

State of Iowa

1991

ACTS AND JOINT RESOLUTIONS
(Session Laws)

Enacted At The
1991 REGULAR SESSION

Of The

Seventy-Fourth General Assembly

Of The

State Of Iowa

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

REGULAR SESSION BEGUN ON THE FOURTEENTH DAY OF JANUARY
AND ENDED ON THE TWELFTH DAY OF MAY, A.D. 1991



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by the

Legislative Service Bureau

GENERAL ASSEMBLY OF IOWA

Des Moines

PREFACE

CERTIFICATION

We, Diane E. Bolender, Director, Legislative Service Bureau, and JoAnn Brown, Iowa 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 1991 Regular Session of the Seventy-fourth 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

Temporary Code numbers. CODE NUMBERS ASSIGNED TO NEW SECTIONS AND SUBSECTIONS IN THE ACTS ARE TEMPORARY AND MAY BE CHANGED WHEN THE 1991 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1991 Iowa Code Supplement.

Typographic style. The Acts and Resolutions in this volume are printed as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlined type indicates new material added to existing statutes; strike-through type indicates deleted material. Italics within an Act indicate material item vetoed by the Governor; however, words stricken or underlined within the item veto are not italicized. Item vetoed text is also indicated by asterisks at the beginning and ending of the vetoed material. Asterisks may also indicate explanatory footnotes.

Effective dates. The Acts took effect on July 1, 1991, unless otherwise provided. See Iowa Code section 3.7. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

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.

Resolutions. Concurrent resolutions and Senate and House resolutions are generally not included. See bound Senate and House Journals for adopted resolutions.

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ELECTIVE OFFICERS

Name and Office	County from which originally chosen
GOVERNOR	
TERRY E. BRANSTAD	Winnebago
David M. Roederer, Executive Assistant	Polk
LIEUTENANT GOVERNOR	
JOY CORNING	Black Hawk
Carol Ziegler, Administrative Assistant	Black Hawk
SECRETARY OF STATE	
ELAINE BAXTER	Des Moines
Marilyn Monroe, Deputy Secretary of State	Des Moines
Allen Welsh, Deputy, Corporations	Polk
Timothy Waddell, Deputy, Elections	Polk
AUDITOR OF STATE	
RICHARD D. JOHNSON	Polk
Richard C. Fish, Deputy, Administration Division	Polk
Kasey K. Kiplinger, Deputy, Audit Division	Polk
Warren G. Jenkins, Deputy, Technical Services Division	Polk
TREASURER OF STATE	
MICHAEL L. FITZGERALD	Polk
Joan Fitzpatrick Bolin, 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
David Werning, Administrative Division Director	Warren
Steve Pedersen, Agriculture Marketing Division Director	Polk
Daryl Frey, Laboratory Division Director	Polk
Ronald Rowland, Regulatory Division Director	Polk
James Gulliford, Soil Conservation Division Director	Polk
William H. Greiner, Agricultural Development Authority Director	Polk
ATTORNEY GENERAL	
BONNIE J. CAMPBELL	Polk
Charles J. Krogmeier, Executive Deputy Attorney General	Lee
Gordon Allen, Deputy Attorney General	Polk
Elizabeth Osenbaugh	Lucas
John Perkins	Polk
Roxann Ryan	Howard

GENERAL ASSEMBLY

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Borlaug, Allen Waucoma	Farm Owner, Insurance Agent	15th—Cerro Gordo, <i>Chickasaw, Floyd, Howard, Mitchell</i>	None
Boswell, Leonard L. Davis City	Farmer, Small Businessman	46th—Adair, Adams, Cass, Clarke, <i>Decatur</i> , Ringgold, Taylor, Union	71, 72, 72X, 72XX, 73
Buhr, Florence Des Moines		43rd— <i>Polk</i>	70, 71, 72, 72X, 72XX, 73
Connolly, Mike Dubuque	Teacher/ Legislator	18th— <i>Dubuque</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Deluhery, Patrick J. Davenport	Insurance Sales Representative/ College Teacher	21st— <i>Scott</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Dieleman, Wm. W. (Bill) Pella	Weekly Newspaper Publisher	35th—Jasper, <i>Marion</i> , Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Doyle, Donald V. Sioux City	Lawyer	2nd—Ida, Monona, <i>Woodbury</i>	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Drake, Richard F. Muscatine	General Farming	28th—Des Moines, Louisa, <i>Muscatine, Washington</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Fraise, Eugene S. Fort Madison	Farmer/ Legislator	31st—Des Moines, <i>Lee</i> , Van Buren	71(2nd), 72, 72X, 72XX, 73
Fuhrman, Linn Aurelia	Farmer	5th— <i>Buena Vista</i> , Calhoun, Pocahontas, Sac, Webster	72, 72X, 72XX, 73
Gettings, Donald E. Ottumwa	Retired—Deere & Co.	33rd—Appanoose, Davis, <i>Wapello</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Gronstal, Michael E. Council Bluffs		50th— <i>Pottawattamie</i>	70, 71, 72, 72X, 72XX, 73
Hagerla, Mark R. West Burlington	Grocer	30th— <i>Des Moines</i> , Henry	73
Hannon, Beverly A. Anamosa	Homemaker/ Legislator	22nd—Cedar, <i>Jones</i> , Linn	71, 72, 72X, 72XX, 73
Hedge, H. Kay Fremont	Farmer	32nd—Jefferson, Keokuk, <i>Mahaska</i> , Wapello	73
Hester, Jack W. Honey Creek	Retired Farmer/ Legislator	49th—Cass, Harrison, <i>Pottawattamie</i> , Shelby	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Horn, Wally E. Cedar Rapids	Teacher/ Education	25th – <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Husak, Emil J. Toledo	Farmer	38th – <i>Benton</i> , Black Hawk, Marshall, <i>Tama</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Hutchins, Bill Audubon	Self-employed Small Businessman	48th – <i>Audubon</i> , Carroll, Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Jensen, John W. Plainfield	Farmer	11th – <i>Black Hawk</i> , <i>Bremer</i> , Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Kersten, James B. Fort Dodge	President- Professional Financial Advisors, Inc.	7th – <i>Hamilton</i> , <i>Webster</i> ...	None
Kibbie, John P. (Jack) ... Emmetsburg	Farmer	6th – <i>Clay</i> , Dickinson Emmet, <i>Palo Alto</i>	59, 60, 60X, 61, 62, 73
Kinley, George R. Des Moines	Owner-Kinley's Golf & Sports	40th – <i>Polk</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Kramer, Mary E. West Des Moines	Vice President- Human Resources, Blue Cross & Blue Shield	41st – <i>Polk</i>	None
Lind, Jim Waterloo	Service Station Owner-Operator	13th – <i>Black Hawk</i>	71(2nd), 72, 72X, 72XX, 73
Lloyd-Jones, Jean Iowa City	Legislator	23rd – <i>Johnson</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
McLaren, Derryl. Farragut	Farmer	47th – <i>Fremont</i> , Mills, Montgomery, Page, Pottawattamie	None
Miller, Alvin V. Ventura	General Insurance Agency	10th – <i>Cerro Gordo</i> , Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Murphy, Larry Oelwein	Sales/Adjunct College Instructor	14th – <i>Black Hawk</i> , Buchanan, Chickasaw, <i>Fayette</i>	71, 72, 72X, 72XX, 73
Nystrom, Jack Boone	Consultant	44th – <i>Boone</i> , Carroll, Greene, Story	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Palmer, William D. Des Moines	Sales/ Insurance	39th – <i>Polk</i>	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Pate, Paul D. Marion	President/CEO- PM Systems Corp.	24th – <i>Buchanan</i> , Delaware, <i>Linn</i>	73
Peterson, John A. Albia	Senator	34th – <i>Clarke</i> , Lucas, <i>Monroe</i> , Warren, Wayne	71(2nd), 72, 72X, 72XX, 73
Priebe, Berl E. Algona	Farmer	8th – <i>Hancock</i> , Humboldt, ... <i>Kossuth</i> , Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Rensink, Wilmer Sioux Center	Farmer	3rd — Plymouth, <i>Sioux</i> , Woodbury	70, 71, 72, 72X, 72XX, 73
Rife, Jack Moscow	Farmer	29th — <i>Muscatine</i> , <i>Scott</i>	70, 71, 72, 72X, 72XX, 73
Riordan, James R. Waukee	Nursery/Garden ... Center Owner	45th — Adair, <i>Dallas</i> , Guthrie, Madison	71(2nd), 72, 72X, 72XX, 73
Rittmer, Sheldon De Witt	Farmer	19th — Cedar, <i>Clinton</i>	None
Rosenberg, Ralph Ames	Attorney	37th — <i>Story</i>	69(2nd), 70, 71, 72, 72X, 72XX, 73
Running, Richard V. Cedar Rapids	Quality Control Trainer	26th — <i>Linn</i>	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Slife, Harry G. Cedar Falls	Retired	12th — <i>Black Hawk</i>	None
Soorholtz, John E. Melbourne	Farmer-Pork Producer	36th — Jasper, <i>Marshall</i>	70(2nd), 71, 72, 72X, 72XX, 73
Sturgeon, Al Sioux City	Legislator/..... Lawyer	1st — <i>Woodbury</i>	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Szymoniak, Elaine Des Moines	Retired	42nd — <i>Polk</i>	73
Taylor, Ray Steamboat Rock	Farm Business	9th — Franklin, Hamilton, ... Hancock, <i>Hardin</i> , Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Tieden, Dale L. Elkader	Retired	16th — Allamakee, <i>Clayton</i> , <i>Winneshiek</i>	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Tinsman, Maggie Bettendorf	Legislator	20th — <i>Scott</i>	73
Vande Hoef, Richard P. . Harris	Farmer	4th — Cherokee, Clay, Lyon, O'Brien, <i>Osceola</i> , Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Varn, Richard J. Solon	Executive Director, Eastern Iowa Construction Alliance/ Lawyer	27th — Iowa, <i>Johnson</i> , Poweshiek	70, 71, 72, 72X, 72XX, 73
Welsh, Joe J. Dubuque	Businessman, Private Investigator	17th — <i>Dubuque</i> , Jackson, ... Jones	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Adams, Janet L. Webster City	Teacher	14th— <i>Hamilton</i> , Webster ...	72, 72X, 72XX, 73
Arnould, Robert C. Davenport	Legislator	42nd— <i>Scott</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Baker, Tom	Small Business Owner	85th— <i>Polk</i>	None
Banks, Brad	Farmer	5th— <i>Plymouth</i> ,	73
		Woodbury	
Bartz, Merlin E. Grafton	Farmer/Laborer ...	19th— <i>Cerro Gordo</i> ,	None
		Winnebago, <i>Worth</i>	
Beaman, Jack	Self-employed	91st— <i>Adair</i> , <i>Adams</i> , <i>Cass</i> , ...	72, 72X, 72XX, 73
		<i>Clarke</i> , <i>Union</i>	
Beatty, Linda L. Indianola	Homemaker	68th— <i>Warren</i>	71, 72, 72X, 72XX, 73
Bennett, Wayne	Farmer	4th— <i>Ida</i> , <i>Monona</i> ,	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
		Woodbury	
Bernau, Bill	Regional	73rd— <i>Story</i>	None
	Coordinator- National Farmers Union		
Bisignano, Tony	President of	80th— <i>Polk</i>	72, 72X, 72XX, 73
	AFSCME,		
	Local 1868		
Black, Dennis H. Grinnell	Conservationist ...	71st— <i>Jasper</i> , <i>Marshall</i>	70, 71, 72, 72X, 72XX, 73
Blanshan, Eugene Scranton	Farmer	88th— <i>Boone</i> , <i>Carroll</i> ,	70, 71, 72, 72X, 72XX, 73
		<i>Greene</i>	
Brammer, Philip E. Cedar Rapids	Semi-retired Life ... Insurance Agent	51st— <i>Linn</i>	70, 71, 72, 72X, 72XX, 73
Brand, William J. Vinton	Human Services ... Professional	76th— <i>Benton</i> ,	73
		Black Hawk	
Branstad, Clifford O. Thompson	Farmer	16th— <i>Hancock</i> , <i>Kossuth</i> , ...	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
		<i>Winnebago</i>	
Brown, Joel W. Lucas	Consultant	67th— <i>Clarke</i> , <i>Monroe</i> ,	73
		<i>Lucas</i> , <i>Wayne</i>	
Burke, Gordon B. Marshalltown	Tool & Die	72nd— <i>Marshall</i>	None
	Maker		
Carpenter, Dorothy F. ... West Des Moines	Legislator	82nd— <i>Polk</i>	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Chapman, Kay	Lawyer	49th— <i>Linn</i>	70, 71, 72, 72X, 72XX, 73
Cohoon, Dennis M. Burlington	Teacher	60th— <i>Des Moines</i>	72, 72X, 72XX, 73

