system in this appropriation. Providing funds above last year's level for studies and grants simply cannot be justified, considering the state's difficult financial situation.

I am unable to approve that item designated as Section 402, Subsection 2; Section 454, new Subsection 10; and Section 461 in its entirety.

This item of Senate File 511 establishes a new occupational therapist loan program. Many Iowa institutions have had difficulties recruiting occupational therapists. In addition, no Iowa college or university presently has an occupational therapist program. It would be appropriate for an Iowa educational institution to adopt such a program in order to improve the ability of Iowa institutions to attract needed occupational therapists. However, establishing a new loan program is not likely to provide any immediate relief. As a result, I must disapprove it.

I cannot approve the item designated as that portion of Section 405, unnumbered paragraph 2, which reads as follows:

"As a condition of the appropriation made in this subsection, the Department of Education shall expend at least one hundred fifty thousand (150,000) dollars of the moneys appropriated in this subsection to increase the salaries of 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 comparable educational requirements."

This portion of Senate File 511 provides an inappropriate supplement of salaries to consultants in the Department of Education. While some review of the consultants salaries may be in order, direct legislative action to provide a salary adjustment to individual state employees is bad salary policy and cannot be approved.

I cannot approve the item designated as Section 405, Subsection 12 in its entirety.

This subsection provides $250,000 to a particular merged area school to meet educational needs. I understand that the Des Moines Area Community College does have a funding problem caused by the new area college funding formula incorporated in this legislation and that these funds would help finance instructors. This problem is caused by the definition of contact hours in the formula. I will work with the Department of Education and the Des Moines Area Community College to resolve this contact hour definitional problem to prevent DMACC from being excessively penalized through the formula. However, I cannot approve a separate supplemental appropriation on top of the funding formula to deal with that issue. The funding formula is designed to provide all of the funds to the area colleges for educational purposes. Any difficulties with the formula should be resolved internally without a separate line item appropriation. The instructional problems at the Carroll DMACC campus must be addressed within the community college structure.

I am unable to approve the item designated as Section 408, Subsection 1, lettered paragraph a, unnumbered subparagraph 1.

This unnumbered paragraph requires that the Board of Regents provide free copies of the student newspapers to the chairpersons and ranking members of the education appropriations subcommittees, the legislative fiscal bureau, and the Department of Management. Legislating free newspapers in an appropriation bill is wrong and cannot be tolerated. If members of these committees wish to receive newspapers, they should work out an arrangement with the institutions and report it as a gift.

I am unable to approve the item designated as Section 409 in its entirety.

This section of Senate File 511 provides $2 million of FY 87 funds to be spent in FY 88 for an amorphous silicon research facility at Iowa State University. I am supportive of this research effort and have encouraged the university and the company interested in this project to apply for oil overcharge funds under the competitive grant process. Indeed, members of the oil overcharge review committee have expressed an interest in the project. However, I cannot accept an FY 87 appropriation to be spent in FY 88 for this purpose. It again masks the real level of spending provided by the General Assembly.

I am unable to approve that item designated as Section 416 in its entirety.

This section of Senate File 511 punishes school districts that have not filed their economy committee task force report. Just a few districts have failed to do so, to date. I would encourage them to comply with Iowa law. However, I do not believe it is appropriate to deny children in those districts of all state aid as is required in Section 416. The punishment, in this case, exceeds the violation. As a result, I cannot approve Section 416 but do request that the affected school districts comply with Iowa law and file their economy task force reports.

I am unable to approve that item designated as Section 421 in its entirety.

This section of Senate File 511 provides for detailed performance review measures and reporting requirements for regional libraries which should remain the prerogative of the executive branch of state government. These management review and reporting mechanisms violate the need for administrative discretion. The Department of Management will report to the legislative branch regarding the performance measures developed by the executive branch.

I am unable to approve the item designated as Section 430 in its entirety; and Section 448 in its entirety.

This item in Senate File 511 requires the establishment of adolescent task force local advisory committees. I am aware of and sensitive to the need to provide state assistance to adolescents. Specifically, I am approving Section 411 which provides for pregnancy prevention and services grants. I am pleased that this section of the bill directs these funds to be used in an appropriate way and prohibits the use of these funds for abortions.

However, the task force and the local advisory groups remain narrowly focused and would duplicate the task force on adolescent substance abuse, pregnancy, and suicides which I plan to appoint. That task force will represent a broad spectrum of citizens of Iowa and will make recommendations for consideration by the General Assembly in 1988.

I am unable to approve that item designated as Section 452 in its entirety.

This section in Senate File 511 provides an additional $3.25 million to the merged area schools for salary adjustments. While I understand the need for salary adjustments at the merged area schools, I cannot approve a separate appropriation for that purpose. My recommendations to the General Assembly provided for full funding of the formula for merged area schools. This provided them with an additional $8.8 million of state aid. Once the merged areas are engaged in formula funding, they should no longer expect additional salary supplements. Therefore, I cannot approve the additional salary supplement provided in Section 452.

I am unable to approve the item designated as Section 471 and Section 472 in its entirety.

This item in Senate File 511 legislates bargaining units for classroom teachers at the Iowa Braille and Sight Saving School and the Iowa School for the Deaf. Chapter 20 requires the Iowa Public Employment Relations Board to establish appropriate bargaining units. This legislation is clearly a violation of Chapter 20 by arbitrarily legislating bargaining units. That precedent should not be established.

I am unable to approve that item designated as that portion of Section 491, Subsection 4 in its entirety.

This subsection provides that $200,000 from phase three of the educational excellence fund is to be used for pilot projects for sabbaticals for teachers. I cannot accept this diversion of performance-based pay funds for that purpose. While there may be some educational value in a sabbatical, I do not believe that state ought to be providing line item funds for that purpose. Instead, local school districts should develop performance-based pay plans that best suit the needs of their districts, subject to approval of the Department of Education.

I am unable to approve that item designated as Section 491, Subsection 5, numbered paragraph 2. This item requires that the appropriations for performance-based pay be placed on the chopping block if further budget cuts are needed. Since this provision substantially alters the existing state policy on budget reductions and establishes performance-based pay as the legislature's last priority, I cannot approve it. I believe that performance-based pay for education should be our top priority and I plan to treat it as such as the budget is implemented for the next fiscal year.

In summary, Senate File 511 includes excessive spending for new programs. With these actions, I have reduced spending in this bill by $15.95 million. In addition onerous statutory language has been stricken. At the same time, our commitment to excellence in education in K-12 is maintained and strengthened.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 Constitution of the State of Iowa. All other items in Senate File 511 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 234

APPROPRIATIONS AND DISTRIBUTION OF RESPONSIBILITIES BETWEEN VARIOUS PUBLIC AGENCIES AND PROGRAMS

H.F. 671

AN ACT relating to the financing of public agencies and programs by making appropriations to agencies, boards, commissions, departments, and programs of state government for health and human rights, human services, the judicial branch, the department of justice, the department of corrections, the board of parole, the auditor of state, campaign finance, employment services, inspections and appeals, employment relations, and commerce, relating to human organ and tissue transplants, by providing for use of certain funds from a separate fund from civil penalties for certain violations, by providing for the repeal of the division of children, youth, and families in the department of human rights, by transferring the gaming division to the department of inspections and appeals, relating to the protection and advocacy designated in the state, by providing for budget reductions for certain agencies, and providing effective dates.

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

DIVISION I
HEALTH AND HUMAN RIGHTS

Section 101. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used by the following agency for the purposes designated:

	1987-1988 Fiscal Year
1. IOWA STATE CIVIL RIGHTS COMMISSION	
For salaries and support of not more than thirty-one full-time equivalent positions annually, maintenance, and miscellaneous purposes	$ 818,661

**2. It is the intent of the general assembly that the Iowa state civil rights commission, in the operation of its law enforcement functions, shall conform its activities to the mission, goals, and objectives specified in subsection 3 and collect information pertaining to performance measures which are developed by the legislative fiscal bureau. The commission shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the health and human rights appropriations subcommittee on the performance measures. The commission shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.*

3. The Iowa state civil rights commission exists to eliminate discrimination and establish equality and justice for all persons within the state through enforcement of the law by processing civil rights complaints in a timely manner to accomplish the following objectives:

a. To receive, investigate, and determine the merits of a complaint alleging unfair or discriminatory practices within a one hundred eighty day time period.

(1) After the filing of a verified complaint, the staff shall communicate with the person against whom the complaint is filed within twenty days.

(2) The staff shall screen a case within seventy days from the time the complainant and respondent have received the commission's questionnaire concerning the case.

(3) The staff shall investigate a case within ninety days after the completion of the screening process.

b. To determine whether a case should go to public hearing upon failure of conciliation after

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*Item veto; see message at end of the Act

thirty days following the initial conciliation meeting between the respondent and the commission staff. The determination shall be made by the director and one commissioner. The staff must try to conciliate a case within thirty days after the initial conciliation meeting.

c. To issue a notice of public hearing within thirty days after there is a determination that the case should proceed to public hearing. The commission shall issue the notice.

d. To schedule the public hearing on the calendar within ninety days from the issuance of a notice of public hearing.

e. To issue the proposed decision within sixty days from the date of receipt of the public hearing transcript.

f. To review the decision at a commission meeting within one hundred twenty days from the date of receipt of the recommended decision of the hearing officer.

*4. The goals and objectives provided in subsection 3 shall serve as targets for the commission and each report shall include a summary of progress toward those goals and objectives. Failure of the commission to meet the performance goal shall not be grounds for legal action against the commission, nor shall it serve as a legislative definition of "prompt" as it is used in section 601A.15, subsection 3, nor shall it serve as a defense in any civil rights case.**

Sec. 102. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

a. For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor $ 140,324

**b. For programs and assistance to encourage family self-sufficiency, as specified, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor . $ 600,000*

(1) Of the funds appropriated in this paragraph fifty thousand (50,000) dollars shall be used for model service coordination grants for political subdivisions or community-based nonprofit organization except community action agencies.

The purpose of the service coordination grants is to develop demonstration projects in local communities to coordinate and focus services for low-income or high-risk families in order to bring the families out of poverty. The department shall create a task force to develop guidelines for the grant application process and review the grant applications. The task force shall recommend to the department specific grantees and the amounts and conditions of their grants. The department shall make final decisions regarding the grantees and grants.

The application shall include information as to:

(i) Targeted populations in the community, including families in need of multiple services or who have required services within the two years prior to the initiation of the proposed project.

(ii) Services to be coordinated, which shall include but are not limited to preschool programs, health programs, child care programs, parent education programs, and job training opportunities.

(iii) The mechanism which will demonstrate the outcome of the coordination of services, with specific criteria for evaluation.

(iv) Indications of the coordination level and services existing prior to the initiation of the

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*Item veto, see message at end of the Act

proposed project, and an explanation of how the proposed project will improve the coordination of services and the status of the families.

A grant shall not exceed thirty thousand dollars. Projects shall be replicable in other Iowa communities.

(2) Of the funds appropriated in this paragraph four hundred eighty-five thousand (485,000) dollars shall be used for community action agencies to establish family development teams.

The department shall designate an appropriate number of family development teams within the community action agencies. Available funding for the family development teams is determined after each team submits a request for proposal, which shall include information relating to the program as specified by the department. The department shall require that the funds be used in such a manner as to maximize federal financial participation and may encourage use of funds as state match to apply for federal demonstration projects. Preference shall be given to projects where local governments participate in the financing of such service. The department shall make final decisions regarding the grants. The family development programs shall encourage family economic self-sufficiency and independence from public assistance programs. Each family development team shall have between two and ten individuals experienced in nurturing relationships within families, identifying barriers to self-sufficiency, collaborating with families to establish goals for independence from public assistance, facilitating use of resources, and serving as a source of family emotional support.

(3) Of the funds appropriated in this paragraph no more than fifty thousand (50,000) dollars shall be used for support staff, in addition to the full-time equivalents specified for the department, administration, and supervision of evaluation of the approved programs and grants under this paragraph as specified in subparagraph (5), in addition to other responsibilities within the department of human rights.

(4) Of the funds appropriated in this paragraph no more than fifteen thousand (15,000) dollars shall be used for a contract for evaluation services with Iowa State University of science and technology for review of approved programs and grants specified in subparagraphs (1) and (2). The evaluation under the contract shall measure effectiveness in reaching the goals specified for the programs and grants.

(5) Each approved program and grant shall submit to an evaluation conducted by the department, in coordination with the contractee specified in subparagraph (4). The evaluation shall include consideration of the extent to which families are kept together or brought back together, the extent to which families become self-sufficient and are no longer dependent upon public assistance programs, the extent to which coordination exists between approved programs and grants specified in subparagraphs (1) and (2) when feasible and between such approved programs and grants and community and local resources, and the extent to which such programs and grants have brought families out of poverty.

*The coordinator of the department of human rights shall act as the legislative liaison for the department. The full-time equivalent position having legislative liaison responsibilities during the fiscal year beginning July 1, 1986 shall be eliminated and that full-time equivalent position shall be the fiscal officer of the department.**

2. SPANISH-SPEAKING PEOPLE DIVISION

For salaries and support of not more than one and five-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor ..... $ 57,545

3. PERSONS WITH DISABILITIES DIVISION

For salaries and support of not more than three full-time equivalent positions annually, maintenance, and miscellaneous purposes, provided that the funds

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*Item veto, see message at end of the Act

appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor $ 126,095

4. STATUS OF WOMEN DIVISION

For salaries and support of not more than two and eight-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor $ 106,006

5. CHILDREN, YOUTH, AND FAMILIES DIVISION

For salaries and support of not more than five and five-tenths equivalent positions annually, maintenance and miscellaneous purposes, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor, and for program administration of juvenile justice and victim assistance $ 130,260

Of the funds appropriated in this subsection, no less than thirty-six thousand (36,000) dollars shall be spent for expenses relating to the administration of federal funds for juvenile assistance. It is the intent of the general assembly that the department of human rights employ sufficient staff to meet the federal funding match requirements established by the federal office for juvenile justice delinquency prevention. **The governor's advisory council on juvenile justice shall determine the staffing level necessary to carry out federal and state mandates for juvenile justice.**

6. DEAF SERVICES DIVISION

For salaries and support of not more than eight full-time equivalent positions annually, maintenance, and miscellaneous purposes, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor $ 230,869

7. DIVISION FOR THE BLIND

For salaries and support of not more than one hundred four and fifty-nine one-hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes, provided that the funds appropriated in this item shall revert to the general fund of the state unless section 601K.128, Code 1987, is repealed by the Seventy-second General Assembly, 1987 Session, and such repeal is approved by the governor $ 1,254,916

Sec. 103. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For salaries and support of not more than thirty and five-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes	$ 335,001

It is the intent of the general assembly that the department employ an alternative housing/long-term care coordinator as one of the full-time equivalent positions.

This appropriation amount shall be reduced by six thousand (6,000) dollars if the 1987 general assembly does not enact legislation requiring mandatory reporting of adult abuse.

2. For the administration of area agencies on aging $ 114,248

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*Item veto, see message at end of the Act

3. For salaries, support, and maintenance of the elder law education program* . *$ 95,000

4. For the retired Iowans community employment program $ 104,865

5. For the older Iowans legislature $ 12,953

6. For the retired seniors volunteer program $ 14,278

All of the funds appropriated under subsection 6 shall be divided equally among the programs in existence as of July 1, 1987, and shall not be used by the department for administrative purposes.

7. For the Alzheimer's disease support program $ 70,000

All funds appropriated under subsection 7 shall be used for training and education programs for families serving as caregivers for Alzheimer's disease victims and shall not be used for administrative purposes.

8. For elderly services programs $ 1,077,195

All funds appropriated under this subsection shall be received and disbursed by the director of elder affairs for the elderly services program, 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 subsection may be used to supplement federal funds under federal regulations. Funds appropriated under this subsection may be used for elderly services not specifically enumerated in this subsection only if approved by an area agency for provision of the service within the area.

Of the funds appropriated in this subsection, fifty thousand (50,000) dollars or so much thereof as is necessary, are allocated for a respite care program, administered by the department of elder affairs.

Area agencies on aging shall expend no less than the same amount expended on adult day care programs in the fiscal year beginning July 1, 1987 than during the fiscal year beginning July 1, 1986. At least one hundred twenty-five thousand (125,000) dollars of the funds appropriated in subsection 8 shall be expended on programs related to adult day care not funded by an area agency on aging during the fiscal year beginning July 1, 1986.

Sec. 104. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1986 and ending June 30, 1987, the sum of seventy-five thousand (75,000) dollars, or so much thereof as is necessary, for the purchase and support of a mobile resource center for the elder law education program.

Sec. 105. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. CENTRAL ADMINISTRATION DIVISION	
For salaries and support of not more than fifty-three full-time equivalent positions annually, maintenance, and miscellaneous purposes	$ 820,082
2. HEALTH PLANNING DIVISION	
For salaries and support of not more than sixteen and five-tenths equivalent positions annually, maintenance, and miscellaneous purposes	$ 1,340,695

The department shall allocate from the funds appropriated under this subsection eight hundred ninety-five thousand forty-one (895,041) dollars for the fiscal year beginning July 1, 1987, for the chronic renal disease program. The types

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*Item veto, see message at end of the Act

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.

3. DISEASE PREVENTION DIVISION

For salaries and support of not more than fifty-seven and six-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 1,581,738

The department shall develop a written plan for the distribution of childhood vaccines. The plan shall identify the public agencies authorized to receive, administer, and dispense the vaccines and shall encourage the public agencies to set up a voluntary system to defray the costs of the vaccine program. A public agency shall not prohibit a person from receiving the vaccine because of inability to pay the fee.

4. PROFESSIONAL LICENSURE

For salaries and support of not more than eleven full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 465,160

5. STATE BOARD OF DENTAL EXAMINERS

For salaries and support of not more than two full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 115,848

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries and support of not more than eighteen full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 834,648

7. STATE BOARD OF NURSING EXAMINERS

For salaries and support of not more than fifteen full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 535,958

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries and support of not more than nine full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 372,995

Professional licensure pursuant to subsection 4 and the boards pursuant to subsections 5 through 8 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.

It is the intent of the general assembly that for the fiscal year beginning July 1, 1988, and succeeding fiscal years, the state board of dental examiners, the state board of medical examiners, the state board of pharmacy examiners, the state board of nursing, and the professional licensure division of the Iowa department of public health be required to establish special accounts for each board and for the boards under the licensure division for the fees received by each board or division and for expenses of each board or division. The funds in the accounts shall not be expended until appropriated by the general assembly. The general assembly shall assess an administrative amount from each account for deposit into the general fund of the state. Notwithstanding sections 8.31 and 8.33, the funds in each of these accounts shall not revert to the general fund of the state nor be subject to a uniform reduction action taken by the governor.

9. SUBSTANCE ABUSE DIVISION

a. For salaries and support of not more than eleven full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 477,511

b. For program grants $ 6,931,120

**Item veto, see message at end of the Act

10. HEALTH DATA COMMISSION

For the health data clearinghouse $ 250,000

As a condition of the funds appropriated in this subsection the health data commission shall compile data from each state that includes the professional education and training requirements, scope of practice and method of insurance reimbursement for each of the health care professions which are licensed in the state of Iowa. The health data commission shall consult with the legislative council for the purposes of this study and shall issue a summary of its findings by December 1, 1987.

11. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries and support of not more than sixty-five full-time equivalent positions annually, maintenance, and miscellaneous purposes $ 2,147,108

The department shall allocate from the funds appropriated under this paragraph at least six hundred twenty-two thousand nine hundred eight (622,908) dollars for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for the birth defects and genetics counseling program and of these funds, thirty-nine thousand six hundred (39,600) dollars shall be allocated for a central birth defects registry program.

Of the funds appropriated under this paragraph fifty thousand (50,000) dollars shall be used for a lead abatement 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 $ 308,411
(2) Muscular dystrophy and related genetic disease programs $ 125,322
(3) Statewide perinatal program $ 41,635

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 speciality clinics under subparagraph (1) of this paragraph, sixty-eight thousand five hundred thirty-six (68,536) 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 not receive indirect costs from the funds for each program.

The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the Social Security Act.

b. 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" $ 14,278

c. For grants to local boards of health for the public health nursing program $ 2,147,659

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 prevent duplication of services.