Name and Residence	Occupation	Representative District	Former Legislative Service
Connors, John H. Des Moines	Labor Arbitrator & Retired Fire Captain	79th— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Corbett, Ron J. Cedar Rapids	Insurance Agent/ . . . Small Business Owner	52nd— <i>Linn</i>	72, 72X, 72XX, 73
Daggett, Horace C. Kent	Farmer	92nd— <i>Adams, Decatur,</i> <i>Ringgold, Taylor</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
De Groot, Kenneth R. Doon	Farmer	8th— <i>Lyon, O'Brien,</i> <i>Osceola, Sioux</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Dickinson, Rick Sabula	Industrial Sales	34th— <i>Dubuque,</i> <i>Jackson</i>	None
Diemer, Marvin E. Cedar Falls	Retired	23rd— <i>Black Hawk</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Doderer, Minnette Iowa City	Retired	45th— <i>Johnson</i>	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Dvorsky, Robert E. Coralville	JTPA Employment & Training Coordinator	54th— <i>Iowa, Johnson</i>	72, 72X, 72XX, 73
Eddie, Russell J. Storm Lake	Self-employed & Legislator	10th— <i>Buena Vista,</i> <i>Pocahontas</i>	72, 72X, 72XX, 73
Fogarty, Daniel P. Cylinder	Farmer	11th— <i>Clay, Palo Alto</i>	70, 71, 72, 72X, 72XX, 73
Garman, Teresa Ames	Farmer	87th— <i>Boone, Story</i>	72, 72X, 72XX, 73
Gill, Patrick F. Sioux City	Financial Planner . . .	2nd— <i>Woodbury</i>	None
Gipp, Chuck Decorah	Dairy Farmer	31st— <i>Allamakee,</i> <i>Winneshiek</i>	None
Groninga, John Mason City	Educator	20th— <i>Cerro Gordo</i>	70, 71, 72, 72X, 72XX, 73
Grubbs, Steven E. Davenport	Law Student	58th— <i>Scott</i>	None
Gruhn, Josephine Spirit Lake	Farm Owner/ Operator	12th— <i>Dickinson, Emmet</i> . . .	70, 71, 72, 72X, 72XX, 73
Hahn, Jim Muscatine	Property Management & Real Estate	56th— <i>Louisa,</i> <i>Muscatine</i>	None
Halvorson, Rod Fort Dodge	Real Estate Salesman, Political Consultant	13th— <i>Webster</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Halvorson, Roger A. Monona	Insurance & Real Estate Broker	32nd— <i>Allamakee, Clayton</i> . .	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73

Name and Residence	Occupation	Representative District	Former Legislative Service
Hammond, Johnie Ames	Legislator	74th— <i>Story</i>	70, 71, 72, 72X, 72XX, 73
Hansen, Steve D. Sioux City	Self-employed, Youth Worker	1st— <i>Woodbury</i>	72, 72X, 72XX, 73
Hanson, Darrell R. Manchester	Legislator	48th— <i>Buchanan, Delaware, Linn</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Hanson, Donald E. Waterloo	Educator	26th— <i>Black Hawk</i>	None
Harbor, William H. Henderson	Retired Grain Elevator Operator	94th— <i>Mills, Montgomery, Pottawattamie</i>	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Hatch, Jack Des Moines	Public Policy Consultant	81st— <i>Polk</i>	71, 72, 72X, 72XX, 73
Haverland, Mark A. Polk City	Legislator	77th— <i>Polk</i>	70, 71, 72, 72X, 72XX, 73
Hester, Joan L. Honey Creek	Legislator	98th— <i>Harrison, Pottawattamie</i>	71, 72, 72X, 72XX, 73
Hibbard, Dave Booneville	Attorney	90th— <i>Adair, Dallas, Guthrie, Madison</i>	73
Holveck, Jack Des Moines	Attorney	84th— <i>Polk</i>	70, 71, 72, 72X, 72XX, 73
Hurley, Charles Fayette	Attorney	28th— <i>Chickasaw, Fayette</i>	None
Iverson, Stewart, Jr. Dows	Farmer	17th— <i>Franklin, Hancock, Wright</i>	73(2nd)
Jay, Daniel Moulton	Lawyer	66th— <i>Appanoose, Davis, Wapello</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Jesse, Glen Mitchellville	Small Business Person	70th— <i>Jasper, Marion, Polk, Warren</i>	73
Jochum, Thomas J. Dubuque	Legislator	36th— <i>Dubuque</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Johnson, Robert Andover	Agribusiness	37th— <i>Cedar, Clinton</i>	None
Kistler, Bob Fairfield	Retired Educator/ Tree Farmer	63rd— <i>Jefferson, Keokuk, Wapello</i>	73
Knapp, Donald J. Cascade	Legislator	33rd— <i>Dubuque, Jones</i>	69(2nd), 70, 71, 72, 72X, 72XX, 73
Koenigs, Deo A. Osage	Farmer	30th— <i>Chickasaw, Howard, Mitchell</i>	70, 71, 72, 72X, 72XX, 73
Krebsbach, Scott L. Osage	Legislator	29th— <i>Cerro Gordo, Floyd, Mitchell</i>	None
Kremer, Joseph M. Jesup	Retired Farmer/ Legislator	27th— <i>Black Hawk, Buchanan</i>	71, 72, 72X, 72XX, 73

Name and Residence	Occupation	Representative District	Former Legislative Service
Lageschulte, Raymond Waverly	Farm Manager, Insurance Adjuster, Legislator	22nd—Black Hawk, <i>Bremer, Butler</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Lundby, Mary A. Marion	Legislator	47th— <i>Linn</i>	72, 72X, 72XX, 73
Maulsby, Ruhl Rockwell City	Farmer	9th— <i>Calhoun, Sac,</i> <i>Webster</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
McKean, Andy J. Anamosa	Lawyer/ College Instructor	44th— <i>Jones, Linn</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
McKinney, Wayne H., Jr. Waukeee	Attorney	89th— <i>Dallas</i>	72, 72X, 72XX, 73
McNeal, Clark E. Iowa Falls	Lawyer	18th— <i>Franklin,</i> <i>Hardin, Hamilton</i>	None
Mertz, Dolores M. Ottosen	Farm Owner/ Operator	15th— <i>Humboldt,</i> <i>Kossuth, Palo Alto,</i> <i>Pocahontas</i>	73
Metcalf, Janet S. Des Moines	Legislator	83rd— <i>Polk</i>	71, 72, 72X, 72XX, 73
Millage, David Bettendorf	Lawyer	40th— <i>Scott</i>	None
Miller, Tom H. Cherokee	Journalist	7th— <i>Cherokee, Clay,</i> <i>O'Brien</i>	71, 72, 72X, 72XX, 73
Muhlbauer, Louis J. Manilla	Agribusiness	96th— <i>Crawford, Shelby</i>	70, 71, 72, 72X, 72XX, 73
Murphy, Pat Dubuque	Businessman	35th— <i>Dubuque</i>	73(2nd)
Neuhauser, Mary C. Iowa City	Lawyer	46th— <i>Johnson</i>	72, 72X, 72XX, 73
Nielsen, Joyce Cedar Rapids	Legislator	50th— <i>Linn</i>	73
Ollie, C. Arthur Clinton	Teacher	38th— <i>Clinton</i>	70, 71, 72, 72X, 72XX, 73
Osterberg, David Mt. Vernon	Energy Economist	43rd— <i>Cedar, Linn</i>	70, 71, 72, 72X, 72XX, 73
Pavich, Emil S. Council Bluffs	Retired-Cereal Company	100th— <i>Pottawattamie</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Petersen, Dan Muscatine	Farmer	57th— <i>Muscatine, Scott</i>	71(2nd), 72, 72X, 72XX, 73
Peterson, Michael K. Carroll	Attorney	95th— <i>Audubon, Carroll,</i> <i>Shelby</i>	71, 72, 72X, 72XX, 73
Plasier, Lee J. Sioux Center	Business Manager	6th— <i>Plymouth, Sioux</i>	72, 72X, 72XX, 73
Poncy, Charles N. Ottumwa	Retired School District Employee	65th— <i>Wapello</i>	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73

Name and Residence	Occupation	Representative District	Former Legislative Service
Rafferty, Bob Davenport	Law Student	39th— <i>Scott</i>	None
Renaud, Dennis L. Altoona	D.M. Fire Dept. & Barber Business	78th— <i>Polk</i>	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Renken, Bob Aplington	Farmer	21st—Butler, <i>Grundy</i>	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Royer, Bill Essex	Real Estate Sales/ Appraiser	93rd—Fremont, Mills, <i>Page</i>	70, 71, 72, 72X, 72XX, 73
Schrader, David Monroe	Small Business Owner	69th— <i>Marion</i>	72, 72X, 72XX, 73
Shearer, Mark S. Columbus Junction	Newspaper Editor	55th—Des Moines, <i>Louisa, Washington</i>	73
Sherzan, Gary Des Moines	Parole Officer	86th— <i>Polk</i>	70, 71, 72, 72X, 72XX, 73
Shoning, Don Sioux City	Legislator	3rd— <i>Woodbury</i>	71, 72, 72X, 72XX, 73
Shultz, Don Waterloo	Economic Development Coordinator	25th— <i>Black Hawk</i>	70, 71, 72, 72X, 72XX, 73
Siegrist, Brent Council Bluffs	Educator	99th— <i>Pottawattamie</i>	71, 72, 72X, 72XX, 73
Spear, Clay R. Burlington	Retired Postal Service Employee	61st— <i>Des Moines, Lee</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Spenner, Gregory A. Mt. Pleasant	Broadcaster/ Legislator	59th—Des Moines, <i>Henry</i>	73
Svoboda, E. Jane Clutier	Farm Wife/ Homemaker, Sales	75th— <i>Black Hawk,</i> <i>Marshall, Tama</i>	72, 72X, 72XX, 73
Teaford, Jane Cedar Falls	Legislator	24th— <i>Black Hawk</i>	71, 72, 72X, 72XX, 73
Tyrrell, Phil North English	Independent Insurance Agent, Owner/ Operator	53rd— <i>Iowa, Poweshiek</i>	68, 69, 69X, 69XX, 72, 72X, 72XX, 73
Van Maanen, Harold Oskaloosa	Farmer	64th— <i>Keokuk,</i> <i>Mahaska, Wapello</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73
Weidman, Dick Griswold	Retired State Trooper	97th— <i>Cass, Harrison,</i> <i>Pottawattamie, Shelby</i>	None
Wise, Philip L. Keokuk	Teacher	62nd— <i>Lee, Van Buren</i>	72, 72X, 72XX, 73
Wissing, Matthew Davenport	Scott County Auditor's Office	41st— <i>Scott</i>	None

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
David Harris	Jefferson	Dec. 31, 1998
Arthur A. McGiverin, C. J.	Des Moines and Ottumwa	Dec. 31, 1996
Jerry Larson	Harlan	Dec. 31, 1996
Louis W. Schultz	Iowa City	Dec. 31, 1998
James H. Carter	Cedar Rapids	Dec. 31, 1992
Louis Lavorato	Des Moines	Dec. 31, 1996
Linda K. Neuman	Davenport	Dec. 31, 1996
Bruce M. Snell, Jr.	Ida Grove	Dec. 31, 1996
James H. Andreasen	Algona	Dec. 31, 1998

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson	Des Moines	Dec. 31, 1995
Leo E. Oxberger, C. J.	Des Moines	Dec. 31, 1995
Dick Schlegel	Ottumwa	Dec. 31, 1996
Maynard Hayden	Indianola	Dec. 31, 1996
Rosemary Shaw Sackett	Spencer	Dec. 31, 1996
Albert L. Habhab	Fort Dodge	Dec. 31, 1996

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

Senator Tom Harkin (D)
531 Hart Senate Office Bldg.
Washington, D.C. 20510
(202) 224-3254

Senator Charles Grassley (R)
135 Hart Senate Office Bldg.
Washington, D.C. 20510-1501
(202) 224-3744

Box H
317 Federal Building
Council Bluffs, Iowa 51502
(712) 325-0036

721 Federal Building
210 Walnut Street
Des Moines, Iowa 50309-2140
(515) 284-4890

733 Federal Building
210 Walnut
Des Moines, Iowa 50309
(515) 284-4574

210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701-5497
(319) 232-6657

Lindale Mall
Suite 101
4444 1st Avenue, N.E.
Cedar Rapids, Iowa 52402
(319) 393-6374

206 Federal Building
101 First Street, S.E.
Cedar Rapids, Iowa 52401-1227
(319) 363-6832

131 E. 4th Street
314 B Federal Building
Davenport, Iowa 52801
(319) 322-1338

103 Federal Courthouse Bldg.
320 6th Street
Sioux City, Iowa 51101-1244
(712) 233-1860

110 Federal Bldg.
320 6th Street
Sioux City, Iowa 51101
(712) 252-1550

116 Federal Building
131 E. 4th Street
Davenport, Iowa 52801-1513
(319) 322-4331

Suite 125
880 Locust Street
Dubuque, Iowa 52001
(319) 582-2130

UNITED STATES REPRESENTATIVES

First District

Congressman Jim Leach (R)
1514 Longworth House Office Bldg.
Washington, D.C. 20515-1501
(202) 225-6576

209 West 4th Street
Davenport, Iowa 52801-1307
(319) 326-1841

Room 306
218 N. Third Street
Burlington, Iowa 52601-5307
(319) 752-4584

Parkview Plaza, Room 204
107 E. 2nd Street
Ottumwa, Iowa 52501-2964
(515) 682-8549

Second District

Congressman Jim Nussle (R)
Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-2911

1117 7th Avenue
P.O. Box 445
Marion, Iowa 52302
(319) 373-1379

698 Central Avenue
P. O. Box 478
Dubuque, Iowa 52001
(319) 557-7740

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

Third District

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

1221 W. 5th Street
Waterloo, Iowa 50702
(319) 234-3623

Room 505
102 S. Clinton Street
Iowa City, Iowa 52240
(319) 351-0789

Room 160
16 E. Main Street
Marshalltown, Iowa 50158
(515) 752-6701

Fourth District

Congressman Neal Smith (D)
2373 Rayburn House 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)
1222 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-3806

501 W. Lowell
Shenandoah, Iowa 51601
(712) 246-1984
1-800-432-1984 (toll-free)

40 Pearl Street
Council Bluffs, Iowa 51503
(712) 322-5255

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

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

Sixth District

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

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

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

14 W. 5th Street
Spencer, Iowa 51301
(712) 262-6480

CONDITION OF STATE TREASURY

Receipts, Disbursements, and Balance in the Several Funds
For the Fiscal Period Ending June 30, 1990

	Balance July 1, 1989	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1990
General Fund	\$ 40,282,654	\$ 4,023,317,271	\$ 4,063,599,925	\$ 4,062,120,128	\$ 1,479,797
Special Revenue Fund	299,272,214	1,400,048,107	1,699,320,321	1,318,459,530	380,860,791
Capitol Project Fund	9,986,602	15,517,454	25,504,056	19,255,379	6,248,677
Debt Service Fund	1,568,532	5,714,211	7,282,743	6,292,446	990,297
Enterprise Fund	10,659,543	226,866,547	237,526,090	223,189,839	14,336,251
Internal Service Fund	3,016,483	40,666,547	43,683,030	38,763,987	4,919,043
Expendable Trust Fund	29,588,268	231,018,092	260,606,360	222,552,216	38,054,144
Nonexpendable					
Trust Fund	4,764,055	903,058	5,667,113	52,669	5,614,444
Pension Fund	4,209,036,182	708,819,581	4,917,855,763	211,182,695	4,706,673,068
Trust and Agency Fund	<u>114,825,515</u>	<u>2,005,621,934</u>	<u>2,120,447,449</u>	<u>2,014,599,523</u>	<u>105,847,926</u>
 Totals	 <u>\$ 4,723,000,048</u>	 <u>\$ 8,658,492,802</u>	 <u>\$ 13,381,492,850</u>	 <u>\$ 8,116,468,412</u>	 <u>\$ 5,265,024,438</u>

Balance July 1, 1989	\$ 4,723,000,048
Receipts and Transfers	8,658,492,802
Total Available	13,381,492,850
Redemptions and Disbursements	8,116,468,412
 Balance June 30, 1990	 \$ 5,265,024,438

DEPARTMENT OF REVENUE AND FINANCE
July 11, 1991

ANALYSIS BY CHAPTERS

REGULAR SESSION

CH.	FILE	TITLE
1	HF 4	County appropriations to assist indigent veterans
2	SF 90	Community college job training fund
3	HF 129	Legalization of Mason City public library tax levy
4	SF 89	Monthly list of trade name filings — requirement deleted
5	SF 34	Purple loosestrife regulation
6	SF 141	Media and educational services funding for area education agencies
7	HF 231	Officers of state banks
8	SF 116	Controlled substances
9	SF 188	Therapeutically certified optometrists
10	SF 218	Tuition grant formula for part-time students
11	HF 260	Reservation of bank name
12	HF 73	Vacancies in office
13	HF 199	Repayment of loans by local development corporations
14	HF 294	Obligations of bank directors and officers
15	SF 174	Fraudulent practice in payment to livestock dealers
16	SF 87	Financial institutions' deposit insurance
17	SF 111	Accounting practitioner licensing
18	SF 151	Peer review of certified public accountants
19	SF 180	Information in domestic abuse reports
20	HF 110	Banks — collateral for loans to affiliates
21	SF 92	Advisory commission on intergovernmental relations
22	HF 220	Artisan's lien against aircraft and equipment
23	SF 254	Assistance for community economic development
24	SF 284	Beer and wine wholesalers — sale of disposable containers
25	SF 436	Private activity bond allocation for first-time farmers
26	SF 518	Insurance regulation
27	HF 307	Transportation laws — miscellaneous changes
28	HF 322	Small business advisory council
29	SF 146	Tuition and fee increases for regents' institutions
30	SF 477	Cooperative ownership of residential, business property
31	HF 309	Maximum length of vehicles and drawbars
32	SF 53	Falsification of certificates required for moving swine
33	SF 104	State personnel administration
34	SF 171	Identification and eradication of marijuana plants
35	SF 179	Trade secrets
36	SF 213	Probate code revisions
37	SF 308	Controlled substances — anabolic steroids
38	SF 345	State programs for persons with mental retardation, developmental disabilities, or mental illness
39	SF 378	Special education weighting plan
40	SF 520	Securities transactions — regulatory and other provisions
41	HF 5	Public retirement systems — surviving spouse benefits
42	HF 274	Nullification of state administrative rules
43	HF 306	Unemployment benefits — effect of claims determinations
44	HF 334	Reorganized school districts — change of area education agency
45	HF 459	Employment security law revisions
46	HF 567	Foreclosures — notice of right to cure default
47	HF 592	Documents filed with general assembly
48	HF 598	Payment of court fees

CH.	FILE	TITLE
49	SF 231	Personalized collegiate registration plates
50	SF 389	Commission of Latino affairs and commission on the status of blacks
51	HF 486	Teacher licensing
52	SF 326	Statewide fire and police retirement system
53	SF 337	Secondary roads — contract procedures
54	SF 419	Drainage or levee district elections
55	SF 488	Clerk of city civil service commission
56	HF 254	Special mobile equipment — corn shellers and feed grinders
57	HF 288	Boat manufacturers and dealers — special certificates
58	HF 426	Pearl Harbor registration plates
59	HF 499	Insurance — demolition reserves
60	HF 565	City officers' and employees' interest in city contracts
61	SF 78	College student aid commission membership
62	SF 291	Support payment collection and disbursement responsibilities
63	SF 310	Industrial loan companies — thrift guaranty corporation
64	SF 383	Smoke detectors
65	SF 435	Mortgage bankers and brokers — regulatory authority
66	SF 454	Light rail study
67	HF 275	Departmental rules on recovery for damage to highways
68	HF 386	Public utility reorganization
69	HF 392	Animals assisting disabled or handicapped persons
70	HF 419	School bus traffic violations
71	HF 485	Math and science education
72	HF 617	Banks — location of loan recordkeeping functions
73	SF 336	Historical resource development program
74	SF 525	Regulation of dairy and other food products
75	HF 91	Decorative fountains
76	HF 92	Terms of airport commissioners
77	HF 357	Premarital agreements
78	HF 373	Warning citations by conservation peace officers
79	HF 384	Prohibited sales by state employees — rules
80	HF 480	Levee and drainage districts
81	HF 487	Taxation of pay television service
82	HF 498	Employment retraining program
83	HF 506	Admissibility of documentary evidence
84	HF 516	Teacher exchange program
85	HF 626	Claims to savings and loan deposits
86	HF 627	Transfer of title by affidavit
87	HF 657	Ethanol blended gasoline
88	SF 10	Elder family homes
89	SF 33	Pesticide dealer licensing
90	SF 269	Transient food service establishments
91	SF 331	Mobile home parks — traffic regulation
92	SF 494	Regulation of savings and loan associations
93	SF 495	Mentally disabled persons — marriage and annulment
94	HF 324	Civil rights law revisions
95	HF 619	Preservation of financial institution records
96	SF 327	Public records — claims settlements
97	HF 198	Nonsubstantive corrections
98	SF 56	County and district fairs
99	SF 112	Community-based corrections — advisory committees

CH.	FILE	TITLE
100	SF 114	Practice of nursing — definitions
101	SF 134	Fireworks in state parks and preserves
102	SF 211	Consumer frauds against older persons
103	SF 257	Targeted small businesses
104	SF 313	School accreditation
105	SF 340	Public employees' retirement system — disability retirement
106	SF 355	Homestead rights — relinquishment by spouse
107	SF 412	Inspections and appeals department — health care and other provisions
108	SF 453	Civil commitment proceedings
109	SF 479	Children, youth, and families division — departmental transfer
110	SF 492	Civil service for deputy sheriffs — exemption
111	HF 197	Special districts — trustees — dissolution
112	HF 343	Utilities board — enforcement authority
113	HF 375	Baled solid waste at sanitary landfills
114	HF 491	Acquisition of highway rights-of-way — procedures
115	HF 518	Advanced placement summer program
116	HF 534	Court administration and related provisions
117	HF 593	Personnel of school districts and merged areas under sharing or other agreements
118	HF 601	Consumer credit — open end credit accounts
119	HF 602	Procedures for transfer of vehicle of decedent
120	HF 639	Community cultural grants program
121	HF 661	General permits for activities affecting environment
122	SF 115	Obstetrical and newborn indigent patient care program
123	SF 138	Postsecondary enrollment options
124	SF 297	Pesticides — ingredients — information
125	SF 314	Reimbursement for special education services
126	SF 473	School laws
127	HF 252	Transportation of hazardous materials
128	HF 297	Minors' driver's licenses
129	HF 420	Election laws
130	SF 2	Sexual exploitation by counselor or therapist
131	SF 97	Traffic control devices and flashing lights
132	SF 172	State fair foundation
133	SF 338	Vehicles of excessive size and weight
134	SF 382	Rural water districts
135	SF 411	Nonprofit corporations and agencies — information
136	SF 503	Labor laws and contractor registration
137	HF 152	Boxing and wrestling
138	HF 296	Criminal and child abuse record checks
139	HF 385	Official Iowa map
140	HF 501	Durable power of attorney for health care
141	HF 570	Automatic dialing-announcing device equipment
142	HF 625	Junked vehicles and certificates of title
143	HF 655	Emergency care providers — exposure to disease
144	SF 110	Wagering on excursion gambling boats — minimum age
145	SF 221	City and county ordinances
146	SF 323	Resource enhancement and protection
147	SF 329	Department of transportation — utility accommodation policy
148	SF 346	Public improvement contracts
149	SF 403	Income tax checkoff for Olympics

CH.	FILE	TITLE
150	SF 504	Deregulation of certain communications services
151	HF 500	Child day care
152	HF 502	Financial services disclosure
153	HF 566	Defective motor vehicles
154	HF 577	Reporting on state parks and preserves
155	HF 649	Hazardous waste and hazardous substance disposal sites
156	HF 691	County agricultural extension education tax
157	SF 268	Arts and cultural enhancement and endowment program
158	SF 343	Medical assistance program
159	SF 356	Tax administration — department of revenue and finance
160	SF 441	Workers' compensation self-insurance and other provisions
161	SF 445	Forfeiture of real estate contracts
162	SF 502	Workers' compensation second injury fund
163	HF 575	Health data commission
164	HF 612	Notice of county budget hearings
165	HF 644	Campaign finance disclosure — permanent organizations
166	HF 651	Gambling — racetracks — excursion boats
167	HF 679	Forfeiture of excursion boats and related property
168	HF 689	Joint water utilities
169	SF 342	Prevention of disabilities
170	SF 205	Commercial mussel fishing
171	SF 317	Pay-per-call service
172	SF 429	Agricultural land
173	SF 470	Public assistance
174	SF 501	Collective bargaining
175	HF 298	Raffles conducted by qualified organizations
176	HF 483	Fees for highway advertising devices
177	HF 558	Child support recovery procedures
178	HF 583	School district reorganization incentives
179	SF 182	State administrative rules affecting political subdivisions
180	HF 423	College student aid
181	HF 430	Crime victims
182	HF 596	Emergency assistance by volunteers
183	HF 618	Marketable title of real estate and lapse of certain mineral interests
184	HF 656	Discriminatory practices in housing and real estate
185	SF 102	District court clerk — reporting requirement deleted
186	SF 547	Urban renewal and urban revitalization
187	HF 182	Annexation
188	HF 237	Cemeteries — perpetual care
189	HF 510	Election of multicounty sheriff
190	HF 614	Reapportionment of county supervisor districts
191	HF 687	Property and other local taxes — collection and administration
192	HF 697	Collection of delinquent criminal fines and court costs
193	SF 23	Teaching of American sign language
194	SF 318	Telecommunications services for the deaf and the blind
195	HF 353	Racing — possession of devices for use on horses or dogs
196	HF 489	Special tax provisions for certain military and other personnel
197	HF 589	Shared work unemployment compensation program
198	HF 690	Quad cities interstate metropolitan authority
199	HF 694	Veterans of Persian Gulf Conflict
200	HF 455	School instruction and attendance — truancy
201	HF 698	Schools — bus drivers — child abuse investigation procedures