If by July 30 of each fiscal year, 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. 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 "d". 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.

d. For grants to county boards of supervisors for the homemaker-home health aide program $ 7,323,869

Funds appropriated under this paragraph shall be used to provide homemaker-home health aide services with emphasis on services to elderly and persons below the poverty level 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, and household management.

(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.

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: sixty percent according to the number of elderly persons living in the county; twenty percent according to the number of persons below the poverty level 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.

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 planning for 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, and that each homemaker-home health aide subcontracting agency shall maintain the direct service workers' time assigned to direct client service at seventy percent or more of the workers' paid time and that no more than thirty-five percent of the total cost of the service be in the combined costs for service administration and agency administration. The subcontract shall require that each homemaker-home health aide subcontracting agency shall pay the employer's contribution of Social Security and provide workers' compensation coverage for persons providing direct homemaker-home health aide service and meet any other applicable legal requirements of an employer/employee relationship.

If by July 30 of each fiscal year, 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. 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, 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.

e. For the development and maintenance of well-elderly clinics in the state $ 380,957

Appropriations made in this paragraph shall be provided to well-elderly clinics by a formula prioritizing clinics located in counties which provide funding on a matching basis for the well-elderly clinics.

f. For the decentralized indigent obstetrical patient program $ 700,000

Sec. 106. NEW SECTION. 135.100 ORGAN TRANSPLANT SERVICES.

The Iowa department of public health shall adopt rules which require certificate of need review of organ transplant services which have been or will be performed in or through an institutional health facility at a specific time but which were not performed for that specific organ prior to July 1, 1987. Organ transplant services shall not include transplant services which are routinely performed in the course of ordinary operative procedures in institutional health facilities. Each type of organ transplant shall be considered separately.

Sec. 107. NEW SECTION. 142B.1 TRANSPLANT POLICY.

1. The department of human services and the Iowa department of public health shall create a thirteen-member commission to develop a written state plan for human organ and tissue transplants in this state and to make recommendations to the general assembly regarding appropriate legislation.

The membership of the commission shall include one member from each of the following organizations or industries, who shall be appointed from names submitted by the insurance industry, health policy corporation of Iowa, Iowa medical society, Iowa osteopathic medical association, and the Iowa nurses association. The Iowa hospital association shall submit the names of three representatives from separate, designated transplant centers. The Iowa department of public health and the department of human services shall jointly appoint a representative from one voluntary nonprofit organization interested in organ transplant procedures and one from the bureau of medical services of the department of human services, and three consumer representatives. The consumer representatives may receive actual expenses incurred as commission members, from funds appropriated to the department of human services.

2. The state plan shall consider policies and procedures for organ and tissue procurement, registration, and distribution, and the distribution plan shall guarantee equal access and

availability to donor organs by each center; organ recipient selection criteria; transplant center designation and eligibility; and informed consent and confidentiality. The plan shall also address protocol to be adopted by each licensed hospital for identifying medically suitable organ and tissue donors, for designating and training persons within the hospital to make organ and tissue donor requests, for notifying organ and tissue procurement organizations of donations, and for cooperating in the procurement of the organ and tissue. The plan shall recognize the need for protocol which meets the special circumstances of different hospitals throughout the state and encourages reasonable discretion and sensitivity to family circumstances in all discussions regarding donations of organs and tissues.

3. The state plan shall designate those transplant procedures eligible for reimbursement under Title XIX. It is the policy of this state that Title XIX reimbursement shall be limited to nonexperimental human organ and tissue transplantation procedures and services as provided under Title XVIII of the federal Social Security Act. For the purposes of this section, "nonexperimental human organ and tissue transplantation procedures and services" shall be those so designated by Title XVIII of the federal Social Security Act, and heart transplants and services for patients so long as patient selection policies of the center satisfactorily address the elements of the most recent patient selection guidelines adopted by Title XVIII.

The commission shall adopt the state plan by January 1, 1988, at which time the department of human services shall adopt administrative rules pursuant to chapter 17A to implement the state plan. The Iowa department of public health shall adopt rules addressing organ donor protocols for hospitals. Until such time as such rules are adopted, the department of human services shall adopt emergency rules for reimbursements of transplant services under Title XIX for those procedures defined as nonexperimental under Title XVIII of the federal Social Security Act. For the purposes of this section, "nonexperimental human organ and tissue transplantation procedure and services" shall be those so designated by Title XVIII of the federal Social Security Act, and heart transplants and services for patients so long as patient selection policies of the center satisfactorily address the elements of the most recent patient selection guidelines adopted by Title XVIII.

4. Notwithstanding subsection 2, if federal requirements have the effect of denying equal access to centers, the commission shall modify its plan, and the department of human services shall adopt rules, consistent with the federal requirements.

Sec. 108. NEW SECTION. 145.7 TRANSPLANTS.

The commission shall require that the director of public health and the commissioner of human services gather data from appropriate sources regarding human organ and tissue transplant needs and occurrences in the state to assist in ongoing development and review of organ transplant policy.

Sec. 109. There is appropriated from the separate fund created under section 321J.17 to the family and community health division of the Iowa department of public health for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the amount of fifty-five thousand (55,000) dollars, or so much thereof as is necessary, to pay the costs of medical examinations in crimes of sexual abuse and of treatments for prevention of venereal disease as required by section 709.10.

Sec. 110. The licensing boards for which general fund appropriations have been provided for in section 105, subsections 4, 5, 6, 7, and 8 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 105, subsections 4, 5, 6, 7, and 8 of this Act expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the department of management 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 department of management 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. 111. All federal grants to and federal receipts of the agencies appropriated funds under this division of 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 division of this Act, but are approved only for the period of time for which the federal funds are available for the position.

Sec. 112. *Section 7E.6, subsection 5, Code 1987, is amended by striking the subsection.

Sec. 113. Section 321J.17, Code 1987, is amended to read as follows:

321J.17 CIVIL PENALTY — SEPARATE FUND —REINSTATEMENT.

When the department revokes a person's motor vehicle license or nonresident 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 section 709.10, 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 motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 114. NEW SECTION. 601K.129 REPEAL.

Sections 601K.31 through 601K.39, Code 1989, are repealed effective June 30, 1989.

DIVISION II
HUMAN SERVICES

Sec. 201. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for general administration, including salaries and support for not more than three hundred fifty-five point forty-five full-time equivalent positions, maintenance, and miscellaneous purposes, the following amount, or so much thereof as is necessary:

1987-1988 Fiscal Year
$ 6,800,000

The funds appropriated in this section include necessary amounts to continue, for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the general administration programs relating to staff training, program evaluation, and the purchase-of-services allocations to the counties, as operated in the fiscal year beginning July 1, 1986 and shall maintain a central registry of persons with brain injuries as specified in section 225C.22. **As a condition of this appropriation, one hundred seventy thousand (170,000) dollars is allocated for five full-time equivalent positions for the bureau of operations analysis.**

**It is the intent of the general assembly that the department of human services, in its operation of the family center services purchase of service program, shall conform its activities to the mission, goals, and objectives provided in this unnumbered paragraph and collect information pertaining to performance measures developed by the legislative fiscal bureau. The department shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the human services appropriations subcommittee on*

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the performance measures. The department shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported. The department shall provide a safe and supportive environment for children in their family setting by purchasing services from providers outside the department which accomplish the following objectives:

1. Minimize neglect and abuse of children for whom services are provided.

2. Minimize the out-of-home placement of children for whom services are provided.

3. Reunite the family which has experienced an out-of-home placement.

*The objectives shall serve as targets for the department and each report shall include a summary of progress toward those objectives. Failure of the department of human services to meet these goals and objectives shall not be grounds for legal action against the department of human services.**

Sec. 202. FIELD OPERATIONS AND VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. As a condition of this appropriation for field operations, including salaries and support for not more than two thousand four hundred thirty-three point eighty-eight full-time equivalent positions, maintenance, and miscellaneous purposes, the department shall provide an extensive orientation program for newly employed social workers in the area of community resource programs and shall provide assistance to each county board of social welfare to identify community resources in counties pursuant to section 234.11	$ 29,000,000
2. For the development and coordination of volunteer services	$ 68,000

Sec. 203. SPECIAL PROGRAMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For aid to families with dependent children	$ 62,000,000

a. As a condition of this appropriation, effective July 1, 1987, the department shall establish the schedule of basic needs for one person at one hundred seventy-four dollars, for two persons at three hundred forty-three dollars, for three persons at four hundred six dollars, for four persons at four hundred seventy-two dollars, for five persons at five hundred twenty-two dollars, for six persons at five hundred eighty-one dollars, for seven persons at six hundred thirty-eight dollars, for eight persons at six hundred ninety-six dollars, for nine persons at seven hundred fifty-three dollars, for ten persons at eight hundred twenty-three dollars, and for each additional person eighty-two dollars.

**b. As a condition of this appropriation, effective September 1, 1987, the department shall implement an emergency assistance to families program which qualifies for federal financial participation according to federal regulations for the aid to families with dependent children program. From the funds appropriated in subsection 1, four hundred thousand (400,000) dollars, or so much thereof as is necessary, shall be allocated for this program. All needy families residing in this state, excluding families of migrant workers, with at least one child under the age of nineteen shall be eligible. Need shall be defined as one hundred percent under the federal office of management and budget poverty guidelines. Emergencies covered should*

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*be natural disasters; eviction, potential eviction, or foreclosure; homelessness, utility shutoff, or fuel shortage; and loss of heating energy supply or equipment. Assistance shall be limited to basic payment levels in the aid to families with dependent children program, except that natural disaster assistance shall be limited to one thousand dollars per family. If funds appropriated for this program are exhausted, the department shall discontinue the program through the adoption of administrative rules pursuant to section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b". The rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.**

c. There is appropriated three hundred fifty thousand (350,000) dollars or so much thereof as is necessary from the general fund of the state to the Iowa finance authority for the rehabilitation, construction, or purchase of transitional shelters for homeless families, under provisions of House File 603 if enacted by the Seventy-second General Assembly, 1987 Session, and becomes law. If House File 603 is not enacted by the Seventy-second General Assembly, 1987 Session, the funds shall be used by the Iowa finance authority for the rehabilitation, construction, or purchase of transitional shelters for homeless families. Any state funds may be used for matching federal funds if available.

d. Loan and grant requirements under the individual education training program (IETP) as operated in the fiscal year beginning July 1, 1986 shall be eliminated. However, participants shall be required to seek all scholarships, grants, and gifts that do not require repayment of the funds as a condition of receiving these awards. Eligibility for the individual education training program (IETP) shall be extended to allow a maximum of two academic years to complete high school. The department shall continue the current policy of denying participation to complete high school when the person cannot graduate within one year of the person's normal graduation date.

e. The department shall contract for services in establishing, developing, and monitoring a waiver program with a consortium of other states to facilitate assistance to aid to dependent children families in self-employment. From the funds provided in subsection 1, one hundred thousand (100,000) dollars, or so much thereof as is necessary, shall be used to provide technical assistance, either directly or through a contract with the division of job training and entrepreneurship assistance of the department of economic development, for aid to dependent children families seeking self-employment.

f. From the funds appropriated in subsection 1, one million (1,000,000) dollars, or so much thereof as is necessary, shall be used to operate the work incentive program as it operated in the fiscal year beginning July 1, 1986. The department shall seek to secure maximum federal financial participation for the program and to extend the program statewide, subject to the limitations of funds provided under this paragraph.

g. Subject to federal authorization, the department may provide a financial incentive to aid to dependent children families choosing to enroll in a health maintenance organization under Medicaid, with the incentive representing a portion of the savings received by the state from contracting with health maintenance organizations. The department shall develop a proposal for a financial incentive for aid to dependent children families enrolling in health maintenance organizations.

h. The department shall establish a pilot grant diversion program which qualifies for federal financial participation according to 45 C.F.R. Part 239 of federal regulations for the aid to families with dependent children program. The grant diversion program shall be operated in the Des Moines district from July 1, 1987, through June 30, 1989, as a component of the work incentive demonstration program. Participants in the grant diversion program shall be placed in jobs where they receive on-the-job training while earning wages. Employers who provide jobs shall receive financial compensation in return for training provided. Aid to families with dependent children savings resulting from the participant's employment shall be used

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to compensate employers. The department shall determine through rule-making what federal options to exercise and other policies to be applied to grant diversion participants.

i. As a condition of the appropriation made under this subsection, the department shall administer grants, which may be awarded to public school corporations, adolescent service providers, and nonprofit organizations involved in adolescent issues for two-year pilot projects targeted toward those areas of the state with the highest incidence of adolescent pregnancy, from one or more of the following programmatic areas:

(1) Pregnancy prevention programs for adolescents and workshops for parents of adolescents to improve parent-child communications regarding human sexuality.

(2) Communications media campaigns to discourage adolescent sexual activity and to encourage the assumption of responsibility by adolescents, both male and female, for their sexual activity and for parenting.

(3) Residential facilities for pregnant adolescents and adolescent parents in need of shelter.

(4) Early pregnancy detection for adolescents and prenatal services and adoption counseling for pregnant adolescents.

(5) Child care and case management services provided to adolescent parents, both male and female, for a predetermined fee under purchase-of-service contracts, which include child care services, instruction in child development and parenting skills, support services for completion of school and for job training and placement, prevention of subsequent pregnancies during adolescence, and other personal services.

(6) Teacher training, including transportation costs and workshop, conference, and course work expenses, designed to improve the teaching of components of the human growth and development curricula in grades kindergarten through twelve. A preference shall be given for the funding of teacher training grant projects which would qualify participating teachers for continuing education unit credits.

(7) Pregnancy prevention programs which teach and encourage teen sexual abstinence.

As used in this subsection, "adolescent" means a person under eighteen years of age or a person in attendance at an accredited school pursuing a course of study leading to a high school diploma, or its equivalent. Pilot projects providing services to an adolescent under eighteen years of age may continue to provide the services beyond the adolescent's eighteenth birthday in accordance with guidelines adopted by the department. Five hundred thousand (500,000) dollars, or so much thereof as may be necessary, is appropriated for the fiscal year beginning July 1, 1987 and ending June 30, 1988, for these grants. Of the funds appropriated in this paragraph, the department shall expend no more than five percent for administrative costs. The department shall adopt rules pursuant to chapter 17A to implement the grant 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 $138,500,000

The department and the Iowa department of public health shall jointly pursue the development of a targeted case management system for pregnant women eligible for Medicaid. Additionally, the department and the Iowa department of public health shall jointly pursue the development of a system to provide Medicaid reimbursement for enhanced services for eligible pregnant women. If this should require a waiver to implement, the department shall

pursue such a waiver with the health care financing administration. Implementation of both systems shall be limited geographically as a pilot project. A progress report shall be given to the general assembly in January of 1988.

Licensed birth centers or birth centers which receive reimbursement from at least two third-party payors shall be eligible for reimbursement for prenatal, delivery, and postnatal services for women eligible for medicaid.

The department shall pursue development of a case management system for early periodic screening diagnosis and treatment (EPSDT) eligible clients, including outreach, follow-up, and recall. The department shall proceed with implementation of the system as a pilot project in two counties through an administrative agreement with the Iowa department of public health. A progress report shall be given to the general assembly in January of 1988.

The department may expend up to twenty-four thousand (24,000) dollars of the funds appropriated in this subsection to develop a new intermediate care facility reimbursement system as recommended by the center for health policy studies report issued during the fiscal year beginning July 1, 1986. The department shall report, no later than January 1, 1988, to the general assembly on the system developed.

The department of human services shall develop policies and guidelines to implement on a pilot basis a special case management program for Title XIX enrollees, after reviewing programs in place in other states. The department, in consultation with the legislative fiscal bureau and under monitoring by the fiscal committee of the legislative council, shall develop a methodology to evaluate and compare the effectiveness of the provision of Title XIX services through case management and through health maintenance organizations, in terms of both cost and health outcomes. The evaluation shall continue for at least eighteen months subsequent to the implementation of the programs.

Effective October 1, 1987, the department shall extend coverage to include caretaker relatives under the medically needy program. The department shall increase resource limitations under the medically needy program to five thousand dollars for a one-person household and seven thousand five hundred dollars for a family of two or more persons. For the medically needy program, the department shall be allowed to set the length of the certification period, as authorized by federal regulations.

Effective October 1, 1987, the department shall extend medical assistance benefits for an additional six months to individuals who lose assistance through the aid to families with dependent children program solely due to the loss of the thirty dollars and one-third earned income disregard.

Effective January 1, 1988, the department shall provide medical assistance to all pregnant women, and infants and children up to age five on an incremental basis; and to all individuals who are aged, blind, or disabled, whose income does not exceed one hundred percent of the federal poverty level. Resource limitations shall be five thousand dollars for a one person household and seven thousand five hundred dollars for a family of two or more people. Aged, blind, or disabled individuals shall have income and resources treated according to supplemental security income methodologies. Pregnant women, and infants and children shall have income and resources treated according to aid to families with dependent children methodologies. All other medical assistance program requirements shall apply. Phased-in coverage for children shall begin January 1, 1988, for children up to the age of one and continued through January 1, 1992.

Of the funds appropriated in this subsection, not more than two hundred thousand (200,000) dollars may be transferred to the Iowa department of public health for contingency state

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assistance for the federal women, infants, and children program in order to allow the Iowa department of public health to fully use available funds under this program.

The department, in cooperation with the Iowa pharmacists association, shall conduct a study examining the economic and administrative impact of a separate reimbursement policy for unit dose drug distribution systems in long-term care facilities. A report on the study shall be prepared and submitted to the general assembly by January 31, 1988.

**Of the funds appropriated in this subsection, the department shall expend not more than three hundred seventy-seven thousand (377,000) dollars for the following:*

a. To develop necessary standards and payment processes, write administrative rules, develop employee and provider manuals, amend the state medical assistance plan, and provide employee and provider training to expand medical assistance coverage for the following services: case management, day training and habilitation, day treatment, and substance abuse.

b. To modify existing medical assistance service definitions to encompass the following additional services: transportation, medication management, partial hospitalization, rehabilitation services, diagnosis and evaluation, family support, and early intervention.

c. To develop and submit waiver applications for the following service areas: respite care, homemaker and chore housekeeping, in-home training, vocational services, nonmedical transportation, and behavior management.

Amendments to the medical assistance plan and modifications of existing medical assistance service definitions shall be completed for implementation no later than July 1, 1988.

By October 1, 1987, the department shall submit a revised medical assistance plan to the United States department of health and human services for implementation no later than July 1, 1988.

The department may hire a contractor or employ a staff under a twelve-month personal service contract to complete the project. The department shall provide the general assembly with a detailed progress report no later than January 1, 1988.

*It is the intent of the general assembly that county and block grant funds made available as a consequence of enhanced federal funding for services under medical assistance be used for purposes of implementing section 225C.28. The department shall develop a system for identifying prior expenditures on the services covered under changes to the medical assistance plan or by waiver application and proposals for requiring a maintenance of financial effort subsequent to a replacement of state or county funds by federal funds. Those proposals shall be submitted to the general assembly by January 1, 1988.**

3. For medical contracts $ 2,550,000

The department may expend up to fifty thousand dollars of the funds appropriated in this subsection to implement inpatient hospital reimbursement methodology and other medical assistance provider reimbursement methodologies as recommended by the center for health policy studies report issued during the fiscal year beginning July 1, 1986.

4. For child support recoveries, including salary and support for not more than one hundred twelve full-time equivalent positions, 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 aid to families with dependent children program for this purpose, may establish new positions and add additional full-time equivalent positions to the child support recovery unit when the commissioner determines that both the current and additional employees collectively 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

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current and additional employees by reporting to the human services appropriations subcommittee the ratio of the total amount of administration costs for child support recoveries to the total amount of the child support recoveries.

The department shall initiate, on at least a pilot program basis in two counties, outreach services to investigate for potential modification proceedings all child support orders for aid to dependent children clients whose orders have not been modified within the previous four years. The department shall report to the general assembly on the short-term and long-term cost effectiveness of initiating modification proceedings in the cases where modification proceedings were initiated as a consequence of the investigation and outreach services.