CH.	FILE	TITLE
202	SF 184	Open enrollment — eligibility for athletics
203	SF 273	Packaging and sale of wine and other alcoholic beverages
204	SF 491	Car rentals
205	SF 519	Regulation of business opportunity promotions, retirement communities, and loan brokers
206	SF 533	Shelby Tennant school district income surtax
207	SF 535	Permits to carry weapons — fees
208	SF 544	Legalization of Pleasant Valley school levy
209	SF 550	Motor carriers — workers' compensation insurance provisions
210	HF 417	Income tax — private club expense deductions
211	HF 556	Electronic access to corporate records and other corporation law changes
212	HF 571	Advertisement and sale of wood products
213	HF 634	Insurance — administrative and regulatory provisions
214	HF 704	Urban renewal and urban revitalization authority to counties
215	SF 83	Income tax withholding, credits, and other provisions
216	SF 311	Financial transactions — electronic transfers — credit card issuers
217	SF 350	Franchise tax on financial institutions
218	SF 444	Domestic abuse and related provisions
219	SF 496	Corrections
220	SF 507	Banking regulation
221	SF 536	State income tax refunds
222	HF 20	Banking days
223	SF 546	Congressional and legislative redistricting
224	HF 325	Certification of well contractors
225	HF 668	Health care facilities and certificate of need program
226	SF 476	Campaign finance
227	HF 662	Facilities used to maintain animals
228	SF 48	Physical therapist assistants
229	SF 193	Marital and family therapists and mental health counselors
230	SF 276	Cooperative associations — statements — securities exemptions
231	SF 455	Dependent adult abuse
232	SF 471	State policies and procedures affecting children
233	SF 539	Pharmacy and drug laws
234	HF 109	Shooting firearms across public property — obstructing hunting, fishing, or trapping
235	HF 233	Hunter safety and ethics education
236	HF 289	Snowmobiles and all-terrain vehicles
237	HF 703	Hunting and fishing — licenses and fees
238	SF 42	Authority of physician assistants
239	SF 363	Authority of advanced nurse practitioners
240	HF 232	Sale and furnishing of cigarettes and tobacco products
241	HF 285	Other businesses within health care facilities
242	HF 302	Infectious and radioactive waste
243	HF 380	Birth certificates and adoption records
244	HF 688	Health insurance
245	HF 391	Sale of alcoholic liquor, wine, and beer on Sunday
246	HF 610	Missouri River Preservation and Land Use Authority
247	HF 700	Property tax for municipal transit systems
248	SF 452	Administration of state fair and other fairs
249	HF 707	Investment of public funds
250	SF 4	Annexation and city development board

CH.	FILE	TITLE
251	SF 324	Air pollution control
252	SF 362	Petroleum underground and aboveground storage tanks
253	SF 508	Energy efficiency
254	SF 545	Renewable fuel
255	HF 683	Toxics pollution prevention program
256	HF 693	Alternative forms of local government
257	HF 706	Disposal of solid waste
258	HF 709	Substantive Code corrections
259	HF 710	Sesquicentennial of Iowa statehood
260	HF 173	Appropriation reductions, fund transfers, surcharge increase, and related provisions
261	SF 150	Unexpended moneys in fish and game protection fund
262	SF 121	Reversion date for armories appropriation
263	SF 209	Departmental supplemental appropriations and other provisions
264	SF 532	Departmental appropriation reductions, increases, and fund transfers
265	HF 712	Appropriations for claims against the state
266	SF 548	Compensation for public officials and employees
267	HF 479	State government appropriations and other provisions relating to state finances
268	SF 529	Appropriations to state departments and agencies and related provisions
269	SF 541	Federal block grant appropriations
270	SF 542	Appropriations for energy conservation and environmental protection
271	SF 549	Appropriations from lottery fund
272	SJR 1	Equal rights amendment proposed
273	SJR 9	Nullification of administrative rule — psychiatric medical institutions for children
274	HJR 10	Nullification of administrative rule — liver transplants
275	HCR 30	Board of regents ten-year building program
276	RCP	Production of documents; depositions; voluntary dismissal; partition; trial court rules
277	RCP	Judgment on default

1991 Regular Session
Of The
Seventy-Fourth General Assembly
Of The
State Of Iowa

CHAPTER 1

COUNTY APPROPRIATIONS TO ASSIST INDIGENT VETERANS

H.F. 4

AN ACT relating to permissible use of moneys appropriated by the county boards of supervisors for the benefit of honorably discharged, indigent veterans of wars.

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

Section 1. Section 250.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The board of supervisors of each county may appropriate moneys for the ~~benefit of~~, food, clothing, shelter, utilities, medical benefits, and to pay the funeral expenses of honorably discharged, indigent persons who served in the military or naval forces of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; and the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county.

Approved February 14, 1991

CHAPTER 2

COMMUNITY COLLEGE JOB TRAINING FUND

S.F. 90

AN ACT making nonsubstantive changes in the Iowa small business new jobs training Act.

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

Section 1. Section 280C.6, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. There is established for the community colleges a community college job training fund under the supervision of the treasurer of state. The community college job training fund consists of moneys appropriated for the fiscal year beginning July 1, 1987, and for succeeding fiscal years for the purposes of this chapter plus the interest and principal from repayment of advances made to employers for program costs and interest earned from moneys in the community college job training fund. Moneys in this fund shall be used to provide advances to employers for program costs upon the request of boards of directors of the community colleges.

Sec. 2. Section 280C.6, subsection 2, Code 1991, is amended to read as follows:

2. To provide funds for the present payment of the costs of a new jobs training program by the employer, the community college may provide to the employer an advance of the moneys to be used to pay for the program costs as provided in the agreement. To receive the funds for this advance from the ~~revolving loan account~~ job training fund established in subsection 1, the community college shall submit an application to the department of economic development. The amount of the advance shall not exceed fifty thousand dollars for any project. The advance shall be repaid with interest from the sources provided in the agreement. The rate of interest to be charged for advances made in a calendar month is equal to one half of the average rate of interest on tax exempt certificates issued by community colleges pursuant to chapter 280B for the previous twelve months. The rate shall be computed by the Iowa department of economic development.

Sec. 3. Section 280C.8, Code 1991, is repealed.

Approved February 15, 1991

CHAPTER 3

LEGALIZATION OF MASON CITY PUBLIC LIBRARY TAX LEVY

H.F. 129

AN ACT to legalize the proceedings of the City Council of the City of Mason City relating to its budget and certification of taxes pertaining to the city library.

WHEREAS, the sufficient number of eligible electors of the City of Mason City petitioned the City Council of the City of Mason City to place on the regular 1990 general election ballot a proposition to levy a tax to benefit the Mason City Public Library, at a rate of "14 cents per thousand dollars of assessed valuation"; and

WHEREAS, the proposition appeared on the ballot for the general election held on November 6, 1990, but due to an error, stated that the tax would be levied at a rate of ".14 cents per thousand dollars of assessed valuation"; and

WHEREAS, a majority of the total number of votes cast were in favor of the Mason City Library tax levy; and

WHEREAS, the commissioner of elections of Cerro Gordo County certified to the City of Mason City that the measure passed to impose a tax levy of fourteen cents per thousand dollars of assessed valuation; and

WHEREAS, the budget and certification of taxes to be adopted for the 1992 fiscal year by the City Council of the City of Mason City as required under section 384.16, includes a library tax levy of fourteen cents per thousand dollars of assessed valuation; and

WHEREAS, doubts have arisen as to the validity of the election and the amount to be raised by the levy, although both the petition placing the issue on the ballot and publicity concerning the proposition referred to the rate of fourteen cents per thousand dollars of assessed valuation; **NOW THEREFORE,**

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

Section 1: All proceedings taken by the City Council of the City of Mason City for the certification of taxes and adoption of a budget for the 1992 fiscal year and succeeding fiscal years, pertaining to the election for a tax levy of fourteen cents per thousand dollars of assessed valuation for the Mason City Public Library, are hereby legalized, validated, and confirmed.

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

Approved February 15, 1991

CHAPTER 4**MONTHLY LIST OF TRADE NAME FILINGS — REQUIREMENT DELETED**
S.F. 89

AN ACT relating to requiring county recorders to submit monthly reports of trade name statements or certificates of change filed during the preceding month.

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

Section 1. Section 547.6, Code 1991, is repealed.

Approved March 1, 1991

CHAPTER 5**PURPLE LOOSESTRIFE REGULATION**
S.F. 34

AN ACT relating to the sale, offer for sale, or distribution of purple loosestrife.

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

Section 1. Section 317.25, Code 1991, is amended to read as follows:

317.25 TEASEL, MULTIFLORA ROSE, AND PURPLE LOOSESTRIFE PROHIBITED — EXCEPTIONS.

A person shall not sell, offer for sale, or distribute teasel (*Dipsacus*) biennial, the multiflora rose (*rosa multiflora*), purple loosestrife (*lythrum salicaria*), or seeds of them in any form in this state. However, this section does not prohibit the sale, offer for sale, or distribution of the multiflora rose (*rosa multiflora*) used for understock for either cultivated roses or ornamental shrubs in gardens. This section also does not prohibit the sale, offer for sale, or distribution of varieties of the purple loosestrife (*lythrum virgatum*) when used for ornamental gardens, and which are sterile or nonaggressive according to a list published by the state weed commissioner pursuant to chapter 17A. A person engaged in the business of selling purple loosestrife shall keep accurate records, as specified by the department, of each variety of purple loosestrife sold, offered for sale, or distributed. The person shall allow the department of agriculture and land stewardship to inspect the records during regular business hours. Any person violating the provisions of this section is subject to a fine of not exceeding one hundred dollars.

Approved March 7, 1991

CHAPTER 6

MEDIA AND EDUCATIONAL SERVICES FUNDING FOR AREA EDUCATION AGENCIES S.F. 141

AN ACT relating to media and educational services funding for area education agencies.

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

Section 1. Section 257.15, subsection 1, Code 1991, is amended to read as follows:

1. **PROPERTY TAX ADJUSTMENT FOR 1991-1992.** For the budget year beginning July 1, 1991, the department of management shall calculate for each district the difference between the sum of the revenues generated by the foundation property tax and the additional property tax in the district calculated under this chapter and the revenues that would have been generated by the foundation property tax and the additional property tax in that district for that budget year calculated under chapter 442, Code 1989, if chapter 442 were in effect, except that the revenues that would have been generated by the additional property tax levy under chapter 442 shall not include revenues generated for the school improvement program. However in making the calculation of the difference in revenues under this subsection, the department shall not include the revenues generated under section 257.37 and under chapter 442, Code 1989, for funding media and educational services through the area education agencies. If the property tax revenues for a district calculated under this chapter exceed the property tax revenues for that district calculated under chapter 442, Code 1989, the department of management shall reduce the revenues raised by the additional property tax levy in that district under this chapter by that difference and the department of education shall pay property tax adjustment aid to the district equal to that difference from moneys appropriated for property tax adjustment aid.

Sec. 2. **NEW SECTION. 257.37 FUNDING MEDIA AND EDUCATIONAL SERVICES.**

Media services and educational services provided through the area education agencies shall be funded, to the extent provided, by an addition to the combined district cost of each school district, determined as follows:

1. For the budget year beginning July 1, 1991, and succeeding budget years, the total amount funded in each area for media services shall be computed as provided in this subsection. For the budget year beginning July 1, 1991, the total amount funded in each area for media services in the base year, including the cost for media resource material which shall only be used for the purchase or replacement of material required in section 273.6, subsection 1, paragraphs "a", "b", and "c", shall be divided by the enrollment served in the base year to provide an area media services cost per pupil in the base year, and the department of management shall compute the state media services cost per pupil in the base year which is equal to the average of the area media services costs per pupil in the base year. For the budget year beginning July 1, 1991, and succeeding budget years, the department of management shall compute the allowable growth for media services in the budget year by multiplying the state media services cost per pupil in the base year times the state percent of growth for the budget year, and the total amount funded in each area for media services cost in the budget year equals the area media services cost per pupil in the base year plus the allowable growth for media services in the budget year times the enrollment served in the budget year. Funds shall be paid to area education agencies as provided in section 257.35.

2. For the budget year beginning July 1, 1991, the per pupil amount included in the media services amount per pupil shall be the per pupil amount included in the base year for media resources plus the allowable growth amount per pupil for media resources for the budget year.

3. For the budget year beginning July 1, 1991, and succeeding budget years, the total amount funded in each area for educational services shall be computed as provided in this subsection. For the budget year beginning July 1, 1991, the total amount funded in each area for educational services in the base year shall be divided by the enrollment served in the area in the base year to provide an area educational services cost per pupil in the base year, and

the department of management shall compute the state educational services cost per pupil in the base year, which is equal to the average of the area educational services costs per pupil in the base year. For the budget year beginning July 1, 1991, and succeeding budget years, the department of management shall compute the allowable growth for educational services by multiplying the state educational services cost per pupil in the base year times the state percent of growth for the budget year, and the total amount funded in each area for educational services for the budget year equals the area educational services cost per pupil for the base year plus the allowable growth for educational services in the budget year times the enrollment served in the area in the budget year. Funds shall be paid to area education agencies as provided in section 257.35.

4. "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 or a pupil attending another district under a whole-grade sharing agreement or open enrollment 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. Each school district shall include in the 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.

5. If an area education agency does not serve nonpublic school pupils in a manner comparable to services provided public school pupils for media and educational services, as determined by the state board of education, the state board shall instruct the department of management to reduce the funds for media services and educational services one time by an amount to compensate for such reduced services. The media services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for the budget year for media services times the difference between the enrollment served and the basic enrollment recorded for the area. The educational services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for the budget year for educational services times the difference between the enrollment served and the basic enrollment recorded for the area.

This subsection applies only to media and educational services which cannot be diverted for religious purposes.

Notwithstanding this subsection, an area education agency shall distribute to nonpublic schools media materials purchased wholly or partially with federal funds in a manner comparable to the distribution of such media materials to public schools as determined by the director of the department of education.

Sec. 3. This Act takes effect upon enactment.

Approved March 7, 1991

CHAPTER 7

OFFICERS OF STATE BANKS

H.F. 231

AN ACT relating to the number of presidents of a state bank which is established by merger or consolidation.

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

Section 1. Section 524.701, Code 1991, is amended to read as follows:
524.701 OFFICERS AND EMPLOYEES.