5. For the child support clearinghouse, including salaries and support for not more than twenty-eight full-time equivalent positions, maintenance and miscellaneous purposes $ 690,000

6. For state supplementary assistance, including state supplementary assistance for the blind $ 11,000,000

The department, in conjunction with representatives of provider and consumer organizations, shall study and evaluate the state supplementary assistance program and make recommendations to the general assembly by February 1, 1988 for new options under the program which promote and enhance less restrictive environments for eligible recipients of section 225C.28.

The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security and federal Social Security benefits are increased due to a recognized increase in the cost of living.

7. For aid to Indians under section 252.43 $ 35,000

The tribal council shall not use more than ten percent of the funds for administrative expenses.

8. For home-based services $ 6,400,000

a. Of the funds appropriated in this subsection, seven hundred twenty-three thousand seven hundred fifty (723,750) dollars, or so much thereof as is necessary, is allocated for subsidized adoptions, including the purchase of services for special needs children.

b. Of the funds appropriated by this subsection, three hundred nineteen thousand fifty (319,050) dollars, or so much thereof as is necessary, is allocated for family planning.

c. Of the funds appropriated by this subsection, four million, six hundred seventy-seven thousand, two hundred (4,677,200) dollars, or so much thereof as is necessary, is allocated for family-centered services.

d. Of the funds appropriated in this subsection, six hundred eighty thousand (680,000) dollars, or so much thereof as is necessary, shall be used to support a pilot family preservation services initiative to provide highly intensive, in-home family preservation and family reunification services to families with children at imminent risk of initial or continued placement. The department shall contract for at least two-thirds, four hundred fifty-four thousand (454,000) dollars, of these services but no more than one-third, two hundred twenty-six thousand (226,000) dollars, of these services may be provided directly. The intensive services shall be consistent with family-centered service package components as defined in 498 IAC § 182, but the department may use a limited amount of these funds to provide other resources needed by a pilot project family to stay together. The pilot services shall include the provision of twenty-four hour crisis intervention, limitation of caseload to four or fewer families, and termination of services within at most six months of referral. The department shall select the contractees in a manner consistent with the juvenile community-based grant program policies contained in 498 IAC § 166. Request for proposals and contracts shall include specified limits on client caseloads and requirements for provider acceptance of client referrals. The payment system for this project shall be developed in lieu of the current unit-based system and shall be designed to generate information about outcome measurements, performance indicators, and actual costs per family served. The information shall be collected and analyzed to identify key components

for a model performance-based contracting system. The department shall work with the legislative fiscal bureau and Iowa State University of science and technology to establish a monitoring system for this project. It is the intent of the general assembly that the department implement this project in consultation with professionals in the child welfare field, using outside technical assistance from the national conference of state legislatures and the center for the study of social policy where possible, and that selection of areas to be served be made to enable evaluations of program effectiveness. The department may target the initiative to one or more districts of the department. It is the intent of the general assembly that the program evaluation be conducted over at least a three-year period, in order to provide for full evaluation of the cost-effectiveness of the initiative.

9. For foster care $ 26,830,000

a. The department may transfer a portion of the funds appropriated in this subsection for use in providing subsidized adoption services, if funds allocated under subsection 8 are insufficient to provide necessary subsidized adoption services.

b. No more than thirty-three percent of 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 in this subsection, forty-five thousand (45,000) dollars, or so much thereof as is necessary, is allocated for foster parent training prior to the initial licensure of foster parents.

d. Of the funds appropriated in this subsection, thirty-two thousand (32,000) dollars, or so much thereof as is necessary, is allocated for foster parent training to meet the requirement for six hours of foster parent training each year as a condition for relicensure.

e. Of the funds appropriated in this subsection, ninety thousand (90,000) dollars, or so much thereof as is necessary, shall be used to extend eligibility for independent living for youth between eighteen and twenty-one years of age who remain in school.

f. Of the funds appropriated in this subsection, thirty thousand (30,000) dollars, or so much thereof as is necessary, may be used by the department to contract with universities to provide ongoing research and evaluation assistance to programs and initiatives of the department involving family-centered services and foster care. Such contracts shall make maximum use of any matching resources from the universities with which the department contracts.

It is the goal of the general assembly that out-of-state placements of children under foster care be reduced by at least fifty percent within the next two years and that standards be established relating to minimum qualifications for out-of-state providers. It is the intent of the general assembly that out-of-state providers not be provided greater reimbursement than is available to in-state providers for similar services initiated after October 1, 1987. It is the goal of the general assembly that out-of-state providers be utilized only when such providers provide specialized services that could not be provided efficiently within the state or where such providers have significant advantages in terms of proximity to family and community support.

The department shall work with the court and with providers of foster care services within the state in developing guidelines to meet this legislative intent.

g. Of the funds appropriated under this section, two hundred thousand (200,000) dollars, or so much thereof as is necessary, may be used to provide supplemental "difficulty of care" per diem rates to providers within the state for their care and treatment of foster care cases that otherwise would have been sent out-of-state. The department shall provide for flexibility in administering this provision and developing such payment differentials, and shall report to the general assembly no later than February 15, 1988 on the manner in which the payment differential has been established and used.

h. The department shall establish rules eliminating the liability for payment for subsequent foster care support orders for parents who adopt children who were under the guardianship of the department of human services prior to adoption and determined to be eligible special needs children due to conditions that place those children at potential high risk of subsequent foster placement.

i. The department shall develop, for submission to the general assembly by January 15, 1988, for at least two counties within the state, a system for decategorizing the resources provided to those counties for child welfare and foster care services into a single child welfare budget and establishing procedures to allow for allocating resources on the basis of child welfare concerns as opposed to specific program categories. The department shall develop, for submission to the general assembly by January 15, 1988, to be used on at least a pilot basis, alternative reimbursement systems for providers that provide performance-based payment or payment that recognizes the need for transition support and counseling between out-of-home or institutional placement and home or community-based placement. The system shall be designed to enhance permanency planning goals, by increasing resource flexibility within current budgetary levels. It is the intent of the general assembly that the department develop this system in consultation with professionals in the child welfare field, using outside technical assistance from the national conference of state legislatures and the center for the study of social policy where possible.

10. For food stamp training and employment $ 460,000

11. For community-based programs $ 2,780,300

*a. *Of the funds appropriated in this subsection, one hundred twenty thousand (120,000) dollars, or so much thereof as is necessary, is allocated for displaced homemaker programs.**

b. Of the funds appropriated in this subsection, four hundred thirty thousand (430,000) 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, 1988 shall not be reallocated unless the unencumbered funds reclaimed exceed five thousand dollars.

Notwithstanding section 237A.18, a day care facility is eligible to receive funds if the facility serves some low-income families, even if low-income families served comprise less than a majority of total families served.

c. Of the funds appropriated in this subsection, three hundred fourteen thousand (314,000) dollars, or so much thereof as is necessary, is allocated for the child abuse prevention grant program.

d. Of the funds appropriated in this subsection, two hundred fifteen thousand (215,000) dollars, or so much thereof as is necessary, is allocated for domestic abuse prevention program grants.

e. The commissioner of human services shall pay from the funds appropriated in 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, improvement, operation, and maintenance of approved county or multicounty juvenile homes.

f. Of the funds appropriated in this subsection, eight hundred eight thousand eight hundred (808,800) dollars, or so much thereof as is necessary, is allocated for state cases.

g. Of the funds appropriated in this subsection, eight hundred thirty-one thousand (831,000) dollars, or so much thereof as is necessary, is allocated for protective day care.

h. Of the funds appropriated in this subsection, fifty thousand (50,000) dollars, or so much thereof as is necessary, is allocated to provide grants for the provision of direct services to children who are at risk of running away, and to those children's families.

12. For county-based juvenile justice reimbursement to counties for transportation and treatment purposes $ 1,200,000

**13. As a condition of the appropriations made for aid to families with dependent children, medical assistance, state supplementary assistance, and foster care under subsections 1, 2, 6, and 9 the following shall apply:*

a. Notwithstanding section 8.39, and except as provided in subsection 1, paragraph "g" for health maintenance organization enrollment incentive, in subsection 1, paragraph "h" for grant

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diversion, in subsection 2 for the women, infants, and children program, in subsection 4 for child support recoveries, and in subsection 9, paragraph "f" for foster care, funds appropriated for aid to families with dependent children, medical assistance, state supplementary assistance, and foster care shall not be subject to transfer. Department of human services' programs shall not be modified for the purpose of transferring other funds appropriated to the department of human services into the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care accounts.

b. Except as provided in paragraph "c", the commissioner of human services shall not modify programs funded under the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care appropriations in order to meet any projected budget shortfalls, but shall request supplemental appropriations from the general assembly to meet those shortfalls.

c. Notwithstanding the concept of allotments in section 8.31, for the purpose of any across-the-board budget reductions ordered by the governor, the appropriations for the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care shall be deemed to include amounts needed to operate the programs for the entire fiscal year beginning July 1, 1987, under the July 1987 program guidelines and mandated subsequent changes. The across-the-board budget reductions shall be applied to the appropriations, and the estimate of revenues needed to balance the state's budget shall be made so as to operate the July 1, 1987 programs, as modified by mandated changes for the entire fiscal year.

*d. Notwithstanding section 8.31, for deficit appropriations, the department shall apply the across-the-board budget reductions to the aid to families with dependent children, medical assistance, state supplementary assistance, and foster care appropriations, and to additional anticipated needs according to the July 1, 1987 guidelines and mandated subsequent changes. For surplus appropriations, the across-the-board budget reductions shall be applied first to the surplus appropriations and then to amounts needed to maintain the July 1, 1987 programs and any mandated subsequent changes.**

Sec. 204. JUVENILE AND VETERANS INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
1. For the operation of the state training school and the Iowa juvenile home, including salaries and support for not more than two hundred ninety-eight point seventy-eight full-time equivalent positions, maintenance, and miscellaneous purposes	$ 8,470,000
2. For operation of the Iowa veterans home, including salaries and support for not more than seven hundred sixty-four full-time equivalent positions, maintenance and miscellaneous purposes	$ 22,000,000

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. 205. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for the state mental health institutes, the following amount, or so much thereof as is necessary:

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*Item veto, see message at end of the Act

1987-1988
Fiscal Year

1. For salaries and support for one thousand two hundred six point forty-six full-time equivalent positions, maintenance, and miscellaneous purposes $ 36,000,000

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 institutes. 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 a condition of the appropriation made by this section, there is appropriated from the general fund of the state two hundred thousand (200,000) dollars to provide for partial reimbursement to counties for local inpatient mental health care and treatment as set forth in section 225C.12.*

*7. *As a condition of the appropriation made by this section, there is appropriated from the general fund of the state one hundred thousand (100,000) dollars, or so much thereof as is necessary, to the department of human services for rural mental health services. The division of mental health, mental retardation, and developmental disabilities of the department of human services shall allocate these funds to continue or expand existing special allocation project grants providing outreach services to Iowans affected by the continued rural economic decline. The division shall award these funds to agencies that have participated in the 1988 fiscal year mental health and mental retardation services funds special allocation grant application process.*

Sec. 206. HOSPITAL-SCHOOLS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for the state hospital-schools, the following amount, or so much thereof as is necessary:

1987-1988
Fiscal Year

1. For salaries and support for not more than two thousand one hundred ninety-five point sixty-two full-time equivalent positions, maintenance, and miscellaneous purposes $ 57,850,000

2. All funds received from client participation shall be deposited in the general fund of the state.

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*Item veto, see message at end of the Act

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.

6. A county shall be responsible for the nonfederal share of costs for care of Medicaid-eligible residents of state hospital schools with legal settlement in that county regardless of the level of care provided to that resident. A county shall be responsible for eighty percent of the cost of care for residents who are not Medicaid-eligible.

Sec. 207. ENHANCED MENTAL HEALTH/MENTAL RETARDATION/ DEVELOPMENTAL DISABILITIES SERVICES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1987 and ending June 30, 1988, to the department of human services, the following amounts, or so much thereof as is necessary:

1. For contractual services, salaries, support, and miscellaneous purposes $ 600,000

The department shall expend these funds for the development and implementation of a plan for reducing populations at state hospital-schools and state mental health institutes consistent with the provisions of section 225C.28, subsection 6 and recognizing the needs of the communities in which the facilities exist, for the analysis and identification of implementation options for a statewide coordinated and integrated client tracking, service inventory and payment system, and to employ not more than eight field staff and two central office staff, which positions are in addition to any full-time equivalent positions authorized by law, to develop and implement a regional specialized service coordination system and a regional framework for planning and coordinating services.

In developing implementation options for a statewide coordinated and integrated client tracking, service inventory and payment system, the department shall include in its analysis existing department of human services' information systems as well as the Iowa facilities management information system and the mental health, mental retardation, and developmental disabilities data system.

*2. *For administrative support, for regional boards, and for service coordination and diagnosis and evaluation* ..... *$ 2,000,000*

a. Of the funds provided under this subsection, not more than three hundred forty-five thousand (345,000) dollars shall be used as support for regional planning boards. Funds shall be divided equally among the regional planning boards and shall be used for planning and administration of the boards.

b. The remaining funds provided under this subsection shall be used by the department of human services for:

(1) No more than eighty-eight percent of the remaining funds for the establishment of service coordination units for persons with mental retardation, developmental disabilities, or chronic mental illness for the provision of specialized service coordination. These units shall be established no later than January 1, 1988 in each of the department's human service districts. Priority shall be given to individuals who require service coordination in preventing a placement that would be inconsistent with the person's identified needs. Persons performing service coordination shall be given caseloads no greater than thirty for clients with mental retardation, developmental disabilities, or chronic mental illness.

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*Item veto; see message at end of the Act

(2) No more than twelve percent of the remaining funds shall be used for the provision of diagnosis and evaluation services for persons with mental retardation, developmental disabilities, or chronic mental illness. Priority shall be given to individuals who have not received a diagnosis and evaluation within the past five years.

The available funds shall be allocated to the department of human service districts based on the bill of rights enumeration study. Within the funds available under this paragraph "b", case management and diagnosis and evaluation shall be made available proportional to the bill of rights populations within each district as cited in the enumeration study.

The department shall seek to draw down additional funds through the federal medical assistance program in the provision of these services.

It is the intent of the general assembly that the state impose standards for construction of intermediate care facilities for the mentally retarded that are no more stringent than federal standards. It is the intent of the general assembly that recognition be given to reducing the cost for potential conversion of residential care facilities for the mentally retarded to intermediate care facilities for the mentally retarded without imposing more restrictive construction and renovation standards than absolutely essential.

It is the intent of the general assembly that greater use of federal support through vocational rehabilitation funding be provided for the bill of rights population. The department shall work with the department of education in seeking to make greater use of vocational rehabilitation support for the bill of rights population, and shall report to the general assembly by January 1, 1988 on the feasibility of obtaining additional federal assistance.

*The department shall develop a proposal to assist individuals in obtaining Social Security and Title XIX benefits.**

Sec. 208. Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts, chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

Sec. 209. ADDITIONAL POSITIONS. The state hospital-schools and mental health institutes may exceed their specified limit of full-time equivalent positions if such additional positions are specifically related to licensing, certification or accreditation standards or citations.

Sec. 210. MENTAL HEALTH AND RETARDATION SERVICES FUND. There is appropriated from the general fund of the state to the state community mental health and mental retardation services fund established in section 225C.7 for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following amount, or so much thereof as is necessary:

1987-1988 Fiscal Year
$ 3,333,000

1. Notwithstanding section 225C.10, subsection 2, paragraph "a", subparagraph (1), counties shall indicate in their annual plan that general allocation moneys will be expended in accordance with administrative rules adopted by the mental health and mental retardation commission and will not be used for major maintenance or capital expenditure projects.

2. Notwithstanding section 225C.10, subsection 3, counties shall submit annual rather than quarterly financial and plan status reports. The annual reports shall include the services funded; the amounts expended by service and by agency; a description of the use of the funds; and the number of persons served or units of service provided.

Sec. 211. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of this state to the state department of human services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for supplementation of federal social services block grant

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*Item veto; see message at end of the Act

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:

1987-1988 Fiscal Year
$ 4,390,000

The funds appropriated in 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, 1987 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 in this section, three million three hundred ninety thousand (3,390,000) dollars shall be earmarked for the purchase of local services and one million (1,000,000) dollars shall be earmarked for child day care services.

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.

Any funds allocated for the local purchase of child care services shall be available for purchase of services in any type of child care facility approved under 441 IAC § 170.

The department shall adopt administrative rules, to take effect July 1, 1987, which establish the income eligibility level for recipients of child day care services at the equivalent of one hundred twenty-five percent of the federal office of management and budget poverty guidelines for families of all sizes.

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.

It is the intent of the general assembly that effective July 1, 1987, the department of human services shall, in determining eligibility for the social services block grant, disregard one-third of all income of a person who receives social security permanent disability insurance payments.

The department of human services, in conjunction with representatives of provider and consumer organizations, shall study the development of a payment system for state supplementary assistance, foster care, Title XIX and the social services block grant which broadens the array of housing, vocational, employment and support options and provides incentive to providers complying with section 225C.28, subsections 6 and 7, and report to the general assembly by February 1, 1988 regarding the payment system.

Sec. 212. It is the intent of the general assembly that effective July 1, 1987, the department of human services shall consider fifteen leave days as reimbursable units of service for vocational programs serving persons with disabilities, that include sheltered work, work activity, and supported employment services, accredited by the commission on accreditation of rehabilitation facilities (CARF) or the accreditation council on services for people with developmental disabilities (ACDD). The department shall adopt administrative rules pursuant to chapter 17A that clarify policies regarding accrual of such leave days. The department shall not specify the purposes or otherwise limit the use or number of these fifteen leave days when developing and implementing such administrative rules.

Sec. 213. REIMBURSEMENT RATES. For the fiscal year beginning July 1, 1987:

1. The following providers shall have their reimbursement rates frozen at the rates in effect on June 30, 1985: optometrists, opticians, home health agencies, clinics, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, screening centers, hearing aid dealers, orthopedic shoe dealers, maternal health centers, ambulatory surgery centers, and genetic counseling clinics.

However, the material costs of products which are reimbursed at the acquisition cost shall not be frozen.

2. The following providers shall have their payments reduced by a factor of two and one-half percent: dentists, podiatrists, optometrists, opticians, pharmacies, home health agencies, independent laboratories, ambulance, medical equipment and supply dealers, clinics, physical therapists, chiropractors, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, screening centers, hearing aid dealers, orthopedic shoe dealers, maternal health centers, ambulatory surgery centers, genetic counseling clinics, and nurse midwives.

Material cost of products which are reimbursed at the acquisition cost shall not be subject to this reduction.

3. Payments to physicians, as well as those providers specified in subsection 2 shall be reduced by a factor of three and eighty-five hundredths percent.

Material cost of products which are reimbursed at the acquisition cost shall not be subject to this reduction.

4. The reimbursement methodology for the following providers of services shall be changed from usual, customary, and reasonable charges to a fixed fee: physicians, dentists, podiatrists, independent laboratories, ambulance, medical equipment and supply dealers, physical therapists, and chiropractors. In designing the methodology the reimbursement rates per unit shall not be greater than the average reimbursement rates in effect on June 30, 1985. The reductions described in subsection 3 shall continue to apply.

5. Effective July 1, 1987 hospital payment rates shall be increased by four percent. **The reduction of three and eighty-five hundredths percent shall continue until October 1, 1987 at which time the reimbursement methodology for inpatient hospital care shall be changed from prospective reimbursement to diagnosis-related groups.***

6. The basis for establishing the maximum medical assistance rate for intermediate care facilities shall be the sixty-sixth percentile of all facility per diems as calculated from the June 30, 1987 unaudited compilation of cost and statistical data.*

The department shall establish, unless disapproved by the United States department of health and human services, a new reimbursement system for drug products based on the average wholesale price of drug product costs. The department shall adjust the maximum allowable professional fee to reflect the change in the reimbursement system from estimated acquisition cost to average wholesale price reimbursement.

**7. Skilled nursing facility payment rates shall be increased by two and nine-tenths percent, rural health clinic rates shall be increased in accordance with increases under the federal Medicare program, pursuant to Title XVIII of the federal Social Security Act.*

8. Effective July 1, 1987, the three and eighty-five hundredths percent will no longer apply to residential care facilities. Furthermore, the maximum reimbursement rate for residential care facilities shall be increased by four percent making the maximum rate seventeen dollars and ninety-seven cents. The new flat rate for facilities electing not to file cost reports shall be twelve dollars and eighty-four cents.