A state bank shall have, as officers, a president, one vice president, and a cashier. As additional officers the state bank may have a chairperson, additional presidents, additional vice presidents, assistant vice presidents, assistant cashiers, and other officers as may be prescribed by the articles of incorporation or the bylaws. Upon notice by the superintendent, an individual who performs active executive or official duties for a state bank may be treated as an officer for the purpose of this chapter. A state bank may have a chairperson of the board of directors and one vice president who, if they do not perform executive or official duties or receive a salary, need not be treated as officers for the purpose of this chapter. All officers shall be elected by the board of directors. No more than two offices may be held by the same individual. All other individuals employed by a state bank, except directors who are not officers, shall be are employees for the purpose of this chapter. The president of a state bank shall be is a member of the board of directors.

Sec. 2. Section 524.706, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. For the purposes of this subsection "executive officer" means an officer of a state bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policymaking functions of the bank, regardless of whether the officer has an official title or whether the officer's title contains a designation of assistant and regardless of whether the officer is serving without salary or other compensation. The chairperson of the board, the every president, every vice president, the cashier, secretary, and treasurer of a state bank are assumed to be executive officers, unless, by resolution of the board of directors or by the bank's bylaws, but subject to contrary notice by the superintendent as provided for in section 524.701, any such officer is excluded from participation in major policymaking functions, otherwise than in the capacity of a director of the bank, and the officer does not actually participate.

Approved March 7, 1991

CHAPTER 8

CONTROLLED SUBSTANCES

S.F. 116

AN ACT relating to the uniform controlled substances Act.

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

Section 1. Section 204.101, subsection 15, Code 1991, is amended to read as follows:

15. "Isomer" means, except as otherwise designated, the optical isomer, except as used in section 204.204, subsection 4, section 204.204, subsection 9, paragraph "b", and section 204.206, subsection 2, paragraph "d". As used in section 204.204, subsection 4, and section 204.204, subsection 9, paragraph "b", "isomer" means the optical, positional, or geometric isomer. As used in section 204.206, subsection 2, paragraph "d", "isomer" means the optical or geometric isomer.

Sec. 2. Section 204.204, subsection 4, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. y. 1-[1-(2-thienyl)cyclohexyl]-pyrrolidine. Some trade or other names: TXPy.

Sec. 3. Section 204.206, subsection 5, Code 1991, is amended by adding the following new paragraph and relettering the subsequent paragraphs:

NEW PARAGRAPH. b. Glutethimide.

Sec. 4. Section 204.208, subsection 3, paragraph e, Code 1991, is amended by striking the paragraph.

Approved March 11, 1991

CHAPTER 9

THERAPEUTICALLY CERTIFIED OPTOMETRISTS

S.F. 188

AN ACT relating to therapeutically certified optometrists.

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

Section 1. Section 154.1, unnumbered paragraph 3, Code 1991, is amended to read as follows:

Therapeutically certified optometrists may employ the following pharmaceuticals; ~~topical and pharmaceutical agents, 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, 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 in this paragraph~~. 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.

Approved March 11, 1991

CHAPTER 10

TUITION GRANT FORMULA FOR PART-TIME STUDENTS

S.F. 218

AN ACT relating to the formula used to calculate part-time student financial aid awards under the tuition grant program.

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

Section 1. Section 261.12, subsection 2, Code 1991, is amended to read as follows:

2. The amount of a tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours for the fall and spring semesters, or the trimester or quarter equivalent, shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents twelve semester hours, or the trimester or quarter equivalent, divided by the number of hours in which the part-time student is actually enrolled divided by twelve semester hours, or the trimester or quarter equivalent.

Approved March 14, 1991

CHAPTER 11

RESERVATION OF BANK NAME

H.F. 260

AN ACT relating to the reservation of a bank name.

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

Section 1. Section 524.310, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. A person may reserve the exclusive use of a corporate name for a state bank by delivering an application to the secretary of state for filing. The application must comply with section 490.402 and set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available and complies with section 490.402, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty day period.

b. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

Approved March 14, 1991

CHAPTER 12
VACANCIES IN OFFICE
H.F. 73

AN ACT relating to the definition of vacancy in office for elected county officers.

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

Section 1. Section 69.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Every civil office shall be vacant upon the happening of either of if any of the following events occur:

Sec. 2. Section 69.2, subsection 6, Code 1991, is amended to read as follows:

6. The conviction of incumbent of a felony, an aggravated misdemeanor, or of any public offense involving the violation of the incumbent's oath of office.

Sec. 3. Section 69.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The board of supervisors declares a vacancy in an elected county office upon finding that the county officer has been physically absent from the county for sixty consecutive days except in the case of a medical emergency.

Approved March 26, 1991

CHAPTER 13
REPAYMENT OF LOANS BY LOCAL DEVELOPMENT CORPORATIONS
H.F. 199

AN ACT relating to repayment of loans by local development corporations and providing an effective date.

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

Section 1. Section 28.28, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 4. If a local development corporation is unable to repay a loan as required by subsection 1, the local development corporation may negotiate a repayment schedule with the department.

NEW SUBSECTION. 5. Notwithstanding subsection 3, amounts repaid in accordance with subsection 1 or 4 shall be deposited in the rural community 2000 program revolving fund established under section 15.287.

NEW SUBSECTION. 6. Subsections 4 and 5 are applicable to the repayment of loans made under this division.

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

Approved March 26, 1991

CHAPTER 14**OBLIGATIONS OF BANK DIRECTORS AND OFFICERS***H.F. 294*

AN ACT relating to the obligations of a spouse of a director or officer of a state bank.

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

Section 1. Section 524.612, subsection 5, Code 1991, is amended to read as follows:

5. For the purpose of this section, and section 524.706, any obligation, as defined in section 524.904, subsection 1, of the spouse, other than a spouse who is separated from the director or officer under a decree of divorce or separate maintenance, or minor children of a director or officer to the state bank in which the person is a director or officer ~~shall be~~ is considered an obligation of such director or officer. However, an obligation of a spouse is not considered an obligation of the director or officer if the officer or director and the spouse of the director or officer maintain separate deposit accounts, for either personal or business purposes, and the funds obtained pursuant to the obligation of the spouse are not commingled with funds of, or used to directly benefit, the officer or director, and the obligation is not guaranteed by the director or officer.

Approved March 26, 1991

CHAPTER 15**FRAUDULENT PRACTICE IN PAYMENT TO LIVESTOCK DEALERS***S.F. 174*

AN ACT classifying the transfer of a nonpayable financial instrument to a livestock dealer or market agency as a fraudulent practice and making penalties applicable.

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

Section 1. Section 714.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Makes payment pursuant to an agreement with a dealer or market agency for livestock held by the dealer by use of a financial instrument which is a check, share draft, draft, or written order on any financial institution, as defined in section 543.1, if after seven days from the date that possession of the livestock is transferred pursuant to the purchase, the financial institution refuses payment on the instrument because of insufficient funds in the maker's account.

This subsection is not applicable if the maker pays the holder of the instrument the amount due on the instrument within one business day from a receipt of notice by certified mail from the holder that payment has been refused by the financial institution.

As used in this subsection, "dealer" means a person engaged in the business of buying or selling livestock, either on the person's own account, or as an employee or agent of a vendor or purchaser. "Market agency" means a person engaged in the business of buying or selling livestock on a commission basis.

Approved March 27, 1991

CHAPTER 16**FINANCIAL INSTITUTIONS' DEPOSIT INSURANCE***S.F. 87*

AN ACT relating to the deposit insurance required of certain financial institutions, and providing an effective date.

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

Section 1. Section 524.816, subsection 1, Code 1991, is amended to read as follows:

1. A bank organized under this chapter, as a condition of maintaining its privilege of organization after July 1, 1984 shall become an insured bank and shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the bank. The insurance shall be obtained from the federal deposit insurance corporation or another insurance plan approved by the superintendent, provided that each bank shall acquire deposit insurance from the appropriate agency of the federal government.

Sec. 2. Section 533.64, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Except as provided in section 533.12, subsection 2, a credit union organized under this chapter, as a condition of maintaining its privilege of organization after December 31, 1980, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the superintendent, provided that each credit union shall acquire deposit insurance from the appropriate agency of the federal government.

Sec. 3. Section 534.506, subsection 1, Code 1991, is amended to read as follows:

1. An association organized under this chapter as a condition of maintaining its privilege of organization after July 1, 1984 shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the association. The insurance shall be obtained from the federal savings and loan insurance corporation or another insurance plan approved by the superintendent, provided that each association organized under this chapter shall acquire deposit insurance from the appropriate agency of the federal government.

Sec. 4. **EFFECTIVE DATE.** This Act takes effect July 1, 1992.

Approved March 28, 1991

CHAPTER 17**ACCOUNTING PRACTITIONER LICENSING***S.F. 111*

AN ACT relating to the qualifications for licensure of an accounting practitioner.

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

Section 1. Section 116.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If the applicant submits evidence of at least five years continuous experience engaged in performing any of the services delineated in section 116.2 on a full-time basis.

Approved March 28, 1991

CHAPTER 18**PEER REVIEW OF CERTIFIED PUBLIC ACCOUNTANTS***S.F. 151*

AN ACT relating to peer review of certain certified public accountants.

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

Section 1. **NEW SECTION. 116.20A PEER REVIEW REQUIRED.**

1. **DEFINITIONS.** As used in this section:

a. "Applicant" means an entity holding a permit to practice as a corporation or partnership of certified public accountants issued pursuant to section 116.20, subsection 3, or a person certified as a public accountant pursuant to section 116.5 who practices as a sole proprietorship.

b. "Peer review" means peer or quality review.

c. "Peer review records" means all files, reports, and other information relating to the professional competence of an applicant in the possession of a peer review team, or information concerning the peer review developed by a peer review team in the possession of an applicant.

d. "Peer review team" means persons or organizations participating in the peer review function required by this section, but does not include the board.

2. **DUTIES OF THE BOARD.** The board shall adopt rules requiring peer review pursuant to this section. The board shall adopt rules specifying standards for peer review teams and providing that each reviewing team member shall be independent of the applicant being reviewed.

3. **PEER REVIEW REQUIRED FOR RENEWAL.**

a. As of January 1, 1994, as a condition of renewal of an applicant's permit, an applicant shall submit evidence of completion of a peer review conducted to determine the degree of the applicant's compliance with generally accepted accounting principles, generally accepted auditing standards, and other similarly recognized authoritative technical standards. Peer review shall occur every three years. Costs of the peer review shall be paid by the applicant.

b. An applicant's completion of a peer review program endorsed or supported by the American institute of certified public accountants, or other substantially similar review, shall satisfy the requirements of this section.

4. **WAIVER OF PEER REVIEW REQUIREMENT.** An applicant, at the time of renewal, may request in writing upon forms provided by the board, a waiver from the requirements of this section. The board may grant a waiver if one or more of the following conditions are met:

a. The applicant does not engage in, and does not intend to engage in during the following year, financial reporting areas of practice, including but not limited to financial audits, compilations, and reviews. An applicant granted a waiver pursuant to this paragraph shall immediately notify the board if the applicant engages in such practice, and shall be subject to peer review.

b. For reasons of health.

c. Due to military service.

d. In instances of hardship.

e. For other good cause as determined by the board.

5. **CONFIDENTIALITY OF PEER REVIEW RECORDS.**

a. Peer review records are privileged and confidential, are not subject to discovery, subpoena, or other means of legal compulsion. Peer review records are not admissible in evidence in a judicial, arbitration, or administrative proceeding. Information or documents discoverable from sources other than a peer review team do not become nondiscoverable from other sources because they are made available to or are in the possession of a peer review team. Information or documents publicly available from the American institute of certified public accountants relating to quality or peer review are not privileged or confidential under this subsection.

b. A person or organization participating in the peer review process shall not testify as to the findings, recommendations, evaluations, or opinions of a peer review team in any judicial, arbitration, or administrative proceeding.

6. LIABILITY.

a. A person shall not be liable as a result of acts, omissions, or decisions made in connection with the person's service on a peer review team, unless the act, omission, or decision is made with actual malice.

b. A person shall not be liable as a result of providing information to a peer review team, or for disclosure of privileged matter to a peer review team.

Approved March 28, 1991

CHAPTER 19

INFORMATION IN DOMESTIC ABUSE REPORTS

S.F. 180

AN ACT to delete the requirement for personal identifying information in the collection of domestic abuse reports.

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

Section 1. Section 236.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Criminal justice agencies, as defined in section 692.1, shall collect and maintain information on incidents involving domestic abuse and shall provide the information to the department of public safety in the manner prescribed by the department of public safety. ~~The department of public safety shall receive and maintain the information, including information on the personal characteristics and identities of perpetrators and victims of domestic abuse. The department of public safety shall maintain the confidentiality of information which individually identifies perpetrators or victims of domestic abuse, except that the department of public safety may disseminate the identifying information to a criminal justice agency if necessary for the performance of the official duties of the agency.~~

Approved March 28, 1991

CHAPTER 20

BANKS — COLLATERAL FOR LOANS TO AFFILIATES

H.F. 110

AN ACT relating to collateral acceptable to secure a loan or other transaction with a state bank.

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

Section 1. Section 524.1102, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate shall be secured by collateral in the form of shares of stock, bonds, capital securities or other such obligations having a market value at the time of making the loan or extension of credit of at least twenty percent more than the amount of the loan or extension of credit, or of at least ten percent more than the amount of the loan or extension of credit if it is secured

by obligations of any state, or of any political subdivision or agency thereof of the state, or of at least one hundred percent of the amount of the loan or extension of credit if it is secured by a segregated, earmarked deposit account with the state bank.

Approved March 28, 1991

CHAPTER 21

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

S.F. 92

AN ACT to create an advisory commission on intergovernmental relations, specify its membership, and enumerate its powers and duties.

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

Section 1. NEW SECTION. 28C.1 FINDINGS AND OBJECTIVES.

The general assembly finds that there is a need for an intergovernmental body to study and report on the following:

1. Current pattern of local governmental structure.
2. Powers and functions of local governments, including their fiscal powers.
3. Existing, necessary, and desirable relationships among local governments and the state.
4. Necessary and desirable allocation of state and local fiscal resources.
5. Necessary and desirable roles of the state as the creator of local governmental systems.
6. Special problems in interstate areas facing their general local governments, interstate regional units, and areawide bodies, the studies, where possible, to be conducted in conjunction with studies of commissions on intergovernmental relations of other states.

Sec. 2. NEW SECTION. 28C.2 COMMISSION CREATED — MEMBERSHIP.

1. An Iowa advisory commission on intergovernmental relations is created.
2. The membership of the commission shall be:
 - a. Four elected or appointed state officers, four elected or appointed county officers, four elected or appointed city officers, four elected or appointed officers of school corporations, and one member or staff member of a regional council of governments established under chapter 28I,* appointed by the governor.
 - b. Two state senators appointed by the majority leader of the senate.
 - c. Two state representatives appointed by the speaker of the house of representatives.
3. In making all appointments, consideration shall be given to gender, race or ethnic representation, population and demographic factors, and representation of different geographic regions. All appointments shall comply with sections 69.16 and 69.16A.
4. The initial chairperson of the commission shall be designated by the governor from among the commission members for a term of one year. Subsequent chairpersons shall be elected by the commission from among its membership for a term of one year. A vice chairperson may be elected by the commission from among its membership for a one-year term. In case of the absence or disability of the chairperson and vice chairperson, the members of the commission shall elect a temporary chairperson by a majority vote of those members who are present and voting.
5. The members shall be appointed to two-year staggered terms and the terms shall commence on February 1 of the year of appointment. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. If a member ceases to be an officer or employee of the governmental unit or agency which qualifies the person for membership on the commission, a vacancy exists and a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

*Chapter 28H probably intended

6. Of the members who are county officers appointed by the governor, not more than two shall be members of the same political party. Of the members appointed by the majority leader of the senate and the speaker of the house of representatives, not more than one from each house shall be a member of the same political party.

7. A majority of the commission constitutes a quorum.

Sec. 3. NEW SECTION. 28C.3 POWERS AND DUTIES.

The commission shall:

1. Engage in activities and make studies and investigations as necessary or desirable to accomplish the purposes specified in section 28C.1.

2. Encourage and, where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state, local, and federal agencies, and research and consulting organizations.

3. Review the recommendations of national commissions studying federal, state, and local government relationships and problems and assess their possible application to this state.

4. Carry out studies and investigations relating to intergovernmental problems and relations as requested by the legislative council.

Sec. 4. NEW SECTION. 28C.4 ORGANIZATION – MEETINGS.

1. The commission shall meet quarterly and at other times as necessary. The commission may hold public hearings on matters within its purview.

2. The commission may establish committees as it deems advisable and feasible, whose membership shall include at least one member of the commission, but only the commission may take final action on a proposal or recommendation of a committee.

3. The commission is not an agency as defined in, or for the purpose of, chapter 17A.

4. All meetings of the commission or a committee established by the commission at which public business is discussed or formal action is taken, shall comply with the requirements of chapter 21.

Sec. 5. NEW SECTION. 28C.5 STAFF – FACILITIES – EXPENSES.

1. The commission and committees established by the commission may accept technical and operational assistance from the staff of the legislative service bureau and the legislative fiscal bureau, other state or federal agencies, units of local governments, or any other public or private source. The directors of the legislative service bureau and the legislative fiscal bureau may assign professional, technical, legal, clerical, or other staff, as necessary and authorized by the legislative council for continued operation of the commission. However, the technical and operational assistance shall be provided within existing appropriations made to or with existing resources of the state or local agencies to carry out its powers and duties.

2. The legislative council may also provide available facilities and equipment as requested by the commission.

3. The members of the commission are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties. Each member may also be eligible to receive compensation as provided in section 7E.6. The expenses shall be paid from funds appropriated pursuant to section 2.12.

Sec. 6. NEW SECTION. 28C.6 REPORTS.

The commission shall submit an annual report of its findings and recommendations to the governor, president of the senate, speaker of the house, and the majority and minority leaders of each house, and make the report available to legislators upon request. The report shall also be made available to the public.

Sec. 7. NEW SECTION. 28C.7 INFORMATION.

The commission may request from any state agency or official the information and assistance as needed to perform the duties of the commission. A state agency or official shall furnish the information or assistance requested within the authority and resources of the state agency or official. This section does not require the production or opening of any public record which is required by law to be kept confidential.

Sec. 8. NEW SECTION. 28C.8 REPEALER.

This chapter is repealed effective July 1, 1995.

Approved April 4, 1991

CHAPTER 22

ARTISAN'S LIEN AGAINST AIRCRAFT AND EQUIPMENT

H.F. 220

AN ACT to create a lien against aircraft and certain aircraft equipment in favor of persons who have installed the equipment in the aircraft and providing priority of the lien against prior lienholders of record, and providing an effective date.

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

Section 1. Section 577.1, Code 1991, is amended to read as follows:

577.1 NATURE OF LIEN.

1. Any person who renders any service or furnishes any material in the making, repairing, improving, or enhancing the value of any inanimate personal property, with the assent of the owner, express or implied, shall have a lien thereon for the agreed or reasonable compensation for the service and material while such property is lawfully in the person's possession, which possession the person may retain until such compensation is paid, but such lien shall be subject to all prior liens of record, unless notice is given to all lienholders of record and written consent is obtained from all lienholders of record to the making, repairing, improving, or enhancing the value of any inanimate personal property and in this event the lien created under this section shall be prior to liens of record.

2. The assent of the owner shall be implied, for purposes of determining whether a lien on inanimate personal property exists, if all of the following are established:

a. The inanimate personal property is a multi-engine aircraft, eligible for registration under section 501 of the federal Aviation Act of 1958, 49 U.S.C. 1401.

b. The aircraft is either owned, leased, operated, or on order by an air carrier certified under section 604(b) of the federal Aviation Act of 1958, 49 U.S.C. 1424(b), or by any other person that rents or leases commercial airliners to certified air carriers in the regular course of business.

c. The material furnished is new electronic navigation or communications aviation equipment.

d. The equipment is delivered for installation on the aircraft at the request of a lessee, operator, or other person, or an agent of the lessee, operator, or other person, who has an interest in or exercises control over the aircraft.

The aircraft and equipment shall be deemed, for purposes of determining priority over perfected security interests, to be in the possession of the person who furnished the equipment, if the person either manufactures or sells the equipment in the regular course of business and allows the equipment to be made available for installation on the aircraft by releasing it for delivery. Possession of the aircraft and equipment shall be deemed to continue up to, and including, ninety days after the equipment is fully installed on the aircraft, except that if a notice of lien is filed with the federal aviation administration, and no subsequent release of the lien is on file, it shall be deemed to continue indefinitely. A notice of lien under this section is not required to be verified or notarized, but shall be signed by the lienholder, the lienholder's designated agent, or the lienholder's attorney and must identify the aircraft which is the subject of the lien. Notwithstanding subsection 1, liens obtained under this subsection attach and take priority over all other prior liens of record without the giving of prior notice or the obtaining of consent and are enforceable against all persons, including a bona fide purchaser.

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

Approved April 8, 1991

CHAPTER 23

ASSISTANCE FOR COMMUNITY ECONOMIC DEVELOPMENT

S.F. 254

AN ACT relating to economic development by transferring funds to the revolving fund of the rural community 2000 program, establishing time frames for the completion of the community builder program, establishing a planning category in the rural community 2000 program, and providing an effective date.

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

Section 1. Section 15.282, Code 1991, is amended to read as follows:
15.282 PURPOSE.

The purpose of this part is to assist communities and rural areas of the state with their development and governmental responsibilities by providing low-interest and no-interest loans or grants for traditional infrastructure, new infrastructure, and housing, and their efforts relating to community, business, and economic development under the community builder program established in section 15.308.

The department may also provide assistance for infrastructure assessment or planning efforts pursuant to rules established by the department.

Sec. 2. Section 15.283, subsection 2, Code 1991, is amended to read as follows:

2. The program shall provide for ~~three~~ four categories of assistance. These are the traditional infrastructure category, the new infrastructure category, ~~and the housing category, and the planning category.~~

Sec. 3. Section 15.283, subsection 3, Code 1991, is amended to read as follows:

3. All moneys available for the traditional infrastructure category, ~~and the new infrastructure category, and the planning category~~ shall be administered by the department. All moneys available for the housing category shall be administered by the Iowa finance authority. The Iowa finance authority may transfer a portion of the funds appropriated for the housing category to the department for purposes of the planning category to be administered by the department.

Sec. 4. Section 15.283, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. Moneys available under this program for the traditional infrastructure category, the new infrastructure category, and the planning category shall be allocated by the director. Annually, not more than three hundred thousand dollars of the funds for the program shall be allocated for the planning category. Moneys available under this program for the housing category shall be allocated by the executive director of the Iowa finance authority who may transfer a portion of the moneys to the department for the planning category. If moneys allocated to the housing category are not used or dedicated by April 1 of the fiscal year, the moneys shall be reallocated to the other categories that have the most need as determined by the department. At least one-third of the moneys allocated for the traditional infrastructure category, the new infrastructure category, and the housing category shall be set aside for cities with populations of five thousand or less. For the purposes of this set-aside, a city located in a county

with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be considered as having a population in excess of five thousand.

Sec. 5. Section 15.283, subsection 6, Code 1991, is amended by striking the subsection.

Sec. 6. Section 15.284, subsection 4, Code 1991, is amended to read as follows:

4. The ~~finance division~~ of the department shall rank the applicants according to financial need, cost-benefit of the project, percent of match, impact, including an increase in fire or public safety because of completion of the project, and ability to administer the project.

Sec. 7. Section 15.285, subsection 1, Code 1991, is amended to read as follows:

1. The new infrastructure category contains projects described in section 384.24, subsection 4, and projects which are services or processes that do not currently meet the guidelines of standard public works projects. These include, but are not limited to, communication systems, day care, technology transfer adaptation, medical decision-support systems, special transportation services, physical improvements under town square and main street programs, physical improvements to historic, art, and cultural sites and attractions, emergency medical services, and speculative shell buildings built by a local community development organization, and other projects described in section 384.24, subsection 4.

Sec. 8. Section 15.285, subsection 4, Code 1991, is amended to read as follows:

4. The ~~finance division~~ of the department shall rank the applications according to the applicant's financial need, cost-benefit of the project, current conditions or situations, percent of private investment or contribution, and ability to administer the project.

Sec. 9. NEW SECTION. 15.286A PLANNING.

1. The planning category contains projects that include but are not limited to planning efforts leading to completion of the community builder program established in section 15.308 and for statewide or regional infrastructure assessment or planning.

2. A city, cluster of cities, county, group of counties, unincorporated community, group of unincorporated communities, council of governments, or regional planning commission is eligible to apply for loans or grants from this category for planning efforts related to the community builder program.

3. The department may issue requests for proposals for applications on a competitive basis or may negotiate with one or more public or private contractors for statewide or regional infrastructure assessment or planning.

4. The department shall adopt rules pursuant to chapter 17A for administration of this category.

Sec. 10. Section 15.287, Code 1991, is amended to read as follows:

15.287 REVOLVING FUND.

The Iowa finance authority shall establish a revolving fund for the program and shall transfer to the department moneys to be administered by the department. If, during a fiscal year, moneys are not appropriated for the specific purpose of the housing category, the executive director of the Iowa finance authority may retain up to twenty-five percent of the funds appropriated for the program. The moneys in the revolving fund are appropriated for purposes of the program. Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert to any other fund but shall remain in the revolving fund. The fund shall consist of all appropriations, grants, or gifts received by the authority or the department specifically for use under this part and all repayments of loans or grants made under this part. However, loan repayments from loans made under section 28.120 which are not allocated to another program shall be deposited in the revolving fund and shall be available for allocation by the director for categories administered by the department.

Sec. 11. Section 15.308, subsection 4, Code 1991, is amended to read as follows:

4. A city, cluster of cities, county, group of counties, unincorporated community or group of unincorporated communities not yet certified under this section but awarded a grant or initiative from the state shall initiate a process to establish a community builder program within six months of the award; to. The community builder program shall be completed within one year, or prior to the completion of the contract period if the contract is longer than one year. However, the program shall be completed within three years of the receipt of the award. The department administering the state financial assistance program may grant an extension if the contract period is less than three years.

Sec. 12. Section 28.120, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Loan repayments made under this section and unallocated funds in the special account in subsection 5 shall be allocated to the revolving account of the rural community 2000 program created in section 15.287.