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*Item veto, see message at end of the Act

9. Effective July 1, 1987, the three and eighty-five hundredths percent reduction shall not be applied in the in-home health related care program. Furthermore, the maximum reimbursement rate for the in-home health related care program shall be increased by four percent.

*10. For services given by social service providers on or after July 1, 1987, reductions to invoices or rates shall be discontinued. In addition, for services given between July 1, 1987 and June 30, 1988, rates shall be automatically increased by four percent over the unreduced rates in effect on June 30, 1987. Rates for foster group care and shelter care services shall not exceed sixty-eight dollars and eighty cents per day. This automatic increase is intended to be a one-time exception to policy for the fiscal year beginning July 1, 1987 and ending June 30, 1988 only and is not intended to eliminate regular submission of cost reports.**

Sec. 214. The department of human services shall implement a rule under Title XIX that allows for direct payment to a provider of transportation if there is evidence that the recipient is not paying the transportation provider.

**Sec. 215. ASSISTANCE TO GAMBLERS. The department shall use funds deposited in the gamblers assistance fund established in section 99E.10 only for programs to assist gamblers. Any unspent funds shall remain in the fund and shall not be transferred or reverted to the general fund.*

*The department shall use gamblers assistance fund moneys for two full-time equivalent positions to support this program.**

Sec. 216. EMPLOYEE DAMAGE REIMBURSEMENT. 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. 217. RULES. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b" for the following: section 203, subsections 1, 2, 3, 8, 9, and 12; section 205, subsection 6; section 206, subsection 6; section 211; section 212; and section 213 of this Act, and rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

Sec. 218. 1987 Iowa Acts, House File 355, section 3, subsection 2, is amended to read as follows:

2. For food stamp employment and training program $ ~~100,000~~ 80,000

Sec. 219. 1987 Iowa Acts, House File 355, section 8, is amended to read as follows:

SEC. 8. 1986 Iowa Acts, chapter 1246, section 303, subsection 9, is amended to read as follows:

9. For community-based programs $ ~~2,698,500~~ 2,698,000

Sec. 220. 1987 Iowa Acts, House File 355, section 9, is amended to read as follows:

SEC. 9. 1986 Iowa Acts, chapter 1246, section 303, subsection 9, paragraph h, is amended to read as follows:

h. Of the funds appropriated by this subsection, nine hundred fifteen thousand ~~five hundred (915,500)~~ (915,000) dollars, or so much thereof as is necessary, is allocated for protective day care.

Sec. 221. 1986 Iowa Acts, chapter 1246, section 303, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For aid to families with dependent children $ ~~59,000,000~~ 57,400,000

Sec. 222. 1986 Iowa Acts, chapter 1246, section 303, subsection 2, paragraph e, is amended to read as follows:

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*Item veto, see message at end of the Act

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled $~~\$128,000,000~~$ 132,500,000

Sec. 223. 1986 Iowa Acts, chapter 1246, section 303, subsection 3, unnumbered paragraph 1, is amended to read as follows:

For medical contracts $ ~~2,290,000~~ 2,425,400

Sec. 224. 1986 Iowa Acts, chapter 1246, section 303, subsection 5, is amended to read as follows:

5. For state supplementary assistance, including state supplementary assistance for the blind $ ~~9,500,000~~ 10,170,000

Sec. 225. 1986 Iowa Acts, chapter 1246, section 303, subsection 8, is amended to read as follows:

8. For foster care . $ ~~24,200,000~~ 27,891,807

Sec. 226. 1986 Iowa Acts, chapter 1246, section 308, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of this state for the fiscal year beginning July 1, 1986, and ending June 30, 1987, 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:

1986-1987
Fiscal Year
$ ~~3,180,000~~ 3,137,563

Sec. 227. TRANSFERS PROHIBITED. Funds shall not be transferred from specific appropriations made under this division of this Act for specific programs to any other programs.

Sec. 228. FEDERAL RECEIPTS. All federal grants to and the federal receipts of the department of human services 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. 229. CAPITAL EXPENDITURES EXCLUDED. Funds appropriated by this division of this Act shall not be used for capital acquisitions or improvements.

Sec. 230. Sections 218 through 226 of this Act, being deemed of immediate importance, take effect upon enactment.

DIVISION III
JUSTICE SYSTEM

Sec. 301. There is appropriated from the general fund of the state to the office of the attorney general for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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*Item veto see message at end of the Act

	1987-1988 Fiscal Year
1. For the general office of attorney general for salaries and support of not more than one hundred fifty point six zero full-time equivalent positions, maintenance, and miscellaneous purposes	$ 3,500,000
2. Prosecuting attorney training program for salaries and support of not more than two full-time equivalent positions, maintenance and miscellaneous purposes which funds shall be used to attract federal and county funding	$ 85,000
3. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this paragraph	$ 45,000

4. In addition to the funds appropriated under subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1987 and ending June 30, 1988, 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 attorneys fees awarded the state in state or federal antitrust actions.

5. In addition to funds appropriated under subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1987 and ending June 30, 1988, an amount not exceeding fifty thousand (50,000) dollars to be used for public education relating to consumer fraud and for enforcement of section 714.16. 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 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.

*6. *For the legal assistance for farmers program*	*$ 250,000**
7. For the farm mediation service program	$ 300,000
*8. *For payment of grants to dispute resolution programs under the prosecuting attorney training program*	*$ 50,000**

Sec. 302. There is appropriated from the utilities trust fund to the consumer advocate office of the department of justice for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of one million one hundred fifty-four thousand four hundred seventy-five (1,154,475) dollars, or so much thereof as may be necessary for salaries and support of not more than twenty-one full-time equivalent positions, maintenance, and operational purposes of the office.

Sec. 303. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 1987 and ending June 30, 1988 the following amounts, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
For salaries, and support of not more than sixteen full-time equivalent positions, maintenance and miscellaneous purposes	$ 515,000

Sec. 304. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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*Item veto, see message at end of the Act

1987-1988
Fiscal Year

1. For the operation of adult correctional institutions, including salaries and support of not more than one thousand six hundred eighteen point ninety-three full-time equivalent positions, maintenance, and miscellaneous purposes $ 54,000,000

2. In addition to the funds appropriated in subsection 1, there is appropriated one thousand five hundred (1,500) dollars for an inmate tort claim fund for inmate claims of less than twenty-five dollars. If the fund is exhausted during the fiscal year, sufficient funds shall be transferred from the institutional budgets to pay approved tort claims for the balance of the fiscal year.

The warden or superintendent of each institution or correctional facility shall designate an employee to receive, investigate, and recommend whether to pay any properly filed inmate tort claim for less than the above amount. The designee's recommendation shall be approved or denied by the warden or superintendent and forwarded to the department of corrections for final approval and payment.

Tort claims denied at the institution shall be forwarded to the state appeal board for their consideration as if originally filed with that body.

This procedure shall be used in lieu of chapter 25A for inmate tort claims of less than twenty-five dollars.

*3. *There is established an inmate population review committee composed of a designee of the governor, the director of the department of corrections or the director's designee, the chairperson of the board of parole or the chairperson's designee, and the co-chairs of the justice system appropriations subcommittee. The co-chairpersons of the justice system appropriations subcommittee shall be responsible for scheduling the first meeting of the committee and the committee shall elect a chairperson at its first meeting. The legislative fiscal bureau shall provide staff support to the committee. The committee shall meet at least every three months to review inmate population statistics, trends, and projections, and shall make recommendations to the governor and the general assembly as it deems appropriate.**

The director of the department of corrections or the director's designee, the director of the department of education or the director's designee, and the director of the department of economic development or the director's designee shall cooperate in order to analyze the literacy and vocational training needs of the inmates who are committed to the custody of the department of corrections and develop recommendations on how to meet these needs. These recommendations shall include proposals as to how the state can qualify for additional federal funding for education programs inside the correctional institutions. The results of the analysis and the recommendations shall be reported to the Seventy-second General Assembly, 1988 Session, not later than January 15, 1988 and copies of the report shall be sent to the members of the justice system appropriations subcommittee and the legislative fiscal bureau.

Of the funds appropriated, the department's budget for Anamosa shall include funding for a full-time substance abuse counselor for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

Sec. 305. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, for the programs as designated:

1987-1988
Fiscal Year

1. For general administration, including salaries and support of not more than thirty-eight point fifty-two full-time equivalent positions, maintenance, and miscellaneous purposes $ 1,620,000

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*Item veto, see message at end of the Act

2. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 246.908, 901.7, and 906.17 $ 65,000

3. For salaries and support of not more than two full-time equivalent positions, maintenance and miscellaneous purposes for jail inspectors as provided in section 356.43 $ 79,000

4. For federal prison reimbursement and miscellaneous contracts $ 355,000

The department of corrections shall use funds appropriated in this subsection to continue to contract for the service of a Muslim imam.

5. For salaries and support of not more than six point thirty-one full-time equivalent positions, maintenance, and miscellaneous purposes at the correctional training center at Mt. Pleasant $ 285,000

**6. 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 $ 25,000*

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.

*The department may establish by rule maximum rates or reasonable compensation for attorneys providing the various categories of civil legal assistance under the program funded by this subsection.**

7. For repairs to roofs and related expenses at the eight correctional institutions $ 115,700

Sec. 306. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the sum of eighteen million one hundred thousand seven hundred (18,100,700) dollars, or so much thereof as is necessary, for preinstitutional and postconviction community-based corrections, halfway houses, parole services, and OWI facilities.

The department of corrections shall not change the allocations either to the district departments of correctional services or to the correctional institutions from the amounts computed by the legislative fiscal bureau on or before June 1, 1987, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the changes and details concerning the workload and performance measures upon which the changes are based.

The department of corrections shall report to the legislative fiscal bureau on a monthly basis the current expenditures of the department's various allocations with a comparison of actual to budgeted expenditures.

The department of corrections shall use the department of management's budget system in developing the budget information for the eight district departments of correctional services, and each of the district departments shall be treated as a separate budget unit with each program modality classified as a separate organization code. The department shall furnish performance measure data designed to enable comparison of this data with historical spending information, and shall assist the legislative fiscal bureau in developing information to be used in legislative oversight of all programs operated by the department.

The department of corrections shall continue the OWI facilities established in 1986 Iowa Acts, chapter 1246, section 402, in compliance with the conditions specified in that chapter.

**It is the intent of the general assembly that the department of corrections, in its operation of the community-based corrections program, shall conform its activities to the missions, goals, and objectives provided in this unnumbered paragraph and collect information pertaining to performance measures developed by the legislative fiscal bureau. The department shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the justice system appropriations subcommittee on the performance measures. The department shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported. It is the responsibility of the department of corrections to supervise and assist individuals who are charged with or have been convicted of felonies, aggravated misdemeanors, or serious misdemeanors, or who have been sentenced to probation, parole or residential care programs as a result of conviction for these offenses, or who are contracted to a district department for supervision or housing while on work release. It is also the responsibility of the department of corrections to provide unpaid community service sentencing alternatives and to operate facilities for the confinement and treatment of offenders convicted of violating OWI laws. The department shall seek to accomplish the following objectives:*

1. To assist and support the eight district departments in providing community-based correctional programs and services, including the gathering of performance data from each district department for management and evaluation purposes.

2. To allocate funds appropriated for the establishment, operation, support, and evaluation of community-based correctional programs and services among the eight district departments. The allocation shall be based upon objective criteria relating to the performance and workload information collected from each district department. Detailed information relating to the allocation process, including proposed budgets for each district department and comparison of historical performance data with historical spending information shall be reported to the justice system appropriations subcommittee during the department's annual legislative budget hearing.

3. To adopt rules establishing guidelines for use in reviewing the performance of the district departments. These guidelines shall require that each district:

a. Provide specific services.

b. Locate program services in or near cities providing a substantial number of service resources.

c. Follow practices and procedures which maximize the availability of federal funds.

d. Provide for gathering and evaluating performance data relating to the program.

e. Provide for the maintenance of uniform personnel and fiscal records.

f. Provide a program to assist the courts in placing defendants who are sentenced to unpaid community service.

g. Provide for community participation in the planning and programming of the district department's program.

h. Review the facilities established to confine and treat OWI offenders.

*4. To prepare a biennial plan relating to the management of the community-based corrections programs and services. The plan shall include goals, objectives, operations and funding allocations for programs and projects, and plans for coordination with other state agencies responsible for substance abuse services, mental health services, employment programs, and other programs needed to improve the availability of services. The objectives in this unnumbered paragraph shall serve as a target for the department and each report shall include a summary of progress toward those objectives. Failure to meet these goals or objectives shall not be grounds for legal action against the department of corrections.**

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*Item veto; see message at end of the Act

Sec. 307. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
COURTS AND ADMINISTRATION	
1. 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, clerks of court, juvenile court officers, 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	$ 55,800,000

Of the funds appropriated by this subsection, not less than ninety-three thousand (93,000) dollars shall be expended for the court-appointed special advocate program.

Funds appropriated under this subsection may be used to fund any increase in the salaries of the judges.

2. For salaries, support, maintenance, and miscellaneous purposes necessary to provide adult indigent defense and the cost of juvenile proceedings including attorney and witness fees	$ 8,200,000
3. For the juvenile victim restitution program	$ 115,000

Notwithstanding chapter 232A, it is the intent of the general assembly that the judicial department receive funds appropriated and administer the Iowa juvenile victim restitution program.

4. For salaries, support, maintenance, and miscellaneous purposes necessary to fund the cost of juvenile proceedings including attorney and witness fees	$ 1,500,000

Notwithstanding any provision of law to the contrary, the administration of juvenile attorney and witness fees shall be transferred to the judicial department.

Sec. 308. Of the funds appropriated by section 307, subsection 1, not more than one million eight hundred thousand (1,800,000) dollars may be transferred into the revolving fund established pursuant to section 602.1302, subsection 4, to be spent for jury and witness fees.

Sec. 309. A public office providing indigent defense which is in existence on January 1, 1987, shall not be abolished during the period beginning January 1, 1987 and ending June 30, 1988, unless done at the request of the chief judge of the judicial district.

Sec. 310. 1986 Iowa Acts, chapter 1246, section 401, subsection 1, is amended to read as follows:

1. 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 when 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 when 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, excluding the Luster Heights honor camp and facilities established under section 402, subsection 2 of this Act for treatment of OWI offenders; 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 date is sooner. 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, 1986, 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~~ $ 50,094,227

**Sec. 311. Section 602.1301, subsection 2, paragraph b, Code 1987, is amended to read as follows:*

b. Before December 1, the supreme court shall submit to the director of management an estimate of the total expenditure requirements of the judicial department. The director of management shall submit this estimate received from the supreme court to the governor for inclusion, without any *change* by the governor, the director of management, or any other person in the executive branch, *in the governor's proposed budget for the succeeding fiscal year. The estimate shall also be submitted to the chairpersons of the committees on appropriations.**

Sec. 312. Section 602.8105, subsection 1, paragraph l, Code 1987, is amended to read as follows:

l. In criminal cases, the same fees for the same services as in civil cases, to be paid by the county or city, 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 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 in habitual offender actions pursuant to section 321.556, 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. 313. All federal grants to and the federal receipts of agencies appropriated funds under this division of this Act are appropriated for the purposes set forth in such federal grants or receipts unless otherwise provided by the general assembly.

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*Item veto; see message at end of the Act

DIVISION IV
REGULATION

Sec. 401. There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than one hundred fourteen full-time equivalent positions, maintenance, and other operational purposes	$ 1,700,000

The auditor of state shall be reimbursed for performing examinations of the department of human services, the state department of transportation, the Iowa department of public health, the state board of regents, the offices of the clerks of the district court of the judicial department, and federal financial assistance, as defined in Pub. L. No. 98-502, received by all other departments.

For examinations, the auditor of state shall file a sworn statement consisting of expenses and prorated salary costs paid to perform the examination with the financial officer of the department examined. Upon audit and approval by the department director, the finance officer shall transfer the amount from the department to the auditor of state to be credited to the general fund of the state.

It is the intent of the general assembly that the auditor of state shall complete all audits for prior fiscal years required for the Iowa department of public health, the department of human services, the state department of transportation, and the state board of regents during the fiscal year beginning July 1, 1987 and ending June 30, 1988.

Sec. 402. There is appropriated from the general fund of the state to the campaign finance disclosure commission for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support of not more than four full-time equivalent positions, maintenance and miscellaneous purposes	$ 168,000

Sec. 403. There is appropriated from the general fund of the state to the department of employment services for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
1. DIVISION OF LABOR SERVICES	
For salaries and support for not more than eighty-one full-time equivalent positions, maintenance and miscellaneous purposes	$ 1,708,000

Of the funds appropriated in this subsection, thirty-nine thousand (39,000) dollars, or so much thereof as is necessary, is allocated for the employment of one additional boiler inspector.

2. DIVISION OF INDUSTRIAL SERVICES	
For salaries and support for not more than thirty-two point five full-time equivalent positions, maintenance, and miscellaneous purposes	$ 1,060,000
3. ADMINISTRATIVE SERVICES	
For salaries and support for not more than five point three full-time equivalent positions, maintenance, and miscellaneous purposes	$ 89,000

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*Item veto see message at end of the Act

*4. *Moneys appropriated under subsections 1, 2, and 3 shall not be transferred between divisions and the department shall not bill the labor services division or the industrial services division for administrative services except upon the request of those divisions for additional services requested. Funds appropriated by this section are exempt from the department of management's quarterly allocations recapture procedures.**

It is the intent of the general assembly that the position of job service commissioner not be filled and that the director of the department of employment services shall continue to act as the chief executive officer of the division of job service.

Sec. 404. FEDERAL FUNDS APPROPRIATED FOR BUILDING PURCHASE. There is appropriated out of the funds made available to this state pursuant to section 903 of the federal Social Security Act, as amended, for the fiscal year beginning July 1, 1987, and ending June 30, 1988, sixty-two thousand five hundred (62,500) dollars, and for the fiscal year beginning July 1, 1988, and ending June 30, 1989, sixty-two thousand five hundred (62,500) dollars, to the department of employment services for the payment of the first two of four annual payments to the Iowa public employment retirement system for the purchase of that portion of the state administrative office building located at 1000 East Grand, Des Moines, Iowa, which is owned by the Iowa public employment retirement system.

The moneys appropriated in this section shall not be obligated after June 30, 1989. The amount obligated pursuant to this section during any twelve-month period beginning on July 1 and ending on June 30 shall not exceed the amount available for obligation pursuant to section 903 of the federal Social Security Act, as amended, and as reflected in the accounts of the division of job service of the department of employment services and the United States department of labor.

Sec. 405. CONTINGENCY FUND USES -- BUILDING AND EQUIPMENT EXPENSES, ECONOMIC DEVELOPMENT LABOR SURVEYS, DIVISION-APPROVED TRAINING.

1. Notwithstanding the provisions of section 96.13, subsection 3, which restrict the use of moneys in the special employment security contingency fund, moneys in the fund on June 30, 1987, shall not be transferred by the treasurer of state to either the temporary emergency surcharge fund or the unemployment compensation fund, but shall be available to the division of job service of the department of employment services for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for expenditures under subsection 2.

2. The division of job service shall expend moneys which are credited to the special employment security contingency fund during the fiscal year beginning July 1, 1987, and ending June 30, 1988, including moneys which are available to the division of job service under subsection 1, only in accordance with the following restrictions:

a. The division may expend up to fifty thousand (50,000) dollars from the fund for upgrading of electrical service within the state administrative office building in order to meet existing standards and for the purchase and installation of word processing equipment in the state administrative office building to replace equipment transferred to the department of inspections and appeals.

b. The division may expend up to two hundred fifty thousand (250,000) dollars from the fund for the support of the county, labor survey, economic development teams.

c. Any balance of moneys in the special employment security contingency fund shall be deposited by the treasurer of state in the division-approved training fund which is created as a special fund in the state treasury. Notwithstanding section 453.7, interest or earnings from moneys deposited in the division-approved training fund shall be credited to that fund. The division shall use moneys from the fund to pay only the instructional cost of training related to tuition and course fees, approved by the division pursuant to section 96.4 and 345 IAC, rules

*Item veto; see message at end of the Act

4.39 and 4.40, for individuals who demonstrate to the division's satisfaction that they are financially incapable of paying the instructional cost of the approved training. However, the division may expend up to thirty thousand (30,000) dollars from the fund for administrative costs relating to payments for division-approved training.

Payments from the fund shall not be made to the individual receiving approved training but shall be made directly to the institution or person providing the approved training. Payments shall not exceed one thousand dollars per individual trainee in any two-year period. The division shall distribute information on the qualification requirements for and availability of payment for the division-approved training to individuals filing claims for benefits or receiving benefits under chapter 96.

Sec. 406. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
1. GENERAL DEPARTMENT	
For salaries and support for not more than two hundred twenty-nine point ninety-three full-time equivalent positions, maintenance, and miscellaneous purposes	$ 3,197,500

It is the intent of the general assembly that food and food service establishments receiving a score of ninety points or more in the last two inspections shall be subject to an annual inspection rather than semiannual inspections.

2. EMPLOYMENT APPEAL BOARD	
For salaries and support for not more than two point twenty-nine full-time equivalent positions, maintenance, and miscellaneous purposes	$ 29,400
3. FOSTER CARE REVIEW BOARD	
For salaries and support for not more than five full-time equivalent positions, maintenance, and miscellaneous purposes	$ 177,000

It is the intent of the general assembly that the foster care review board shall review one hundred percent of the foster care cases in the fifth and sixth judicial districts where pilot programs have been established.

4. The department of inspections and appeals may charge state departments, agencies, and commissions for services rendered and the payment received shall be considered repayment receipts as defined in section 8.2, subsection 5.

Sec. 407. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than eleven point five full-time equivalent positions, maintenance, and miscellaneous purposes	$ 326,000

Sec. 408. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, for the purposes designated:

	1987-1988 Fiscal Year
For salaries and support for not more than thirteen full-time equivalent positions, maintenance and miscellaneous purposes	$ 575,000

Sec. 409. There is appropriated from the administrative services trust fund to the administrative services division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
For salaries and support for not more than forty-seven full-time equivalent positions, maintenance, and miscellaneous purposes	$ 1,300,000

Sec. 410. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amounts, or so much thereof as is necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
1. ADMINISTRATIVE SERVICES	
For salaries, support, maintenance and other operational purposes	$ 180,000
2. PROFESSIONAL LICENSING AND REGULATION DIVISION	
For salaries and support for not more than nine full-time equivalent positions, maintenance and other operational purposes	$ 628,900

The architectural examining board, the landscape architectural examining board, and the engineering and land surveying examining board for which general fund appropriations have been provided in this subsection may expend additional funds, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before the architectural examining board, the landscape architectural examining board, or the engineering and land surveying examining board expends or encumbers an amount in excess of the funds budgeted for examinations, the department of management shall approve the expenditure or encumbrance. Before approval is given, the department of management 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 department of management, the examining board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the 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.

The professional licensing division of the department of commerce shall transfer to the administrative services division trust fund an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987.

4. INSURANCE DIVISION	
For salaries, support, maintenance and other operational purposes	$ 150,000

It is the intent of the general assembly that the department of commerce shall transfer fifty-five percent of insurance nonexamination revenues received for the fiscal year beginning July 1, 1987 and ending June 30, 1988, to the general fund of the state. To the extent that the remaining forty-five percent of nonexamination revenues available to the division exceed or are projected to exceed the division's appropriation pursuant to this Act, the division may expend a portion of such revenues for the purpose of computerization of the division. However, in no event shall additional expenditures exceed ninety-eight thousand (98,000) dollars unless the director of the department of management shall first approve such expenditure in both amount and purpose.

*5. *It is the intent of the general assembly that the insurance division of the department of commerce, in its operation of the program of insurance rates and forms review, shall conform its activities to the mission, goals, and objectives provided in this subsection and collect information pertaining to performance measures developed by the legislative fiscal bureau. The division shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the regulation appropriations subcommittee on the performance measures. The division shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.*

The rates and forms review unit of the insurance division of the department of commerce exists to protect the general public regarding insurance rates and forms and the solvency of public retirement systems under chapter 411 by reviewing all legally required rate and form submissions in a timely manner to ensure that rates and forms available to the public meet all the requirements of state law and reviewing the reports of the public retirement systems under chapter 411 to accomplish the following objectives.

a. To receive and review all required insurance rate and form submissions for compliance with state law within a period of two weeks from the date of submission.

b. To limit the number of insurance rate and form resubmissions to less than ten percent of all initial submissions annually.

c. To limit the number of consumer complaints relating to insurance rates and forms to less than one complaint for each one thousand insurance rates and forms approved annually.

d. To prevent the insolvency of any public retirement system subject to chapter 411.

The objectives shall serve as targets for the insurance division of the department of commerce and each report shall include a summary of progress toward those objectives. Failure to meet these goals and objectives shall not be grounds for legal action against the insurance division of the department of commerce.

6. It is the intent of the general assembly that the insurance division of the department of commerce, in its operations relating to the enforcement of chapters 505 and 507B, shall conform its activities to the missions, goals, and objectives provided in this subsection and collect information pertaining to performance measures developed by the legislative fiscal bureau. The division shall provide a report at least quarterly to the legislative fiscal bureau and the co-chairpersons and ranking members of the regulation appropriations subcommittee on the performance measures. The division shall be notified by the legislative fiscal bureau by July 1, 1987 of the specific performance measures for which data shall be collected and reported.

The complaints unit of the insurance division shall investigate all complaints concerning insurance companies or their agents to determine if any insurance laws or practices have been violated. The complaints unit shall assist consumers in registering complaints about insurance companies and agents and provide a forum for consumers to register these complaints without incurring additional costs demanded by the legal system.

The complaints unit shall provide for complaints to be handled in an expeditious manner to protect consumer rights under the law and to mediate agent and company complaints from consumers in an expeditious manner to ensure fair dealings with consumers. The objective of the complaints unit shall be to handle consumer complaints within an average period of twenty-eight days and to begin prosecution of agents and companies who violate the law within twenty-eight days of discovery and to conclude the prosecution within sixty days of its commencement.

The objectives shall serve as targets for the insurance division of the department of commerce and each report shall include a summary of progress toward those objectives.

*Failure to meet these goals and objectives shall not be grounds for legal action against the insurance division of the department of commerce.**

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*Item veto; see message at end of the Act

Sec. 411. Notwithstanding section 123.53, there is appropriated from the beer and liquor control fund to the alcoholic beverages division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, three million five hundred eighty-seven thousand (3,587,000) dollars, or so much thereof as is necessary, for salaries and support for not more than ninety-three point sixteen full-time equivalent positions, maintenance and other operational purposes. Funds appropriated under this section shall not be used for lease-purchase of cash registers.

The alcoholic beverages division of the department of commerce shall transfer from unappropriated trust funds to the administrative services trust fund during the fiscal year an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, the share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987.

The alcoholic beverages division may expend additional funds, if those additional expenditures are actual expenses which are required to accomplish an orderly and efficient transition to a system of private liquor sales, subject to the approval of the department of management.

Sec. 412. There is appropriated from the banking revolving fund to the banking division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
For salaries and support for not more than one hundred eighteen point five full-time equivalent positions, maintenance and other operational purposes	$ 4,623,000

There shall be transferred from unappropriated trust funds during the fiscal year to the administrative services trust fund an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987. Funds appropriated by this section are exempt from the department of management's quarterly allocations recapture procedure.

The banking division may expend additional funds, including funds required for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for examinations and directly result from examinations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those institutions being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 413. There is appropriated from the credit union revolving fund to the credit union division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
For salaries and support for not more than eighteen full-time equivalent positions, maintenance and other operational purposes	$ 688,000

There shall be transferred from unappropriated trust funds during the fiscal year to the administrative services trust fund an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987. Funds appropriated by this section are exempt from the department of management's quarterly allocations recapture procedure.

The credit union division may expend additional funds, including funds required for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for examinations and directly result from examinations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those institutions being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 414. There is appropriated from the savings and loan revolving fund to the savings and loan division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes:

	1987-1988 Fiscal Year
For salaries and support for not more than six full-time equivalent positions, maintenance and other operational purposes	$ 246,000

There shall be transferred from unappropriated trust funds during the fiscal year to the administrative services trust fund an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987. Funds appropriated by this section are exempt from the department of management's quarterly allocations recapture procedure.

The savings and loan division may expend additional funds, including funds required for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for examinations and directly result from examinations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those institutions being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 415. There is appropriated from the insurance revolving fund to the insurance division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes:

1987-1988
Fiscal Year

For salaries and support for not more than eighty-four point eighty-three full-time equivalent positions, maintenance and other operational purposes $ 3,071,000

There shall be transferred from unappropriated trust funds during the fiscal year to the administrative services trust fund an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987. Funds appropriated by this section are exempt from the department of management's quarterly allocations recapture procedure.

The insurance division may expend additional funds, including funds required for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for examinations and directly result from examinations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those institutions being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Funds collected under chapter 523A by the insurance division shall be used for administration of chapter 523A and are not subject to the nonexamination revenue transfer.

Funds collected under chapter 523C by the insurance division shall be used for the administration of chapter 523C and are not subject to the nonexamination revenue transfer.

Sec. 416. There is appropriated from the utilities trust fund to the utilities division of the department of commerce for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following amount, or so much thereof as is necessary, to be used for the following purposes:

1987-1988
Fiscal Year

For salaries and support for not more than one hundred two point five full-time equivalent positions, maintenance and other operational purposes $ 4,207,000

There shall be transferred from unappropriated trust funds during the fiscal year to the administrative services trust fund an amount which represents the division's share of the actual cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986 and ending June 30, 1987.

Sec. 417. It is the intent of the general assembly that all state departments require that applications for grants from state funding include a plan for the coordination of the funds with related community service programs to maximize resources to the greatest possible extent.

*Sec. 418. *Section 2.10, Code 1987, is amended by adding the following new subsection:*

NEW SUBSECTION. *8. The chairpersons and ranking members, or their designees, of the senate and house standing committees on appropriations shall receive actual expenses incurred for attending the governor's budget hearings.*

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*Item veto, see message at end of the Act

Sec. 419. NEW SECTION. *8.6A BUDGET INFORMATION TO APPROPRIATIONS COMMITTEE.*

*The department of management shall provide all budget handouts to the chairpersons and the ranking members of the senate and house standing committees on appropriations and the legislative fiscal bureau prior to the governor's budget hearings and notify these persons of the schedule of the budget hearings. The department of management shall also provide all appropriate handouts on the budget to the respective co-chairpersons and ranking members of the respective subcommittees of the senate and house standing committees on appropriations.**

Sec. 420. Section 10A.106, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Gaming division.

Sec. 421. NEW SECTION. 10A.701 GAMING DIVISION.

The gaming division shall combine and coordinate the supervision of pari-mutuel betting and the conducting of games of skill, games of chance, or raffles in the state. The division shall enforce and implement chapters 99B and 99D. The division is headed by the administrator of gaming who shall be appointed pursuant to section 99D.6. The state racing commission shall perform duties within the division as prescribed in chapter 99D.

Sec. 422. NEW SECTION. 11.5A AUDIT COSTS.

When requested by the auditor of state, the department of management shall transfer from any unappropriated funds in the state treasury an amount not exceeding the expenses and prorated salary costs already paid to perform examinations of state executive agencies and the offices of the judicial department, and federal financial assistance, as defined in Pub. L. No. 98-502, received by all other departments for which payments by agencies have not been made. Upon payment by the departments, the auditor of state shall credit the payments to the state treasury.

**Sec. 423. Section 19A.3, Code 1987, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *Notwithstanding other provisions of this section or the Code to the contrary, those employees or positions within the offices of the elected state officers which were exempt from the merit system provisions of this chapter immediately prior to July 1, 1986, shall be exempt from the merit system provisions of this chapter on and after the effective date of this Act.**

Sec. 424. Section 84A.1, subsection 2, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The director of the department of employment services shall serve as job service commissioner and shall prepare, administer, and control the budget of the department and its divisions and shall approve the employment of all personnel of the department and its divisions.

Sec. 425. Section 99B.10, subsection 1, Code 1987, is amended to read as follows:

1. A prize of ~~cash or~~ merchandise exceeding five dollars in value or cash shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a prize or one or more free games or portions of games without payment of additional consideration by the participant.

Sec. 426. Section 135C.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The protection and advocacy agency designated in the state, under Pub. L. No. 98-527, the developmental disabilities Act of 1984, and Pub. L. No. 99-319, the protection and advocacy for mentally ill individuals Act of 1986, is recognized as an agency legally

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*Item veto; see message at end of the Act

authorized and constituted to ensure the implementation of the purposes of this chapter for populations under its authority and in the manner designated by Pub. L. No. 98-527 and Pub. L. No. 99-319 and in the assurances of the governor of the state.

Sec. 427. Section 135C.16, subsection 3, Code 1987, is amended to read as follows:

3. An inspector of the department may enter any licensed health care facility without a warrant, and may examine all records pertaining to the care provided residents of the facility. An inspector of the department may contact or interview any resident, employee, or any other person who might have knowledge about the operation of a health care facility. An inspector of the department of human services shall have the same right with respect to any facility where one or more residents are cared for entirely or partially at public expense, and an investigator of the designated protection and advocacy agency shall have the same right with respect to any facility where one or more residents have developmental disabilities or mental illnesses, and the state fire marshal or a deputy appointed pursuant to section 135C.9, subsection 1, paragraph "b" shall have the same right of entry into any facility and the right to inspect any records pertinent to fire safety practices and conditions within that facility. If any such inspector has probable cause to believe that any institution, building, or agency not licensed as a health care facility is in fact a health care facility as defined by this chapter, and upon producing identification that the individual is an inspector is denied entry thereto for the purpose of making an inspection, the inspector may, with the assistance of the county attorney of the county in which the purported health care facility is located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been any violations of this chapter.

Sec. 428. *Section 135C.17, Code 1987, is amended to read as follows:*

135C.17 DUTIES OF OTHER DEPARTMENTS.

It shall be the duty of the department of human services, state fire marshal, and the officers and agents of other state and local governmental units, and the designated protection and advocacy agency to assist the department in carrying out the provisions of this chapter, insofar as the functions of these respective offices and departments are concerned with the health, welfare, and safety of any resident of any health care facility. It shall be the duty of the department to cooperate with the protection and advocacy agency by responding to all reasonable requests for assistance and information as required by federal law and this chapter.

Sec. 429. Section 135C.19, subsection 3, Code 1987, is amended to read as follows:

3. A copy of each citation required to be posted by this subsection shall be sent by the department to the department of human services and to the designated protection and advocacy agency if the facility has one or more residents with developmental disabilities or mental illness.

Sec. 430. *Section 135C.38, subsection 1, Code 1987, is amended to read as follows:*

1. Upon receipt of a complaint made in accordance with section 135C.37, the department or care review committee shall make a preliminary review of the complaint. Unless the department or committee concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint. The department may refer to the care review committee of a facility any complaint received by the department regarding that facility, for initial evaluation and appropriate action by the committee. In any case, the complainant shall be promptly informed of the result of any action taken by the department or committee in the matter. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness.

Sec. 431. Section 478.4, Code 1987, is amended to read as follows:

478.4 FRANCHISE — HEARING.

The utilities board shall consider said petition and any objections filed thereto in the manner hereinafter provided. It shall examine the proposed route or cause any engineer selected by it to do so. If a hearing is held on the petition it may hear such testimony as may aid it in determining the propriety of granting such franchise. It may grant such franchise in whole or in part upon such terms, conditions, and restrictions, and with such modifications as to location and route as may seem to it just and proper. Before granting such franchise, the utilities board shall make a finding that the proposed line or lines are necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. No franchise shall become effective until the petitioners shall pay, or file an agreement to pay, all costs and expenses of the franchise proceeding, whether or not objections are filed, including costs of inspections or examinations of the route, hearing, salaries, publishing of notice, and any other expenses reasonably attributable thereto. The funds received for the costs and the expenses of the franchise proceeding shall be remitted to the treasurer of state for deposit in the ~~general~~ utilities trust fund ~~of the state~~.

Sec. 432. Section 479.16, Code 1987, is amended to read as follows:

479.16 USE OF FUNDS.

All moneys received under the provisions of this chapter shall be remitted monthly to the treasurer of state and credited to the ~~general~~ utilities trust fund ~~of the state~~.

Sec. 433. Section 505.7, Code 1987, is amended to read as follows:

505.7 FEES — ~~INSPECTION AND EXAMINATION~~ EXPENSES OF DIVISION.

All fees and charges which are required by law to be paid by insurance companies and associations shall be payable to the commissioner of the insurance division of the department of commerce or department of revenue and finance, as provided by law, whose duty it shall be to account for and pay over the same to the treasurer of state at the time and in the manner provided by law. However, fees paid for the inspection or examination of an insurer or other entity subject to regulation by the insurance division shall be deposited in ~~a special trust~~ an insurance revolving fund. The treasurer of state shall hold these funds in an account that shall be established in the name of the commissioner for the payment of the ~~inspection and examination~~ expenses of the division upon appropriation by the general assembly. This fund is subject at all times to the warrant of the department of revenue and finance, drawn upon written requisition of the commissioner or the commissioner's designated representative, for the payment of all salaries and other expenses necessary to carry out the ~~inspection or examination~~ duties of the insurance division. The commissioner may keep on hand with the treasurer of state funds in excess of the current needs of the division. Transfers shall not be made from the general fund of the state or any other fund for the payment of the ~~inspection and examination~~ expenses of the division. No part of the funds held by the treasurer of state for the account of the commissioner shall be transferred to the general fund of the state or any other fund. The funds held by the treasurer of state for the account of the commissioner shall be invested by the treasurer of state and the income derived from these investments shall be credited to the general fund of the state.

The commissioner shall account for receipts and disbursements according to the separate inspection and examination duties imposed upon the commissioner by the laws of this state and each separate inspection and examination duty shall be fiscally self-sustaining.

Sec. 434. Section 523C.7, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To the extent necessary to administer the provisions of this chapter, the commissioner may, after notice and hearing, institute a residential service contract form approval or form review fee as the commissioner shall by rule set. The fee, if imposed, may be by dollar amount or based upon a percentage of the sale value of the contract.

Sec. 435. Section 524.207, Code 1987, is amended to read as follows:

524.207 EXPENSES OF THE BANKING DIVISION — FEES.

All expenses required in the discharge of the duties and responsibilities imposed upon the banking division of the department of commerce, the superintendent, and the state banking board by the laws of this state shall be paid from fees provided by the laws of this state and appropriated by the general assembly from the fund established in this section. All of these fees are payable to the superintendent. The superintendent shall pay all the fees and other money received by the superintendent to the treasurer of state within the time required by section 12.10. The treasurer of state shall hold these funds in ~~an account~~ a banking revolving fund that shall be established in the name of the superintendent for the payment of the expenses of the division. This fund is subject at all times to the warrant of the department of revenue and finance, drawn upon written requisition of the superintendent or the superintendent's designated representative, for the payment of all salaries and other expenses necessary to carry out the duties of the banking division of the department of commerce. The superintendent may keep on hand with the treasurer of state funds in excess of the current needs of the division to the extent approved by the state banking board. Transfers shall not be made from the general fund of the state or any other fund for the payment of the expenses of the division. No part of the funds held by the treasurer of state for the account of the superintendent shall be transferred to the general fund of the state or any other fund, except as follows: ~~One hundred~~ Sixty thousand dollars each fiscal year shall be transferred to the general fund of the state. That amount shall be considered as one of the costs of the division. The funds held by the treasurer of state for the account of the superintendent shall be invested by the treasurer of state and the income derived from these investments shall be credited to the general fund of the state.

The authority to modify allotments provided in section 8.31 shall not apply to funds appropriated from the fund created in this section and held for the superintendent.

The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state and each separate duty shall be fiscally self-sustaining.