Sec. 13. 1989 Iowa Acts, chapter 310, section 6, unnumbered paragraphs 2 and 3,* are amended to read as follows:

The funds appropriated by this subsection shall not be granted after July 1, 1989, to a political subdivision which does not have on file with the department of economic development a multiyear community and economic development strategic plan for the subdivision. The department shall adopt rules which require that the plan shall be completed within one year of the receipt of an award and contain key concepts; however, a valid plan shall not be required to be comprehensive. The department may accept the community builder plan under section 15.308 as compliance with this requirement.

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal years under Pub. L. No. 97-35, Title III, Subtitle A, which provides for the community development block grant of which a minimum of four percent shall be set aside and expended half for a grant program for the homeless for the construction, rehabilitation, or expansion of group home shelter for the homeless and half for a home ownership program to help lower income and very low income families achieve single family home ownership. However, after January 1, 1990, the department may allocate the set-aside money between the programs based on the number of applications received. If this allocation for the current federal fiscal year is not fully obligated, the excess shall be allocated to the general competitive program for the following year. The department of economic development shall expend funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 14. 1990 Iowa Acts, chapter 1263, section 4, unnumbered paragraph 3,** is amended to read as follows:

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal years under Pub. L. No. 97-35, Title III, subtitle A, which provides for the community development block grant of which a minimum of 4 percent shall be set aside and expended half for a grant program for the homeless for the construction, rehabilitation, or expansion of group home shelter for the homeless and half for a home ownership program to help lower income and very low income families achieve single family home ownership. However, after January 1, 1991, the department may allocate the set-aside money between the programs based on the number of applications received. If this allocation for the current federal fiscal year is not fully obligated, the excess shall be allocated to the general competitive program for the following year. The department of economic development shall expend funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 15. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 1991

*Section 6, subsection 1, unnumbered paragraphs 2 and 3, probably intended.

**Section 4, subsection 1, unnumbered paragraph 3, probably intended.

CHAPTER 24**BEER AND WINE WHOLESALERS — SALE OF DISPOSABLE CONTAINERS***S.F. 284*

AN ACT to permit the sale of disposable containers for the consumption of beer or wine by wholesalers to retailers for one-time use by retail customers on the premises of licensed establishments.

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

Section 1. Section 123.45, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, wine, or beer, or any jobber, representative, broker, employee, or agent of such a person, shall not directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of business of a licensee or permittee authorized under this chapter to sell at retail; nor shall the person directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under this chapter to sell at retail, nor hold a retail liquor control license or retail wine or beer permit, ~~except that~~. However, a person engaged in the wholesaling of beer or wine may sell only disposable glassware, which is constructed of paper, paper laminated, or plastic materials and designed primarily for personal consumption on a one-time usage basis, to retailers for use within the premises of licensed establishments, for an amount which is greater than or equal to an amount which represents the greater of either the amount paid for the disposable glassware by the supplier or the amount paid for the disposable glassware by the wholesaler. Also, a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be is the holder of a class "A" beer permit, may be granted not more than one class "B" beer permit as defined in section 123.124 for such that purpose. ~~Any A~~ licensee or permittee who permits or assents to or is a party in any way to ~~any such a~~ violation or infringement of this section is guilty of a violation of this section.

Approved April 11, 1991

CHAPTER 25**PRIVATE ACTIVITY BOND ALLOCATION FOR FIRST-TIME FARMERS***S.F. 436*

AN ACT to increase the percentage of the state ceiling allocated to qualified small issue bonds issued for first-time farmers, and providing an effective date.

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

Section 1. Section 7C.4A, subsection 4, Code 1991, is amended to read as follows:

4. ~~Twelve~~ Sixteen 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.

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

Approved April 11, 1991

CHAPTER 26
INSURANCE REGULATION
S.F. 518

AN ACT relating to the financial supervision and solvency oversight of insurance companies by the commissioner of insurance and accreditation of the insurance division as an approved insurance regulator by the national association of insurance commissioners, imposing civil liability, authorizing administrative and criminal penalties, and providing effective dates and applicability provisions.

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

DIVISION I

Section 1. **NEW SECTION. 510.1A SHORT TITLE.**

This chapter may be cited as the "Managing General Agents Act."

Sec. 2. **NEW SECTION. 510.2A DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Actuary" means a person who is a member in good standing of the American academy of actuaries.
2. "Commissioner" means the commissioner of insurance.
3. "Insurer" means a person duly licensed in this state as an insurance company pursuant to Title XX.
4. a. "Managing general agent" means any person who engages in all of the following:
 - (1) Negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and who acts as an agent for such insurer whether known as a managing general agent, manager, or other similar term or title.
 - (2) With or without authority and either separately or together with affiliates, directly or indirectly produces, and underwrites, an amount of gross direct written premium equal to or greater than five percent of the policyholder surplus in any one quarter or year as reported in the last annual statement of the insurer.
 - (3) Engages in either or both of the following:
 - (a) Adjusts or pays claims in excess of an amount determined by the commissioner.
 - (b) Negotiates reinsurance on behalf of the insurer.
- b. Managing general agent does not include any of the following:
 - (1) An employee of the insurer.
 - (2) A manager of a United States branch of an alien insurer who resides in this country.
 - (3) An underwriting manager who, pursuant to contract, manages all insurance operations of the insurer, who is under common control with the insurer, subject to chapter 521A relating to the regulation of insurance holding company systems, and who is not compensated based upon the volume of premiums written.
 - (4) An insurance company, in connection with the acceptance or rejection of reinsurance on a block of business.
 - (5) The attorney-in-fact authorized by or acting for the subscribers of a reciprocal insurer or interinsurance exchange under power of attorney.

5. "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

Sec. 3. NEW SECTION. 510.3A LICENSURE REQUIRED — BOND.

1. A person shall not act in the capacity of a managing general agent with respect to risks located in this state for an insurer licensed in this state unless the person is a licensed producer in this state.

2. A person shall not act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless the person is licensed as a resident or nonresident producer in this state pursuant to the provisions of this chapter.

3. The commissioner may require a bond for each company represented by a managing general agent in an amount acceptable to the commissioner for the protection of the insurer.

4. The commissioner may require a managing general agent to maintain an errors and omissions policy.

Sec. 4. NEW SECTION. 510.4 REQUIRED CONTRACT PROVISIONS — LIMITATIONS.

1. A person acting in the capacity of a managing general agent shall not place business with an insurer unless a written contract is in force between the parties which sets forth the responsibilities of each party. If both parties share responsibility for a particular function, the contract must specify the division of such responsibilities, and must contain, at a minimum, all of the following provisions:

a. The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of a managing general agent during the pendency of any dispute regarding the cause for termination. The insurer shall advise the commissioner of a termination or a suspension pursuant to this paragraph.

b. A managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

c. All funds collected for the account of an insurer shall be held by a managing general agent in a fiduciary capacity in a bank which is a member of the federal reserve system. This account shall be used for all payments on behalf of the insurer. A managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses.

d. Separate records of business written by a managing general agent shall be maintained. An insurer shall have access and a right to copy all accounts and records related to the insurer's business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts, and records of a managing general agent in a form usable to the commissioner. Such records shall be retained at least until after completion by the insurance division of the next triennial examination of the insurer.

e. Appropriate underwriting guidelines including, but not limited to, the following:

- (1) The maximum annual premium volume.
- (2) The basis of the rates to be charged.
- (3) The types of risks which may be written.
- (4) Maximum limits of liability.
- (5) Applicable exclusions.
- (6) Territorial limitations.
- (7) Policy cancellation provisions.
- (8) The maximum length or duration of the policy period.

The insurer may cancel or refuse to renew any policy of insurance produced or underwritten by a managing general agent, subject to the applicable laws and rules concerning the cancellation and nonrenewal of insurance policies.

2. Permissible provisions in a contract and their requirements include the following:

a. If the contract permits a managing general agent to settle claims on behalf of the insurer all of the following requirements apply:

(1) All claims reported must be reported by the managing general agent to the insurer in a timely manner.

(2) A copy of the claim file must be sent to the insurer at its request or as soon as the managing general agent knows that the claim meets one or more of the following conditions:

(a) The claim has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the insurer, whichever is less.

(b) The claim involves a coverage dispute.

(c) The claim may exceed the claims settlement authority of the managing general agent.

(d) The claim is open for more than six months.

(e) The claim is closed by payment of an amount set by the commissioner or an amount set by the insurer, whichever is less.

(3) All claim files shall be the joint property of the insurer and the managing general agent. However, upon an order of liquidation of the insurer the files become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

b. If electronic claims files are in existence, the contract must address the timely transmission or transfer of the data contained in the files.

c. If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of interim profits by establishing loss reserves, by controlling claim payments, or by determining the amount of interim profits in any other manner, interim profits shall not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned for casualty insurance business, and not until the interim profits have been verified pursuant to section 510.5.

3. A managing general agent shall not do any of the following:

a. Bind reinsurance or retrocessions on behalf of the insurer, except that a managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

b. Commit the insurer to participate in insurance or reinsurance syndicates.

c. Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which the producer is appointed.

d. Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which exceeds one percent of the policyholder's surplus of the insurer as of December 31 of the previous calendar year.

e. Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded by the managing general agent to the insurer.

f. Permit its subproducer to serve on the insurer's board of directors.

g. Jointly employ an individual who is employed by the insurer.

h. Appoint a submanaging general agent.

Sec. 5. NEW SECTION. 510.5 DUTIES OF INSURERS.

1. An insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which the insurer does or has done business.

2. If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by a managing general agent. This is in addition to any other required loss reserve certification.

3. An insurer shall periodically, but at least semiannually, conduct an on-site review of the underwriting and claims processing operations of each managing general agent with which the insurer is currently doing business.

4. Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who is not affiliated with the managing general agent.

5. Within thirty days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner. A notice of appointment of a managing general agent must include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the commissioner may request.

6. An insurer shall review its books and records each quarter and determine if any producer, as defined by section 510A.2, has become, by operation of section 510.2, subsection 3, a managing general agent as defined in that section. If the insurer determines that a producer has become a managing general agent by operation of section 510.2, subsection 3, the insurer shall promptly notify the producer and the commissioner of such determination and the insurer and producer shall fully comply with the provisions of this chapter within thirty days.

7. An insurer shall not appoint to its board of directors an officer, director, employee, producer, or controlling shareholder of a managing general agent of the insurer. This subsection shall not apply to relationships governed by chapter 521A relating to the regulation of insurance company holding systems, or, if applicable, by chapter 510A relating to the regulation of producer controlled property and casualty insurers.

Sec. 6. NEW SECTION. 510.6 EXAMINATION AUTHORITY.

The acts of a managing general agent are considered to be the acts of the insurer on whose behalf a managing general agent is acting. A managing general agent may be examined as if it were the insurer.

Sec. 7. NEW SECTION. 510.7 PENALTIES AND LIABILITIES.

1. If the commissioner finds, after a hearing conducted in accordance with chapter 17A, that any person has violated one or more provisions of this chapter, the commissioner may order one or more of the following:

a. For each separate violation, the imposition of an administrative penalty of not more than ten thousand dollars.

b. Revocation or suspension of the producer's license.

c. Reimbursement by the managing general agent of the insurer, the rehabilitator, or the liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.

2. The decision, determination, or order of the commissioner pursuant to subsection 1 is subject to judicial review pursuant to chapter 17A.

3. This section does not affect the right of the commissioner to impose any other penalties provided for under Title XX.

4. This chapter is not intended to and shall not in any manner limit or restrict the rights of policyholders, claimants, and auditors.

Sec. 8. NEW SECTION. 510.8 RULES AND REGULATIONS.

The commissioner may adopt rules, pursuant to chapter 17A, as necessary or convenient for the implementation and administration of this chapter.

Sec. 9. NEW SECTION. 510.9 EXEMPTION.

A managing general agent who complies with sections 510.1 through 510.8 for a block of business, shall not also be required to comply with sections 510.20 and 510.21 with regard to the same block of business.

DIVISION II

Sec. 10. NEW SECTION. 510A.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Producer Controlled Property and Casualty Insurer Act."

Sec. 11. NEW SECTION. 510A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Captive insurer" means an insurance company which is owned by another organization for the exclusive purpose of insuring risks of the organization and any affiliated company, or in the case of groups and associations, an insurance organization owned by the insureds for the exclusive purpose of insuring risks of group and association members and any affiliates.

2. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a contract for goods or nonmanagement services, or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the powers to vote or holds proxies representing a majority of the outstanding voting securities of any other person. A person is not deemed to control another person solely by reason of being an officer or director of the other person.

3. "Independent casualty actuary" means a casualty actuary who is a member of the American academy of actuaries and who is not an employee, principal, the direct or indirect owner of, affiliated with, or in any way controlled by the insurer or producer.

4. "Licensed property and casualty insurer" or "insurer" means a person licensed to transact a property and casualty insurance business in this state and which issues policies covered by chapter 515B, which establishes the insurance guaranty association. The following are not licensed property and casualty insurers for the purposes of this chapter:

a. All nonadmitted insurers.

b. All risk retention groups as defined in the federal Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986), the federal Risk Retention Act, 15 U.S.C. 3901 et seq. (1982 & Supp. 1986), or chapter 515E.

c. All residual market pools and joint underwriting authorities or associations.

d. All captive insurers.