Sec. 436. Section 533.67, Code 1987, is amended to read as follows:

533.67 EXPENSES OF THE CREDIT UNION DIVISION — FEES.

All expenses required in the discharge of the duties and responsibilities imposed upon the credit union division, the superintendent, and the credit union review board by the laws of this state shall be paid from fees provided by the laws of this state and appropriated by the general assembly from the fund established in this section. All of these fees are payable to the superintendent. The superintendent shall pay all the fees and other money received by the superintendent to the treasurer of state within the time required by section 12.10. The treasurer of state shall hold these funds in ~~an account~~ a credit union revolving fund that shall be established in the name of the superintendent for the payment of the expenses of the division. This fund is subject at all times to the warrant of the department of revenue and finance, drawn upon written requisition of the superintendent or the superintendent's designated representative, for the payment of all salaries and other expenses necessary to carry out the duties of the division. The superintendent may keep on hand with the treasurer of state funds in excess of the current needs of the division to the extent approved by the credit union review board. No transfers shall be made from the general fund of the state or any other fund for the payment of the expenses of the division. No part of the funds held by the treasurer of state for the account of the superintendent shall be transferred to the general fund of the state or any other fund, except as follows: ~~Forty~~ Thirty thousand dollars each fiscal year shall be transferred to the general fund of the state. The amount shall be considered as one of the costs of the division. The funds held by the treasurer of state for the account of the superintendent shall be invested by the treasurer of state and the income derived from these investments shall be credited to the general fund of the state.

The authority to modify allotments provided in section 8.31 shall not apply to funds appropriated from the fund created in this section and held for the superintendent.

The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state and each separate duty shall be fiscally self-sustaining.

Sec. 437. Section 534.408, subsection 1, Code 1987, is amended to read as follows:

1. PAYABLE TO DIVISION. Associations shall pay fees by delivering to the superintendent a check payable to the savings and loan division of the department of commerce. All fees collected under this chapter shall be deposited with the treasurer of state in a separate fund to be known as the savings and loan revolving fund, except ~~fifteen~~ eleven thousand dollars each fiscal year shall be transferred to the general fund of the state. The amount shall be considered as one of the costs of the savings and loan division. All expenses necessary to carry out this chapter shall be paid from the savings and loan revolving fund and appropriated by the general assembly from the fund.

The authority to modify allotments provided in section 8.31 shall not apply to funds appropriated from the savings and loan fund.

Sec. 438. Section 546.2, subsection 3, paragraph d, Code 1987, is amended by striking the paragraph.

Sec. 439. NEW SECTION. 546.11 ADMINISTRATIVE SERVICES TRUST FUND CREATED.

There is created in the office of the treasurer of state for the department of commerce an administrative services trust fund. Moneys paid to the department by the divisions for administrative services shall be credited to the fund. All costs for administrative services provided by the department to the respective divisions shall be paid from this fund, subject to appropriation by the general assembly.

Sec. 440. Section 546.6, Code 1987, is repealed.

Sec. 441. All appropriations from the general fund of the state for the fiscal year beginning July 1, 1987 and ending June 30, 1988 which are enacted by the Seventy-second General Assembly, 1987 Session, and become law and all standing appropriations from the general fund of the state provided by law for the fiscal year beginning July 1, 1987 and ending June 30, 1988 for executive departments and agencies or state programs administered by the executive departments or agencies are reduced by one-tenth of one percent for the fiscal year beginning July 1, 1987 and ending June 30, 1988.

Sec. 442. Sections 104, 309, and 310 of this Act, being deemed of immediate importance, take effect upon its enactment.

Sec. 443. All federal grants to and the federal receipts of the agencies appropriated funds under this division of this Act are appropriated for the purposes set forth in such federal grants or receipts unless otherwise provided by the general assembly.

Approved June 9, 1987, except the items which I hereby disapprove and which are designated as section 101, subsections 2, 3, 4; section 102, subsection 1(b); that portion of section 102, subsection 5, which is herein bracketed in ink and initialed by me; section 103, subsection 3; section 104; section 105, subsection 8, last paragraph; section 112; those portions of section 201 which are herein bracketed in ink and initialed by me; section 203, subsection 1(a); section 203, subsection 1(b); section 203, subsection 1(c); those portions of section 203, subsection 2 which are herein bracketed in ink and initialed by me; section 203, subsection 11(a); section 203, subsection 13; section 205, subsection 5; section 205, subsection 6; section 205, subsection 7; section 207, subsection 2; those portions of section 213, which are bracketed in ink and initialed

by me; section 215; section 227; section 301, subsection 6; section 301, subsection 8; that portion of section 304, which is herein bracketed in ink and initialed by me; section 305, subsection 6, those portions of section 306, which are bracketed in ink and initialed by me; section 311; that portion of section 401, which is herein bracketed in ink and initialed by me; that portion of section 403, subsection 4, which is herein bracketed in ink and initialed by me; section 410, subsections 5 and 6; section 418; section 419; and section 423. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the secretary of state on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Madam Secretary:

I hereby transmit House File 671, an Act relating to the financing of public agencies and programs by making appropriations to agencies, boards, commissions, departments, and programs of state government for health and human rights, human services, the judicial branch, the Department of Justice, the Department of Corrections, the Board of Parole, the Auditor of State, campaign finance, employment services, inspections and appeals, employment relations, and commerce, relating to human organ and tissue transplants, by providing for use of certain funds from a separate fund from civil penalties for certain violations, by providing for the repeal of the division of children, youth, and families in the Department of Human Rights, by transferring the gaming division to the Department of Inspections and Appeals, relating to the protection and advocacy designated in the state, by providing for budget reductions for certain agencies, and providing effective dates.

House File 671 makes appropriations for the financing of agencies ranging from Department of Health to the Department of Inspections and Appeals. It clearly provides for excessive spending, especially in human services area where appropriations exceed my recommendations by over $20 million on an annualized basis. A myriad of new programs are created with future year costs that are even greater than those for which funds are appropriated in fiscal year 1988. Given the state's tight fiscal condition with the recent adjournment of the extraordinary session of the Seventy-second General Assembly, I must take action to cut $19.203 million from this budget bill. To do otherwise would leave Iowans without a balanced budget and with an excessive level of spending.

The budget cuts incorporated in this item veto message affect new programs and existing programs for which additional funding is provided. Efforts are made to protect existing state obligations and areas of particular priority, such as welfare and foster care reform.

In combination with item vetoes incorporated in House File 511, state spending will be reduced by a total of $35.13 million. This will allow the state to meet its legal obligations and provide a modest ending balance in fiscal year 1988, according to the Department of Management. House File 671 is, therefore, approved as of this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as that portion of Section 101, subsections 2, 3, and 4 in their entirety.

These subsections provide detailed performance measures and reporting requirements for the state Civil Rights Commission. The Department of Management has established an appropriate performance review system for the Commission. To allow the legislature to involve itself in the administration of state government is an inappropriate encroachment upon executive branch authority. As a result, I cannot approve these subsections.

I am unable to approve the item designated as that portion of Section 102, subsection 1, item b, in its entirety.

This provision in House File 671 establishes a new family self sufficiency program and provides a $600,000 appropriation for it. While the purposes of the program may be commendable, the state simply cannot afford to establish these additional services at this time. In light of the legislature's recent action, we will do well to simply maintain existing programs and to direct available funds into priority areas that best serve the essential needs of Iowans. Additional funds for these purposes will have to wait until the state is in a better financial position.

I am unable to approve the item designated as that portion of Section 102, subsection 5, first unnumbered paragraph, which reads as follows:

"The governor's advisory council on juvenile justice shall determine the staffing level necessary to carry out federal and state mandates for juvenile justice."

This item inappropriately places the staffing authority within the Juvenile Justice Advisory Council rather than with the management of the entity. Appropriate staffing is an area of administrative discretion which must be retained by the staff of the Advisory Council in order to make certain that federal mandates are met.

I am unable to approve the item designated as that portion of Section 103, subsection 3; and Section 104, in its entirety.

This item provides $95,000 for the elder law education program and an additional $75,000 to the Department of Elder Affairs for an elder law on wheels program. Again, the purpose of these programs is commendable. However, they are add ons to the state budget which simply cannot be afforded at this time.

I am unable to approve the item designated as that portion of Section 105, subsection 8, second unnumbered paragraph.

This unnumbered paragraph requires the professional licensure boards to establish special accounts which are not subject to restrictions imposed on the state's general fund. While I believe that an appropriate level of funding must be provided to the professional licensure boards, I can not accept the further establishment of special funds outside the general fund. Taxpayers of this state need to have a clear accounting of the taxes and fees which are received and the funds which are expended. That can only be accomplished by maintaining these funds in the general fund of the state.

I am unable to approve the item designated as Section 112 in its entirety.

This section eliminates the compensation for members of the Health Facilities Council. Since these members were appointed to the Council with provisions for their compensation, removing that compensation now would be unfair and inappropriate. Grandfathering existing board members in and then eliminating the compensation for future members would be a more appropriate method of accomplishing the goals of this section.

I am unable to approve the item designated as that portion of Section 201, which reads as follows:

"As a condition of this appropriation, one hundred seventy thousand (170,000) dollars is allocated for five full-time equivalent positions for the bureau of operations analysis."

This expenditure is inconsistent with the recommendations of restructuring and downsizing report of last year and with my budget recommendations. The restructuring consultants determined that this function can be accomplished without a separate appropriation. As a result, this is clearly an area of savings to help balance the state budget.

I am unable to approve the item designated as that portion of Section 201, unnumbered paragraphs 2 and 3 in their entirety.

This item places unnecessary and overly restrictive performance management requirements on the Department of Human Services. This is an executive branch function.

I am unable to approve the item designated as that portion of Section 203, subsection 1, lettered paragraph a, in its entirety.

This item increases the payment for AFDC recipients by 6.5 percent. The increase in state spending to pay for these additional welfare benefits is approximately $5.7 million. Those funds will be set aside to help balance the budget. Given the shortage of state funds, we would do well to maintain existing services for these needy Iowans. Indeed, Iowa's current welfare payment level ranks well in comparison with neighboring states. Moreover, an increase in the reimbursement level for AFDC recipients was provided last year by 5.7 percent; an additional increase will have to wait until the state's fiscal house is in better order.

In addition, I am hopeful that we can embark on an aggressive program of welfare reform to provide better education and job training opportunities for Iowans on AFDC. Our goal should be to provide Iowans with an opportunity to climb the ladder out of poverty and I plan to make recommendations next session to the next General Assembly in 1988 to help accomplish that goal. New funding is retained in this bill to give AFDC recipients self-employment opportunities.

I am unable to approve the item designated as that portion of Section 203, subsection 1, lettered paragraph b, in its entirety.

This item provides $400,000 in a new program for emergency assistance to AFDC recipients. While I understand the need to provide such assistance to needy families, I believe that we must accomplish this through our existing programs which already have liberal authorization levels. The state budget simply cannot afford this added level of spending at this time.

I am unable to approve the item designated as that portion of Section 203, subsection 1, lettered paragraph c, in its entirety.

This item appropriates $350,000 to the Iowa Finance Authority for a special housing program. Low income housing is an important issue which should be addressed by the Iowa Finance Authority. I have signed into law provisions of House File 603 to provide the Authority with a mechanism to do so. However, the state budget cannot afford the additional $350,000 in spending at this time. Other sources of funding for low income housing should be explored.

I am unable to approve the item designated as that portion of Section 203, subsection 2, which reads as follows:

> "The Department of Human Services shall develop policies and guidelines to implement on a pilot basis a special case management program for Title XIX enrollees, after reviewing programs in place in other states. The department, in consultation with the legislative fiscal bureau and under monitoring by the fiscal committee of the legislative council, shall develop a methodology to evaluate and compare the effectiveness of the provision of Title XIX services through case management and through health maintenance organizations, in terms of both cost and health outcomes. The evaluation shall continue for at least eighteen months subsequent to the implementation of the programs."

This item in House File 671 would limit the ability of the Department of Human Services to put in place health maintenance organizations to contain health care costs. At the present time, the continued spiraling of costs for entitlement programs can be controlled only by eliminating available services or contracting for those services. An HMO concept is one worthy of investigation as we seek to contain these costs for taxpayers. Therefore, I cannot accept an eighteen month delay in efforts to control health care costs.

I am unable to accept the item designated as that portion of Section 203, subsection 2, which reads as follows:

> "Effective October 1, 1987, the department shall extend coverage to include caretaker relatives under the medically needy program. The department shall increase resource limitations under the medically needy program to five thousand dollars for a one-person household and seven thousand five hundred dollars for a family of two or more persons. For the medically needy program, the department shall be allowed to set the length of the certification period, as authorized by federal regulations."

This item in House File 671 extends coverage of the medically needy program to caretaker relatives. The cost of this program is estimated at over $500,000 in fiscal year 1988. Given the state's difficult budget conditions, I cannot approve this costly expansion of the medically needy program.

I am unable to approve the item designated as that portion of Section 203, subsection 2, which reads as follows:

"Effective October 1, 1987, the department shall extend medical assistance benefits for an additional six months to individuals who lose assistance through the aid to families with dependent children program solely due to the loss of the thirty dollars and one-third earned income disregard."

This item extends Medicaid benefits for an additional six months to those on AFDC affected by the thirty and one-third income disregard. This again expands the existing program and provides an additional cost of at least $15,000. As a result, I cannot accept it at this time.
I am unable to approve the item designated as that portion of Section 203, subsection 2, which reads as follows:

"Effective January 1, 1988, the department shall provide medical assistance to all pregnant women, and infants and children up to age five on an incremental basis; and to all individuals who are aged, blind, or disabled, whose income does not exceed one hundred percent of the federal poverty level. Resource limitations shall be five thousand dollars for a one person household and seven thousand five hundred dollars for a family of two or more people. Aged, blind, or disabled individuals shall have income and resources treated according to supplemental security income methodologies. Pregnant women, and infants and children shall have income and resources treated according to aid to families with dependent children methodologies. All other medical assistance program requirements shall apply. Phased-in coverage for children shall begin January 1, 1988, for children up to the age of one and continued through January 1, 1992."

This item of House File 671 extends the medically needy program to pregnant women and children at the cost of over $200,000. Again, given the state's fiscal condition, such an expansion of the medically needy program cannot be accomplished at this time. We should, instead, direct our limited resources to maintain existing services. Also, our Medicaid program offers among the widest array of services in the country. A further liberalization is not called for.

I am unable to approve the item designated as that portion of Section 203, subsection 2, which reads as follows:

"Of the funds appropriated in this subsection, the department shall expend not more than three hundred seventy-seven thousand (377,000) dollars for the following:

a. To develop necessary standards and payment processes, write administrative rules, develop employee and provider manuals, amend the state medical assistance plan, and provide employee and provider training to expand medical assistance coverage for the following services: case management, day training and habilitation, day treatment, and substance abuse.

b. To modify existing medical assistance service definitions to encompass the following additional services: transportation, medication management, partial hospitalization, rehabilitation services, diagnosis and evaluation, family support, and early intervention.

c. To develop and submit waiver applications for the following service areas: respite care, homemaker and chore housekeeping, in-home training, vocational services, nonmedical transportation, and behavior management.

Amendments to the medical assistance plan and modifications of existing medical assistance service definitions shall be completed for implementation no later than July 1, 1988.

By October 1, 1987, the department shall submit a revised medical assistance plan to the United States Department of Health and Human Services for implementation no later than July 1, 1988.

The department shall hire a contractor or employ a staff under a twelve-month personal service contract to complete the project. The department shall provide the general assembly with a detailed progress report no later than January 1, 1988.

It is the intent of the general assembly that county and block grant funds made available as a consequence of enhanced federal funding for services under medical assistance be used for purposes of implementing section 225C.28. The department shall develop a system for identifying prior expenditures on the services covered under changes to the medical assistance plan or by waiver application and proposals for requiring a maintenance of financial effort subsequent to a replacement of state or county funds by federal funds. Those proposals shall be submitted to the general assembly by January 1, 1988."

This item in House File 671 expends $337,000 of additional funds to expand existing medical assistance services. While I understand that this expansion is part of the proposed bill of rights program, the state can ill afford to expand existing programs when we are having a difficult time meeting our current obligations. Also, implementation of the bill of rights should wait until the state has planned a more cost-effective program. As a result, I cannot approve this additional spending at this time.

I am unable to approve that item designated as that portion of Section 203, subsection 11, lettered paragraph a, in its entirety.

This item provides an additional $120,000 to the department for the displaced homemaker program. This program was recommended for elimination by the recent restructuring and downsizing report of state government. As a result, it is recommended for elimination here in tune with the critical need to reduce excessive state appropriations.

I am unable to approve the item designated as that portion of Section 203, subsection 13, in its entirety.

This subsection puts unreasonable and unnecessary restrictions on the ability of the executive branch to manage the appropriations to the entitlement programs. The section greatly limits the transfer authority and exempts these items from the 8.31 budget reduction allotments. This dramatic change in the state's budget and accounting methodologies could effectively hamstring our ability to respond to budget shortfalls which are made more likely due to the recent legislative action. In order for state government to maintain the availability of essential services to needy Iowans, appropriate budgetary flexibility is provided in the current budget control laws.

Without the ability to transfer funds, the state may force some recipients who are entitled to the programs to simply go without essential services. By exempting all of the human services entitlement programs from the across-the-board cut procedure, the legislature could force the impacts of such cuts to fall more fully on property taxpayers. Because of the substantial change in the state budget control Act incorporated in this item and its potentially devastating impact on human service programs and property taxpayers, I must disapprove it.

I am unable to approve the item designated as that portion of Section 205, subsection 5, in its entirety.

This item of House File 671 requires the department to send department representatives to events where psychiatrists are likely to be recruited. Certainly, the department has the ability to appropriately recruit psychiatrists without this detailed directive from the General Assembly. The department does plan to aggressively recruit psychiatrists for the state mental health

institutions without this unnecessary legislative order.

I am unable to approve that item designated as that portion of Section 205, subsection 6, in its entirety.

This item provides an additional $200,000 in appropriations to a particular county's mental treatment center. This expansion of state funding for a county subsidy cannot be justified, given the state's tight financial situation.

I am unable to approve the item designated as that portion of Section 205, subsection 7, in its entirety.

This subsection provides an additional $100,000 for rural mental health services. While I understand the need for these services in rural areas, I cannot approve an additional appropriation for that purpose at this time. It is expected that the federal government will provide additional funds to rural areas for such services in the near future. As a result, these state appropriations may not be needed.

I am unable to approve that item designated as that portion of Section 207, subsection 2, in its entirety.

This item provides $2 million of new state appropriations to begin the implementation of the bill of rights. It is expected that the full cost of the implementation of this program could be up to $147 million for state and local taxpayers. The additional liability for the state is excessive at this time.

Rather, with this action, I am retaining the authority of the department to expend $600,000 to develop an appropriate plan for a rational, cost effective, and financially limited implementation of the bill of rights. I believe that an appropriate implementation plan could achieve the goals of many of the advocates of the bill of rights while rationalizing the state's current human service delivery system. In addition, the department will utilize a portion of the $600,000 to reduce the population at the state hospital-schools and the state mental health institutes, consistent with the goals of the bill of rights.

I am unable to approve the item designated as that portion of Section 213, subsection 5, second unnumbered sentence; Section 213, subsection 6, first paragraph; and Section 213, subsections 7, 8, 9, and 10, in their entirety.

These sections provide for an increase in reimbursement rates for human services providers. Some adjustments in reimbursement rates will be necessary in the future and are provided for hospitals. However, given the condition of the state's budget, such an increase simply cannot be afforded at this time. Almost $8 million of spending can be cut from the state's budget by maintaining reimbursement rates at the current level. This item veto does just that. When the state's budgetary condition improves, I will be willing to consider appropriate increases in reimbursement rates. Indeed, I will review the need for that action when I present my fiscal year 1989 budget to the General Assembly in January.

I am unable to approve the item designated as Section 215 in its entirety.

This item prohibits the transfer of gamblers assistance funds to other programs in the Department of Human Services. While the gamblers assistance fund is needed to provide for awareness and treatment of addictions to gambling, this section inappropriately restricts the department's use of these funds. In a budgetary crunch, such funds may be necessary to provide essential services to needy Iowans. Thus, we should not excessively restrict the utilization of these funds for contingencies.

I am unable to approve the item designated as Section 227 in its entirety.

This section prohibits any transfers of appropriations in the supplemental appropriation bill. Such transfers are essential to ensure a balanced state budget and to provide appropriate funds for statutorily authorized services. A transfer procedure has been established in the budget control act and it will continue to be followed.

I am unable to approve the item designated as that portion of Section 301, subsection 6, in its entirety.

This item provides $250,000 for the legal assistance to farmers program. Three hundred thousand dollars is approved for the farm mediation services program which can provide necessary legal and mediation assistance to farmers suffering financial difficulties. Given the increase in appropriations in the mediation service program and the state's difficult financial situation, the additional $250,000 for legal services must be denied.

I am unable to approve that item designated as Section 301, subsection 8, in its entirety.

This item provides $50,000 for dispute resolution centers. This is a commendable program, but one for which sufficient funds are not available.

I am unable to approve the item designated as Section 304, subsection 3, first paragraph.

This item establishes an inmate population review committee to review prison population trends. The Legislative Fiscal Bureau staffs the committee and legislators serve as members. Such an arrangement invades the administrative discretion of the executive branch. An executive branch committee with ex-officio legislative members would be acceptable.

I am unable to approve the item designated as that portion of Section 305, subsection 6, in its entirety.

This subsection establishes a new program to provide legal assistance to inmates in the Iowa correctional system who have the need for civil litigation. Providing free bankruptcy and dissolution services to inmates is a frill the state simply cannot afford.

I am unable to approve the item designated as Section 306, unnumbered paragraph 6, and subsections 1, 2, 3, and 4, in their entirety.

This item establishes detailed performance review and reporting requirements from the Department of Corrections. Again, the Department of Management has established an appropriate performance review mechanism and will provide reports to the legislative branch. However, this detailed level of performance management and reporting is an encroachment upon the executive branch's discretion to administer state programs.

I am unable to approve the item designated as Section 311 in its entirety.

This item in House File 671 prevents the Governor, the Director of Management, or any other person in the executive branch from reviewing the budget for the courts and making appropriate recommendations to the General Assembly. The Governor has the responsibility to provide for a balanced budget in recommendations made to the General Assembly. This legislation would seriously restrict the executive branch's ability to accomplish that important constitutional task and thus is not approved.

I am unable to approve the item designated as that portion of Section 401, which reads as follows:

> "It is the intent of the general assembly that the auditor of state shall complete all audits for prior fiscal years required for the Iowa Department of Public Health, the Department of Human Services, the state Department of Transportation, and the State Board of Regents during the fiscal year beginning July 1, 1987 and ending June 30, 1988."

The legislature has established a reimbursement mechanism in House File 671 to allow the auditor to catch up on audits of state agencies. At the same time, the legislature reduced

appropriations for the auditor by over $500,000 from the Governor's recommended level. While some reimbursement is possible for non-general fund audits, the departments have not received the additional funds necessary to reimburse the auditor for additional general fund audits. Until the additional funds are provided, the auditor would do well to limit back audits to those which can be reimbursed with non-general funds.

I am unable to approve the item designated as that portion of Section 403, subsection 4, first paragraph.

This unnumbered paragraph restricts the management of the Department of Employment Services, as a single entity. This provision prohibits transfers between independent divisions. As such, the Department of Employment Services will be little more than a confederation, rather than a department with the integrated administrative services necessary to achieve operational efficiencies. As a result, I must disapprove this unnumbered paragraph.

I am unable to approve the item designated as that portion of Section 410, subsections 5 and 6 in its entirety.

These subsections provide for detailed performance evaluation reporting requirements for the Insurance Division. The Department of Management has developed appropriate performance measures which can be communicated at appropriate times to the legislative branch. However, this detailed list of performance measures encroaches upon executive branch's discretion to manage state government.

I am unable to approve the items designated as Sections 418 and 419 in their entirety.

These sections allow the chairpersons and ranking members of the appropriations committees to receive actual expenses for attending the Governor's budget hearings. In addition, it imposes an additional paperwork burden on the Department of Management to provide budget handouts to these individuals. The legislative branch has the ability to take care of these information needs without imposing additional burdens on the Department of Management.

I am unable to approve the item designated as Section 423 in its entirety.

This section of House File 671 eliminates over 28 positions from the merit system, most of which are clerical. The reorganization of state government limited the availability of nonmerit positions in state government. The merit system appropriately insulates state government from the "spoils system". It should be maintained.

In summary, House File 671 includes $19.203 million of excessive spending. In addition, this legislation includes a number of statutory changes which encroach upon the ability of the executive branch to manage state government. The excessive spending and encroachments are removed from the bill.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of the 1968 Constitution of the State of Iowa. All other items in House File 671 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 235

NULLIFICATION OF ADMINISTRATIVE RULE

H.J.R. 14

A JOINT RESOLUTION to nullify an administrative rule of the department of employment services relating to lockouts and providing an effective date.

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

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

Sec. 2. This joint resolution, being deemed of immediate importance, shall take effect upon enactment.

Effective March 24, 1987

CHAPTER 236

SPECIAL APPEARANCE — ELIMINATION

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE } REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached exhibits reflecting the amendments to the corresponding Iowa Rules of Civil Procedure, which are issued this date:

Exhibit "A"	Rule 49(a)
Exhibit "B"	Rule 53
Exhibit "C"	Rule 54
Exhibit "D"	Rule 58
Exhibit "E"	Rule 66
Exhibit "F"	Rule 85(c)
Exhibit "G"	Rule 87
Exhibit "H"	Rule 104(a)
Exhibit "I"	Rule 111
Exhibit "J"	Rule 117(d)
Exhibit "K"	Rule 230
Exhibit "L"	Rule 332
Exhibit "M"	Form 1
Exhibit "N"	Form 2
Exhibit "O"	Form 3
Exhibit "P"	Form 4.

These amendments are being made to eliminate the special appearance.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect July 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
April 30, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the thirtieth day of April, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

49. Original notice—issuance and form.

(a) Written directions for the service of the original notice and copy of petition shall be delivered to the clerk with the petition. There shall also be delivered to the clerk with the petition the original notice to be served and sufficient copies of both. The original notice shall contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion, or answer, and shall notify the defendant that in case of the defendant's failure to do so, judgment by default will be rendered against the defendant for the relief demanded in the petition. Except in small claims and cases involving only liquidated damages, the original notice shall not state the amount of any money damages claimed.

* * * *

EXHIBIT "B"

53. Time for ~~special appearance,~~ motion or answer. A defendant served as provided in these rules by publication or by publication and mailing must serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer on or before the date fixed in the notice as published, which date shall not be less than twenty days after the date of last publication.

A defendant served in a manner prescribed by a statute or order of court shall serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer on or before the date fixed as provided by said statute or order of court.

In the event service of process is made by mail under R.C.P. 56.2 the date for such action shall be on the date fixed in the original notice which shall not be less than sixty days following the date of mailing.

In all other cases the defendant shall serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer within twenty days after the service of the original notice and petition upon such defendant.

EXHIBIT "C"

54. Special cases—response of garnishee.

(a) Any statute of Iowa which specially requires response by a particular defendant, or in a particular action, within a specified time, shall govern the time for serving, and within a reasonable time thereafter filing, a ~~written special appearance,~~ motion or answer in such cases, rather than R.C.P. 53.

(b) The officer serving a writ of attachment or execution shall garnish such persons as the plaintiff may direct as supposed debtors, or having in possession property of the principal defendant, which shall be effected by a notice served in the manner and as an original notice in civil actions, forbidding ~~his~~ the garnishee from paying any debt owing such defendant, due or to become due, and requiring ~~him~~ the garnishee to retain possession of all property of the defendant in ~~his~~ the garnishee's hands or under ~~his~~ the garnishee's control, to the end that the same may be dealt with according to law, and, unless answers are required to be taken as provided by statute, it shall cite the garnishee to appear in not less than ten days after service of the notice and at a time specified when court will be in session and a judge will be present, and answer such interrogatories as may be propounded, or ~~he~~ the garnishee will be liable to pay any judgment which the plaintiff may obtain against the defendant.

EXHIBIT "D"

58. Member of general assembly. No member of the general assembly shall be held to ~~specially appear,~~ move or answer in any civil action in any court in this state while such general assembly is in session.

EXHIBIT "E"

~~66. Special appearance. A defendant may appear specially for the sole purpose of attacking the jurisdiction of the court, but only before taking any part in a hearing or trial of the case, personally or by attorney, or filing a motion, written appearance, or pleading. The special appearance shall be in writing, filed with the clerk and shall state the grounds thereof. If the special appearance is erroneously overruled, defendant may plead to the merits or proceed to trial without waiving such error.~~

66. Objections to jurisdiction. The special appearance is abolished. A defendant may not appear specially for the sole purpose of attacking the jurisdiction of the court. Subject to R.C.P. 111, the defenses of lack of jurisdiction over the person may be asserted by pre-answer motion under R.C.P. 104(a), in the answer, or in an amendment to the answer made within twenty days after service of the answer.

EXHIBIT "F"

85. Time to move or plead.

* * * *

(c) Time after filing motions ~~or special appearances~~. The service of a motion ~~or special appearance~~ permitted under these rules alters these periods of time as follows, unless a different time is fixed by order of the court.

If the motion ~~or special appearance~~ is so disposed of as to require further pleading, such pleading shall be served within ten days after notice of the court's action.

* * * *

EXHIBIT "G"

87. Appearance alone. ~~An appearance without motion or pleading shall have the effect only of submitting to the jurisdiction.~~ The court shall have no power to treat ~~such~~ an appearance as sufficient to delay or prevent a default or any other order which would be made in absence thereof, or of timely pleading. Notice and opportunity to respond to any motion for judgment under R.C.P. 232("b") shall be given to any party who has appeared.

EXHIBIT "H"

104. ~~Exceptions~~ Defenses which must or may be asserted by pre-answer motion. Every defense in law or fact to any pleading must be asserted in the pleading responsive thereto, if one is required, or if none is required, then at the trial, except that:

(a) ~~Want of jurisdiction of the person, or insufficiency of the original notice, or its service must be raised by special appearance before any other appearance, motion or pleading is filed; and want of jurisdiction of the subject matter may be so raised;~~ If a motion under R.C.P. 111(a) is filed before a responsive pleading, the defenses of want of jurisdiction over the person, or insufficiency of the original notice or its service, must be raised in the motion or are waived. Want of jurisdiction of the subject matter may be raised by pre-answer motion; but the court shall dismiss the action at any time it finds, by suggestion of the parties or otherwise, that the court lacks jurisdiction of the subject matter.

* * * *

EXHIBIT "I"

111. Motions combined; waiver regarding jurisdiction and venue.

(a) Motions challenging personal jurisdiction under R.C.P. 104(a), ~~M~~motions to recast or strike, for a more specific statement, and to dismiss for failure to state a claim upon which any relief may be granted, shall be contained in a single motion and only one such motion assailing the same pleading shall be permitted, unless the pleading is amended thereafter.

(b) At the same time that a party makes a motion as described in subdivision "a" of this rule, the party, if the grounds therefor exist, shall move to dismiss under R.C.P. 104(a) or for a change of venue to the proper county under R.C.P. 175. Failure to do so shall constitute a waiver of the defenses of lack of personal jurisdiction and improper venue.

EXHIBIT "J"

117. Motion days—disposition of motions.

* * * *

(d) A "motion" within this rule is any paper denominated as such, or any other matter requiring attention or order of court before the trial of the issues on their merits~~, including a special appearance~~.

* * * *

EXHIBIT "K"

230. Default defined. A party shall be in default whenever ~~he~~ that party: (a) fails to serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer as required in R.C.P. 53 or 54, or, has appeared, without thereafter serving any motion or pleading as stated in R.C.P. 87; or (b) fails to move or plead further as required in R.C.P. 86, unless judgment has already resulted under R.C.P. 87; or (c) withdraws ~~his~~ a pleading without permission to replead, or withdraws ~~his~~ an appearance or fails to be present ~~himself~~ for trial; or (d) fails to comply with any order of court or do any act which permits entry of default ~~against him,~~ under any rule or statute.

EXHIBIT "L"

332. Time for ~~special appearance,~~ motion or answer. Respondent shall, within twenty days from the date of personal service or mailing of a petition for judicial review under Iowa Code section 17A.19(2), serve upon petitioner and all others upon whom the petition is required to be served, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion~~,~~ or answer.

EXHIBIT "M"

1. FORM OF ORIGINAL NOTICE FOR PERSONAL SERVICE.

IN THE IOWA DISTRICT COURT FOR COUNTY

Plaintiff(s), No

(INSERT "LAW" OR "EQUITY".)

vs.

Defendant(s). ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is , whose address is , Iowa

You are further notified that unless, within 20 days after service of this original notice upon you, you serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer, in the Iowa District Court for County, at the county courthouse in , Iowa, judgment by default will be rendered against you for the relief demanded in the petition.

(SEAL)

CLERK OF THE ABOVE COURT
County Courthouse
, Iowa

NOTE:

The attorney who is expected to represent the defendant should be promptly advised by defendant of the service of this notice.

EXHIBIT "N"

2. FORM OF ORIGINAL NOTICE AGAINST A NONRESIDENT MOTOR VEHICLE OWNER OR OPERATOR UNDER IOWA CODE SECTION 321.500.

IN THE IOWA DISTRICT COURT FOR COUNTY

Plaintiff(s), No

(INSERT "LAW" OR "EQUITY".)

vs.

Defendant(s). ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is , whose address is , Iowa

You are further notified that unless, within sixty days following the filing of this notice with the director of transportation of this state, you serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer, in the Iowa District Court for County, at the courthouse in , Iowa, default will be entered and judgment rendered against you by the court.

(SEAL)

CLERK OF THE ABOVE COURT
County Courthouse
, Iowa

NOTE:

The attorney who is expected to represent the defendant should be promptly advised by defendant of the service of this notice.

EXHIBIT "O"

3. FORM OF ORIGINAL NOTICE AGAINST FOREIGN CORPORATION OR NON-RESIDENT UNDER ~~§617.3, THE~~ IOWA CODE SECTION 617.3.

IN THE IOWA DISTRICT COURT FOR COUNTY

Plaintiff(s), No

(INSERT "LAW" OR "EQUITY".)

vs.

Defendant(s). ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is , whose address is , Iowa

You are further notified that unless, within 60 days following the filing of this notice with the secretary of state of the State of Iowa, you serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion or answer, in the Iowa District Court for County, at the courthouse in , Iowa, default will be entered and judgment rendered against you by the court.

(SEAL)

CLERK OF THE ABOVE COURT
County Courthouse
, Iowa

NOTE:

The attorney who is expected to represent the defendant should be promptly advised by defendant of the service of this notice.

EXHIBIT "P"

4. FORM OF ORIGINAL NOTICE FOR PUBLICATION.

IN THE IOWA DISTRICT COURT FOR COUNTY

Plaintiff(s), No

(INSERT "LAW" OR "EQUITY".)

vs.

Defendant(s). ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, which petition prays[1] The plaintiff's attorney is , whose address is , Iowa _____.

You are further notified that unless, on or before the[2] day of , 19 , you serve, and within a reasonable time thereafter file, a ~~written special appearance,~~ motion, or answer, in the Iowa District Court for County, at the courthouse in , Iowa, judgment by default will be rendered against you for the relief demanded in the petition.

(SEAL)

CLERK OF THE ABOVE COURT
County Courthouse
, Iowa

NOTE:

The attorney who is expected to represent the defendant ~~shall~~ should be promptly advised by defendant of the service of this notice.

[1]Here make a general statement of the claim or claims and, subject to the limitation in R.C.P. 69(a), the relief demanded (R.C.P. 50).

[2]Date inserted here must not be less than 20 days after the day of the last publication of the original notice (R.C.P. 53).]

CHAPTER 237
INTERROGATORIES

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A," concerning the amendments to Iowa Rules of Civil Procedure 126(b) and 126(d), which are issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect July 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
April 30, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the thirtieth day of April, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

126. Interrogatories to parties.

* * * *

(b) Scope—use at trial. Interrogatories may relate to any matters which can be inquired into under R.C.P. 122, including a statement of the specific dollar amount of money damages claimed, and the names of witnesses the party expects to call to testify at the trial. Interrogatory answers may be used to the extent permitted by the rules of evidence.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

* * * *

(d) Notwithstanding the provisions of R.C.P. 82"(d)", copies of the interrogatories which are served need not be filed with the clerk. Parties who serve interrogatories shall serve and file a notice of serving interrogatories stating the parties upon whom interrogatories were served, the numbers of the interrogatories, and the date of service.

CHAPTER 238
CHANGE OF VENUE

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE } REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code section 602.4201 (1985) and section 602.4202 (Supp. 1985), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A", concerning the amending of Rule 168 of the Iowa Rules of Civil Procedure, which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) (Supp. 1985), this change is to take effect October 1, 1986.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
July 28, 1986

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa hereby acknowledge delivery to me on the thirtieth day of July, 1986, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

168. Limitations. Change of venue shall not be allowed:

(a) In an appeal from a ~~justice of the peace~~ small claims case; or

(b) Under R.C.P. 167~~"(c)"~~ where the issues are triable to the court alone, except for prejudice of the judge; or

(c) Until the issues are made up, unless the objection is to the judge; or

(d) After a continuance, except for a cause arising since such continuance or not known to movant prior thereto; or

(e) After one change, for any cause then existing, and known or ascertainable with reasonable diligence.

In no event shall more than two changes be allowed to any party.

CHAPTER 239

TRIAL

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202, as amended (1985), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A", concerning the striking of Rule 178.1 of the Iowa Rules of Civil Procedure, which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) as amended (1985), this change is to take effect April 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
January 26, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa hereby acknowledge delivery to me on the twenty-sixth day of January, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

RULES OF CIVIL PROCEDURE

In light of an inconsistent Iowa Code section 631.11(3) (1985), Iowa Rule of Civil Procedure 178.1 is hereby stricken.

CHAPTER 240

SMALL CLAIMS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A SMALL CLAIMS FORM FOR AN ACTION OF REPLEVIN } REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code section 602.4201 (1985) and section 602.4202 (Supp. 1985), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A", concerning the adoption of a small claims form for an action of replevin, which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) (Supp. 1985), this change is to take effect July 1, 1987. The previous report of the supreme court filed December 31, 1986,* concerning the adoption of a small claims form for an action of replevin is rescinded.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
March 10, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the sixteenth day of March, 1987, the Report of the Supreme Court pertaining to a small claims form for an action of replevin.

/s/ Donovan Peeters
Secretary of the Legislative Council

*Not published

EXHIBIT "A"
IN THE IOWA DISTRICT COURT
IN AND FOR _____ COUNTY
(Small Claims Division)

Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

vs.

Defendant(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

ORIGINAL NOTICE

(Action of Replevin.)

Small Claim No. _____

Date Filed _____

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY NOTIFIED that the above-named plaintiff(s) demand(s) possession of property described as: (insert description)

(1) The actual value of the property is $ _____ (If more than one item is involved, separate values must be stated for each item.) (May not exceed $2,000 in total value.)

(2) Plaintiff(s) is (are) entitled to immediate possession because (check one):

☐ Plaintiff(s) own(s) the property;

☐ Plaintiff(s) has (have) a security agreement for the property (copy attached) providing that plaintiff(s) is (are) entitled to seize possession on default, and that default(s) as follows has (have) occurred;

☐ (State other grounds).

(3) ☐ (a) That the property is not in the possession of the defendant(s) under court order or judgment; or

☐ (b) That property was taken by the defendant(s) under a court order or judgment but is improperly held, being exempt from such seizure because: (State basis for exemption).

(4) That to the best belief of the plaintiff(s) the property is being held by the defendant(s) because: (State facts constituting the defendant's(s') alleged reason for detaining the property).

(5) That the plaintiff(s) is (are) entitled to damages for such retention in the amount of $ _____, based on: (State grounds of alleged damage).

UNLESS YOU APPEAR by completing and filing the attached appearance and answer form with the clerk of the court at _____ (exact address) in _____ (city), Iowa _____ (zip code), within 20 days after service of this original notice upon you, judgment shall be rendered against you upon plaintiff's(s') claim together with interest and court costs.

IF YOU DENY THE CLAIM AND APPEAR by filing the attached appearance and answer within 20 days after service of this original notice upon you, you will then receive notification from the clerk's office of the place and time assigned for hearing.

_____

_____

Plaintiff(s)

STATE OF IOWA
COUNTY OF _____ } ss

I (We), _____, do hereby swear or affirm that the above and foregoing statements are true and correct as I (we) verily believe.

_____

(Signature(s) of affiant(s))

Subscribed and sworn to before me by _____, on this _____ day of _____, 19 _____.

_____

Notary Public

RULES OF CRIMINAL PROCEDURE

See Chapter 25 herein

CHAPTER 241

SUPERSEDEAS BOND

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF CHANGES IN THE IOWA RULES OF APPELLATE PROCEDURE	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code section 602.4201 (1985) and section 602.4202 (Supp. 1985), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A", concerning the amendments to Iowa Rule of Appellate Procedure 7, which are issued on this date.

Pursuant to Iowa Code section 602.4202(2) (Supp. 1985), this change is to take effect July 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
March 27, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the thirtieth day of March, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Appellate Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

Rule 7. Supersedeas bond.

(a) No appeal shall stay proceedings under a judgment or order unless appellant executes a bond with sureties, to be filed with and approved by the clerk of the court where the judgment or order was entered. The condition of such bond shall be that appellant will satisfy and perform the judgment if affirmed, or any judgment or order, not exceeding in amount or value the obligation of the judgment or order appealed from, which an appellate court may render or order to be rendered by the trial court; and also all costs and damages adjudged against ~~him~~ appellant on the appeal, and all rents of or damage to property during the pendency of the appeal of which appellee is deprived by reason of the appeal.

(b) If the judgment or order appealed from be for money, the penalty of such bond shall be one hundred twenty-five percent of the amount thereof, including costs, unless, in exceptional cases, the trial court fixes a larger amount; in all other cases, an amount sufficient to save appellee harmless from the consequences of the appeal; but in no event less than three hundred dollars.

(c) No appeal shall vacate or affect the judgment or order appealed from; but the clerk shall issue a written order requiring appellee and all others to stay proceedings under it or such part of it as has been appealed from, when the appeal bond is filed and approved.

(d) An appeal bond secured by cash in an amount approved by the clerk may be filed in lieu of other bond. If a cash bond is filed, the cash shall be deposited at interest with interest earnings being paid into the general fund of the state in accordance with Iowa Code section 602.8103(5). The cash bond shall be disbursed pursuant to court order upon termination of the appeal.

CHAPTER 242

REFEREES

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF PROBATE PROCEDURE	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code section 602.4201 (1985) and section 602.4202 (Supp. 1985), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A", reflecting the amendments to Iowa Rule of Probate Procedure 4 which is issued this date.

Pursuant to Iowa Code section 602.4202(2) (Supp. 1985), this change is to take effect July 1, 1987. The previous order of this court filed February 9, 1987,* making these amendments effective April 1, 1987, is hereby rescinded.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
February 18, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa hereby acknowledge delivery to me on the eighteenth day of February, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Probate Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

*Not published

EXHIBIT "A"

Rule 4. Report of referee. A report of a referee in probate shall be in substantially the following form:

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN THE MATTER OF THE ESTATE OF

_____, Deceased.

REPORT OF REFEREE

Probate No. _____

* * * * * * * * * * * * *

COMES NOW the duly appointed Referee and reports to the Court as follows: The _____ Report has been filed in this Estate. The Referee has examined said Report and reports to the Court as follows: (All questions must be answered. If "yes" or "no" is not appropriate, check "N/A".)

				[NEW COLUMN]
1.	Notice of Appointment published:	YES___	NO ___	N/A ___
2.	Fiduciaries fees ordered or waived and affidavit of compensation filed:	YES ___	NO ___	N/A ___
3.	Attorney fees ordered and affidavit of compensation filed:	YES ___	NO ___	N/A ___
	(A) Itemization was requested and provided:	YES ___	NO ___	N/A ___
	(B) If not, statement required by Iowa Code section 633.477(11), was made:	YES ___	NO ___	N/A ___
4.	Income tax acquittance filed:	YES ___	NO ___	N/A ___
5.	Inheritance tax clearance filed:	YES ___	NO ___	N/A ___
6.	A list of distributees is shown:	YES ___	NO ___	N/A ___
7.	A description of real estate is shown:	YES ___	NO ___	N/A ___
8.	Certificates of change of title to real estate, as required, to be issued by the Clerk of Court:	YES ___	NO ___	N/A ___
9.	All claims filed have been paid or released:	YES ___	NO ___	N/A ___
10.	Notice of hearing on this Report waived:	YES ___	NO ___	N/A ___
	(A) If not waived, proper proof of service of notice is on file:	YES ___	NO ___	N/A ___
11.	Accounting is waived:	YES ___	NO ___	N/A ___
12.	Court costs have been paid:	YES ___	NO ___	N/A ___
13.	If estate is testate and spouse is not personal representative, spouse has filed an election to take under or against the Will:	YES ___	NO ___	N/A ___
		WHICH _____		
14.	Receipts for all special bequests:	YES ___	NO ___	N/A ___
15.	Federal estate tax closing letter and proof of payment is on file (not required for closing):	YES ___	NO ___	N/A ___
~~16.~~	~~Thirty day written notice of final settlement has been given to or waived by the department of revenue (see Iowa Code section 450.58 (as modified by H.F. 761, section 4, 1985 Session of 71st G.A.)).~~	~~YES~~ ___	~~NO~~ ___	

~~17~~16. Remarks:_____

_____

_____

Dated this _____ day of _____, 19_____.

_____

Referee in Probate

CHAPTER 243

GUARDIANS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULE OF PROBATE PROCEDURE FORM FOR REPORT OF GUARDIAN AND ORDER	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code section 602.4201 (1985) and section 602.4202 (Supp. 1985), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A", concerning the Iowa Rule of Probate Procedure Form for Report of Guardian and Order, which is issued this date.

Pursuant to Iowa Code section 602.4202(2) (Supp. 1985), this change is to take effect July 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
March 10, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the sixteenth day of March, 1987, the Report of the Supreme Court pertaining to the Iowa Rule of Probate Procedure Form for Report of Guaradian and Order.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"
Form: Initial/Annual/Final Report of Guardian and Order

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

IN THE MATTER OF THE GUARDIANSHIP OF

_____

Probate No. _____
(check one)
_____ INITIAL REPORT
_____ ANNUAL REPORT
_____ FINAL REPORT

AND ORDER

The undersigned duly appointed and qualified guardian in the above-entitled matter, states to the court:

1. This report covers the period from _____, 19____ to, _____, 19____.
2. The current mental, and physical ~~and social~~ condition of the ward is:
3. The present living arrangement of the ward, including a decription of residence where the ward has resided during the reporting period is (indicate with whom ward resided at each residence):
4. The following is a summary of the medical, educational, vocational, and other professional services provided for the ward:
5. The following is a description of the guardian's visits with and activities on behalf of the ward:
6. (On initial report only.) The ward's date of birth is: _____.
7. The ward is: Single _____ Married _____ Divorced _____.
8. If the ward is a minor, names and addresses of parents:
9. It is recommended the guardianship be: continued _____; terminated _____. If termination is recommended, give reason: (A hearing may be required on the matter of termination.)
10. Other information ~~believed useful to~~ requested by the court or useful in the opinion of the guardian.:
11. Final court costs (have) (have not) been paid.

_____
Guardian

_____
Address

_____
Telephone Number

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

_____ _____
Date Guardian

_____
Address

(NOTE: Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.)

ORDER

The above (initial) (annual) (final) report is approved and the guardianship of said ward shall be (continued) (terminated, guardian discharged, bond released) (set for hearing on matter of termination).

Hearing date is: _____, 19_____ at_____ o'clock _____.m., at _____.

Dated: _____, 19_____.

_____

Judge of the _____ Judicial District
Referee in Probate

CHAPTER 244

BOARD OF REGENTS TEN-YEAR BUILDING PROGRAM

S.C.R. 35

A CONCURRENT RESOLUTION relating to the board of regents ten-year building program.

WHEREAS, pursuant to section 262A.3, the state board of regents prepared and within seven days after the convening of the Seventy-second General Assembly of the State of Iowa, First Session, submitted to the Seventy-second General Assembly, First Session, for approval the proposed ten-year building program for each institution of higher learning under the jurisdiction of the board, containing a list of the buildings and facilities which the board deems necessary to further the educational objectives of the institutions, together with an estimate of the cost of each of the buildings and facilities and an estimate of the maximum amount of bonds which the board expects to issue under chapter 262A for each year of the fiscal biennium beginning July 1, 1987, and ending June 30, 1989; and

WHEREAS, the projects contained in the building program are deemed necessary for the proper performance of the instructional, research, and service functions of the institutions; and

WHEREAS, section 262A.4 provides that the state board of regents, after authorization by a constitutional majority of each house of the General Assembly and approval by the Governor, may undertake and carry out at the institutions of higher learning under the jurisdiction of the board any project as defined in chapter 262A; and

WHEREAS, chapter 262A authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds to pay all or any part of the cost of carrying out projects at any institution payable solely from and secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution; and

WHEREAS, to further the educational objectives of the institutions, and to foster economic growth in this state, the state board of regents requests authorization to undertake and carry out certain projects at this time and to finance their costs by borrowing money and issuing negotiable bonds under chapter 262A in a total amount not exceeding sixty-five million six hundred thousand (65,600,000) dollars, the remaining cost of the projects to be financed by capital appropriations or by federal or other funds lawfully available; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, THE HOUSE CONCURRING, That the proposed ten-year building program submitted by the state board of regents for each institution of higher learning under its jurisdiction is approved; and

BE IT FURTHER RESOLVED, That no commitment is implied or intended by approval to fund any portion of the proposed ten-year building program submitted by the state board of regents beyond the portion that is financed and approved by the Seventy-second General Assembly, First Session, and the Governor; and

BE IT FURTHER RESOLVED, That during the biennium which commences July 1, 1987, and which ends June 30, 1989, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A, unless additional bonding is authorized, is sixty-five million six hundred thousand (65,600,000) dollars, all or any part of which may be issued during the fiscal year ending June 30, 1988, and if all of that amount should not be issued during that fiscal year, any remaining balance may be issued during the fiscal year ending June 30, 1989, or thereafter, and this plan of financing is approved; and

BE IT FURTHER RESOLVED, That the state board of regents is authorized to undertake, plan, construct, equip, and otherwise carry out the following projects and to pay all or any part of the cost of carrying out the projects by borrowing money and issuing negotiable revenue bonds under chapter 262A during the fiscal year beginning July 1, 1987, except as otherwise provided in this resolution, in a total amount not to exceed sixty-five million six hundred thousand (65,600,000) dollars:

State University of Iowa	$ 25,100,000
Laser laboratories	
International center (old law center) remodeling	
Cost of issuance of bonds	
Iowa State University	$ 37,500,000
Molecular biology building	
Home economics building-phase I	
Meat irradiation facility	
University research park development	
Industrial education remodeling	
Veterinary medicine research institute laboratory	
Cost of issuance of bonds	
University of Northern Iowa	$ 3,000,000
Latham hall remodeling	
Cost of issuance of bonds	
Total	$ 65,600,000

BE IT FURTHER RESOLVED, That if the amount of bonds issued under this resolution exceeds the actual costs of projects approved in this resolution, the amount of the difference shall be used to pay the principal and interest due on bonds issued under chapter 262A.

Approved June 9, 1987

ANALYSIS OF TABLES

REGULAR SESSION

SENATE AND HOUSE FILES, JOINT AND CONCURRENT RESOLUTIONS

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
13	38	216	119	399	206
17	179	222	83	420	66
18	3	231	41	423	79
29	189	257	42	424	112
39	4	264	84	428	49
41	6	265	43	434	15
50	5	266	98	449	111
55	184	267	65	451	50
68	1	268	19	458	126
70	93	269	13	459	51
76	37	270	18	461	158
90	36	271	17	463	52
101	210	272	28	469	118
105	39	273	44	470	53
106	94	276	131	471	212
129	35	290	117	474	67
130	95	292	45	479	177
137	20	298	22	480	213
138	81	303	16	481	188
139	183	311	120	482	157
141	14	316	46	493	106
146	127	319	113	499	125
148	218	333	207	504	227
158	7	338	47	507	222
161	34	340	185	509	165
162	211	341	114	511	233
177	96	359	186	513	229
179	116	374	115	515	231
195	82	381	226	517	230
198	40	382	23	518	232
209	21	388	48	519	156
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SENATE CONCURRENT RESOLUTION

No.	Acts Chapter
35	244

SENATE AND HOUSE FILES, JOINT AND CONCURRENT RESOLUTIONS

HOUSE FILES

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47	68	373	58	567	159
64	85	374	198	568	76
79	219	375	129	574	150
90	69	378	59	575	173
92	86	379	101	576	107
129	2	380	161	579	77
130	166	394	60	580	201
131	87	398	109	583	31
132	54	408	89	585	80
134	33	409	61	587	92
136	70	410	203	588	151
142	124	411	147	589	187
163	8	412	153	590	133
167	167	416	164	591	154
168	9	426	163	594	215
169	55	427	27	595	134
170	168	460	191	596	78
176	56	464	176	599	142
193	71	469	208	600	221
194	10	472	172	602	144
207	32	487	72	603	220
210	190	488	148	605	136
241	139	489	73	607	26
244	155	490	102	610	63
251	57	492	122	612	25
258	110	493	192	614	30
262	123	494	130	615	91
265	11	499	224	620	174
266	205	505	140	621	145
310	216	506	132	623	175
314	12	507	74	626	169
315	204	513	62	630	24
316	217	515	121	631	225
318	99	517	75	633	146
324	105	518	197	634	160
328	200	520	181	636	141
334	199	523	103	639	64
345	143	525	90	640	193
346	128	527	108	641	29
355	228	533	162	646	135
356	88	536	104	654	209
360	100	540	178	655	137
371	170	556	202	658	171

HOUSE FILES—Continued

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661	223	673	138	682	196
669	194	675	214	684	152

HOUSE JOINT RESOLUTION

No.	Acts Chapter
14	235

CHAPTERS AND SECTIONS REPEALED OR AMENDED

CODE 1987

Code Chapter or Section	Acts Chapter
2.10(1)	227,§14
2.10(2)	227,§14
2.10(3)	227,§14
2.36	115,§1
2.42(15)	115,§2
2A.4	227,§32
3.7	1,§1
3.8	1,§2
3.9	1,§2
3.10	1,§2
3.15	1,§2
3.16	1,§2
4.1(22)	115,§3
7B.5(2)	76,§1
7B.5(3)	76,§1
7C	171,§4
7C.2(1)	171,§1
7C.3	171,§2
7C.4	171,§3
7C.5	171,§5
7C.7	171,§7
7C.8	171,§8
7C.9	171,§9
7C.10	171,§10
7C.11	171,§11
7C.12	171,§12
8.31	115,§4
8.39(2)	115,§5
10A	234,§421
10A.106	234,§420
11	234,§422
11.29	115,§83
12	233,§128,129
15	106,§2-9;178,§1,2; 233,§307
15.104(2)*	17,§2
15.108(6)"d"	101,§2
15.108(7)	106,§1
15.221	101,§3
15.222	101,§3
15.223	101,§3
15.227(1)"a"	101,§1
15.227(1)"c"	233,§222
15.241	233,§308
17.22	20,§1
17A.12	71,§1
18	225,§421
18.3	225,§401
18.12(7)	233,§130
18.101	115,§6
18.115(9)	145,§1
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19A.14*	19,§2
19A.19	27,§1
20.1*	19,§3
22.7	223,§20
25A	212,§1
25A.2(1)	23,§1
28.27*	17,§3
28.101(2)	231,§14
28F.1	225,§402
29A.43	115,§8
39.18	68,§1
39.21(3)	23,§2
39.22	68,§2
39.23	68,§3
43.26	221,§1
43.45(4)	221,§2
43.45(5)	221,§2
43.45(6)	221,§2
43.45(7)	221,§2
44.4(3)	221,§3
44.9	221,§4
44.9(3)	221,§5
45.3(1)	221,§6
46	218,§6
46.1	218,§1
46.2	218,§2
46.3	218,§3
46.4	218,§4
46.5	218,§5
48	221,§11
48.5	221,§8
48.5(2)	221,§7
48.7(1)	221,§9
48.7(1)"b"	221,§10
49.12	221,§12
49.31(3)	221,§13
49.31(4)	221,§14
49.53	221,§15
49.77	221,§17
49.77(1)	221,§16
49.81(2)	221,§19
49.81(3)	221,§19
49.81(4)	221,§20
50.12	221,§21
50.20	221,§22
50.21	221,§23
50.22	221,§24
50.29	115,§9
50.41	115,§10
53	221,§29
53.2	221,§25
53.3	221,§36
53.17(2)	221,§26
53.22	221,§27
53.22(2)	221,§28
53.40	221,§18
53.49	221,§30
56.2(4)	112,§1
56.2(6)	112,§2
56.3(2)	112,§3
56.4	112,§4
56.5(5)	112,§5
56.6(1)"c"	112,§6
56.6(3)"g"	112,§7
56.6(3)"l"	112,§7
56.14	112,§8
68B.2	213,§1
68B.5	213,§2
68B.8	213,§3
68B.10	213,§6,7
68B.10(3)	213,§4
68B.10(4)	213,§5
68B.11	213,§8
69.8(5)	68,§4
69.12(1)"a"	221,§31
69.12(1)"b"	221,§31
69.16	218,§7
69.16A	218,§8
74	104,§1
74A.5	104,§6
75.2	43,§1
76	104,§2-4
79.1	227,§16
79.3*	17,§4

*Affirmed and reenacted

CHAPTERS AND SECTIONS REPEALED OR AMENDED

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79.28	27,§2
80.4	232,§17
81A	60,§2
81A.4	60,§1
83.7	47,§1
83A.19	115,§11
84A.1(2)	234,§424
85.31(1)"d"	111,§1
85.34(2)	111,§2
85.34(3)	111,§3
85.36(10)"a"	91,§1
85.37	111,§4
85.59	111,§5,6
85.61	91,§5
85.61(1)	91,§2
85.61(2)	91,§3
85.61(6)	91,§4
88A.10(2)	111,§7
89.7	15,§1
89B.4(1)	225,§201
90A.10	26,§1
92.22	111,§8
93	209,§3
93.11	230,§7
93.11(1)	230,§5
93.11(3)	230,§6
93.11(4)	230,§5
93.15	230,§10
93.19	209,§1
93.20	209,§2
96.3(4)	111,§9;222,§1
96.3(5)	222,§2
96.4(7)	222,§3
96.5(7)"b"	78,§1
96.7	222,§4
96.7(8)	111,§10
96.7(9)"b"	111,§11
96.7B	222,§8
96.9(2)	222,§5
96.11(3)	66,§1
96.11(7)"c"	111,§12
96.14(2)	115,§12
96.19	222,§7
96.19(1)	222,§6
96.19(20)	222,§6
96.19(38)	222,§6
97B	227,§21
97B.41(3)"b"(1)	227,§18
97B.41(3)"b"(12)	115,§13
97B.46*	19,§5
97B.49(7)"c"	233,§223
97B.50(2)	227,§19
97B.50(3)	227,§20
97C.2(3)	227,§22
98.2	83,§1
98.4	83,§2
98.5	83,§2
98.45(1)	199,§1
98.46(1)	199,§2
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98.46(3)	199,§3
98.46(4)	199,§3
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98A.1	219,§1
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98A.3	219,§3
98A.4	219,§4
98A.5	219,§7
98A.6	219,§5
99B.1(16)	115,§14
99B.2(1)	184,§1
99B.5(1)"g"	184,§2
99B.6	184,§4
99B.6(1)	184,§3
99B.7(1)	184,§5
99B.7(2)"c"	184,§6
99B.8(1)	184,§7
99B.8(3)	184,§8
99B.10(1)	234,§425
99B.19	115,§15
99B.20	115,§16
99D	214,§1
99D.6	115,§17
99E.9	231,§1
99E.10(1)	231,§2
99E.20(2)	231,§3
99E.31(2)	231,§4
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*§ 213 2(a6) probably intended

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