5. "Producer" means an insurance broker or any other person when such person acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured, who is not that person, for any compensation, commission, or other thing of value. "Producer" does not include an exclusive agent or an independent agent acting on behalf of the controlled insurer or any subagent or representative of such agent, who acts as such in the solicitation of, negotiation for, or procurement or making of an insurance contract, if the agent, subagent, or representative is not also acting in the capacity of an insurance broker in the same transaction.

6. "Reinsurance intermediary" means a person who acts as a producer in soliciting, negotiating, or procuring the making of a reinsurance contract or binder on behalf of a ceding insurer, or acts as a producer in accepting a reinsurance contract or binder on behalf of an assuming insurer.

7. "Violation" means a finding by the commissioner that one or more of the following has occurred:

a. The controlling producer has not materially complied with section 510A.3.

b. The controlled insurer, with respect to business placed by the controlling producer, has engaged in a pattern of charging premiums that were lower than those being charged by the insurer or other insurers for similar risks written during the same period and placed by non-controlling producers. When determining whether premiums were lower than those prevailing in the market, the commissioner shall take into consideration applicable industry or actuarial standards at the time the business was written.

c. The controlling producer failed to maintain records, sufficient to demonstrate that the producer's dealings with its controlled insurer were fair and equitable and in compliance with chapter 521A or to accurately disclose the nature and details of its transactions with the controlled insurer, including such information as is necessary to support the charges or fees to the respective parties.

d. The controlled insurer either failed to establish, or deviated from, its underwriting procedures with respect to business placed by the controlling producer.

e. The controlled insurer's capitalization at the time the business was placed by the controlling producer and with respect to such business was not in compliance with criteria established by the commissioner or with Title XX.

f. The controlling producer or the controlled insurer failed to substantially comply with chapter 521A.

Sec. 12. NEW SECTION. 510A.3 LIMITATION ON BUSINESS PLACED WITH CONTROLLED INSURER.

1. A producer which has control of a licensed property and casualty insurer shall not directly or indirectly place business with the insurer in any transaction in which the producer, at the time the business is placed, is acting as a producer on behalf of the insured for any compensation, commission, or other thing of value, unless all of the following conditions are satisfied:

a. A written contract, which is subject to the commissioner's review and approval, has been entered into between the controlling producer and the insurer which has been approved by the board of directors of the insurer and filed with the commissioner.

b. The producer, prior to the effective date of any policy, delivers written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. The disclosure notice shall be signed by the insured and retained in the underwriting file until the filing of the report on examination covering the period in which the coverage is in effect. However, if the business is placed through an agent of the producer who is not a controlling producer, the controlling producer shall retain in the controlling producer's records a signed commitment from the agent of the producer that the agent of the producer is aware of the relationship between the insurer and the producer and that the agent of the producer has or will notify the insured of the relationship.

c. All funds collected for the account of the insurer by the controlling producer, after commission payments, cancellations, and other adjustments are made, must be paid to the insurer at least quarterly.

2. In addition to any other required loss reserve certification, the controlled insurer, on April 1 of each year, shall annually file with the commissioner an opinion of an independent casualty actuary, or of another independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of the end of the year, including incurred losses not reported, on business placed by the producer.

3. The controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage such amount represents of the net premiums written, and comparable amounts and percentages paid to noncontrolling producers for placements of the same kinds of insurance.

4. A controlled insurer must establish an audit committee of the board of directors composed of independent directors. Prior to approval of the annual financial statement, the audit committee shall meet with management, the insurer's independent certified public accountants, and an independent casualty actuary, or another independent loss reserve specialist acceptable to the commissioner, to review the adequacy of the insurer's loss reserves.

5. A reinsurance intermediary which has control of an assuming insurer shall not directly or indirectly place business with the assuming insurer in any transaction in which such reinsurance intermediary is acting as a broker on behalf of the ceding insurer. A reinsurance intermediary which has control of a ceding insurer shall not directly or indirectly accept business from the ceding insurer in any transaction in which such reinsurance intermediary is acting

as a producer on behalf of the assuming insurer. The prohibitions in this subsection shall not apply to a reinsurance intermediary which makes a full and complete written disclosure to the parties of its relationship with the assuming or ceding insurer prior to completion of the transaction.

Sec. 13. NEW SECTION. 510A.4 LIABILITY OF CONTROLLING PRODUCER IN THE EVENT OF INSOLVENCY OF CONTROLLED INSURER.

1. a. If the commissioner has reason to believe that a controlling producer has committed or is committing an act which could be determined to be a violation, as defined in section 510A.2, the commissioner shall serve upon the controlling producer in the manner provided by chapter 17A, a statement of the charges and notice of a hearing to be conducted in accordance with chapter 17A.

b. At such hearing, the commissioner must establish that the controlling producer engaged in a violation, as defined in section 510A.2. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the charges and to establish that the insolvency of the controlled insurer arose out of events not attributable to the violation. The decision, determination, or order of the commissioner is subject to judicial review pursuant to chapter 17A.

c. Upon a finding, pursuant to this section, that the controlling producer committed a violation and the controlling producer failed to establish that the violation did not substantially contribute to the insolvency, the controlling producer shall reimburse the state guaranty funds, created pursuant to chapter 515B for all payments made for losses, loss adjustment, and administrative expenses on the business placed by the producer in excess of gross earned premiums and investment income earned on premiums and loss reserves for such business.

d. This section does not affect the right of the commissioner to impose any other penalties provided for under Title XX.

2. This chapter does not alter or affect the rights of policyholders, claimants, creditors, or other third parties.

DIVISION III

Sec. 14. NEW SECTION. 521B.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Credit for Reinsurance Act."

Sec. 15. NEW SECTION. 521B.2 CREDIT ALLOWED A DOMESTIC CEDING INSURER.

Credit for reinsurance is allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurer meets the requirements of subsection 1, 2, 3, 4, or 5. If the reinsurer meets the requirements of subsection 3 or 4, the requirements of subsection 6 must also be met.

1. Credit is allowed if the reinsurance is ceded to an assuming insurer which is licensed to transact the business of reinsurance in this state.

2. Credit is allowed if the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which satisfies all of the following conditions:

a. Files with the commissioner evidence of submission to the jurisdiction of this state.

b. Submits to the authority of this state to examine its books and records.

c. Is licensed to transact reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact the business of reinsurance in at least one state.

d. Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement and does either of the following:

(1) Maintains a surplus with respect to policyholders in an amount which is not less than twenty million dollars and whose accreditation has not been denied by the commissioner within ninety days of its submission to the jurisdiction of this state.

(2) Maintains a surplus with respect to policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the commissioner. Credit shall not be allowed a domestic ceding insurer, if the accreditation of the assuming insurer is revoked by the commissioner after notice and hearing.

To qualify as an accredited reinsurer, an assuming insurer must meet all of the requirements and the standards set forth in this subsection. If the commissioner determines that the assuming insurer has failed to continue to meet any of these requirements or standards, the commissioner may upon written notice and hearing revoke accreditation of the assuming insurer.

This section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

3. a. Credit is allowed if the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer, is entered through a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this section, and the assuming insurer or United States branch of an alien assuming insurer does both of the following:

(1) Maintains a surplus with respect to policyholders in an amount not less than twenty million dollars.

(2) Submits to the authority of this state to examine its books and records.

b. However, the requirement of paragraph "a", subparagraph (1), does not apply to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

4. a. Credit is allowed if the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in section 521B.4, subsection 2, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners' annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusted account representing the liabilities of the assuming insurer attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusted surplus of not less than twenty million dollars. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusted account representing the liabilities of the group attributable to business written in the United States and, in addition, the group shall maintain a trusted surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

b. In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in paragraph "a", which is under the supervision of the department of trade and industry of the United Kingdom, which submits to the authority of this state to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of at least ten billion dollars, the trust shall be in an amount equal to the several liabilities of the group attributable to business written in the United States. The group shall also maintain a joint trustee surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group, and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

c. Such trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust vests legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns,

and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner. The trust described in this paragraph must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

d. No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding calendar year and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

5. Credit is allowed if the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection 1, 2, 3, or 4, but only with respect to the insurance of risks located in a jurisdiction where such reinsurance is required by applicable law or regulation of that jurisdiction. For purposes of this subsection, jurisdiction refers to a jurisdiction other than the United States, and any state, district, or territory of the United States. This subsection allows credit to ceding insurers which are mandated by such a jurisdiction to cede reinsurance to state owned or controlled insurance or reinsurance companies or to participate in pools, guaranty funds, or joint underwriting associations.

6. a. If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subsection 3 or 4, is not allowed unless the assuming insurer agrees in the reinsurance agreements to both of the following:

(1) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give such court jurisdiction, and shall abide by the final decision of such court or of any appellate court in the event of an appeal.

(2) That the commissioner or an attorney designated in the agreement is the true and lawful attorney of the assuming insurer upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

b. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

Sec. 16. NEW SECTION. 521B.3 REDUCTION FROM LIABILITY FOR REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER.

A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 521B.2 is allowed in an amount not exceeding the liabilities carried by the ceding insurer and the reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under the reinsurance contract, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States financial institution, as defined in section 521B.4, subsection 2. This security may be held in the form of any of the following:

1. Cash.

2. Securities listed by the securities valuation office of the national association of insurance commissioners and qualifying as admitted assets.

3. Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in section 521B.4, subsection 2, no later than December 31 of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement.

Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the subsequent failure of the issuing or confirming institution or subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

4. Any other form of security acceptable to the commissioner.

Sec. 17. NEW SECTION. 521B.4 QUALIFIED UNITED STATES FINANCIAL INSTITUTIONS.

1. For purposes of this chapter, a "qualified United States financial institution" means an institution that satisfies all of the following conditions:

a. The financial institution is organized or licensed under the laws of the United States or any state of the United States.

b. The financial institution is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

c. The financial institution has been determined by either the commissioner, or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

2. A "qualified United States financial institution" means, for purposes of those provisions of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that is both of the following:

a. Organized or licensed under the laws of the United States or any state of the United States, and has been granted authority to operate with fiduciary powers.

b. Regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

Sec. 18. NEW SECTION. 521B.5 RULES.

The commissioner may adopt rules, pursuant to chapter 17A, as necessary or convenient to administer this chapter.

DIVISION IV

Sec. 19. NEW SECTION. 521C.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Reinsurance Intermediary Model Act."

Sec. 20. NEW SECTION. 521C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Actuary" means a person who is a member in good standing of the American academy of actuaries.

2. "Controlling person" means a person who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.

3. "Insurer" means a person licensed to transact the business of insurance in this state.

4. "Licensed producer" means an agent, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law of any jurisdiction.

5. "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

6. "Reinsurance intermediary-broker" means a person, other than an officer or employee of the ceding insurer, who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the ceding insurer.

7. "Reinsurance intermediary-manager" means a person who has authority to bind or manage all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the reinsurer whether known as a reinsurance intermediary-manager or manager, or known by any other similar term or title. However, for the purposes of this chapter, the following persons shall not be considered a reinsurance intermediary-manager, with respect to the reinsurer:

a. An employee of the reinsurer.

b. A manager of a United States branch of an alien reinsurer who resides in this country.

c. An underwriting manager who, pursuant to contract, manages all the reinsurance operations of the reinsurer, who is under common control with the reinsurer, subject to chapter 521A relating to the regulation of insurance holding company systems, and who is not compensated based upon the volume of premiums written.

d. The manager of a group, association, pool, or organization of insurers who engages in joint underwriting or joint reinsurance and who is subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

8. "Reinsurer" means a person licensed in this state as a reinsurer with the authority to assume reinsurance.

9. "To be in violation" means that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of this chapter.

10. "Qualified United States financial institution" means an institution that satisfies all of the following conditions:

a. The financial institution is organized or licensed under the laws of the United States or any state of the United States.

b. The financial institution is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

c. The financial institution has been determined by either the commissioner, or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

Sec. 21. NEW SECTION. 521C.3 LICENSURE.

1. A person shall not act as a reinsurance intermediary-broker in this state if the person maintains an office in this state or another state individually or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation, unless the person is a licensed producer in this state or another state having a law substantially similar to this law, or the person is licensed in this state as a nonresident reinsurance intermediary.

2. A person shall not act as a reinsurance intermediary-manager in any of the following circumstances:

a. Where the reinsurer is domiciled in this state, unless the person is a licensed producer in this state.

b. Where the person maintains an office in this state individually or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation in this state, unless the person is a licensed producer in this state.

c. Where the person would be acting in another state for a nondomestic insurer, unless the person is a licensed producer in this state or in another state having a law substantially similar to this law, or is licensed in this state as a nonresident reinsurance intermediary.

3. The commissioner may require a reinsurance intermediary-manager subject to subsection 2 to do one or more of the following:

a. File a bond in an amount determined by the commissioner from an insurer acceptable to the commissioner for the protection of each reinsurer represented by the reinsurance intermediary-manager.

b. Maintain an errors and omissions policy in an amount acceptable to the commissioner.

4. a. The commissioner may issue a reinsurance intermediary license to a person who has complied with the requirements of this chapter. Any such license issued to a firm or association will authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements to the application. A license issued to a corporation shall authorize all of the officers, and any designated employees and directors of the corporation to act as reinsurance intermediaries on behalf of the corporation, and all such persons shall be named in the application and any supplements to the application.

b. If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process, and also shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of a change of the designated agent for service of process, and the change becomes effective upon acknowledgment by the commissioner.

5. The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, any of the following conditions are present:

a. The applicant, any one named in the application, or any member, principal, officer, or director of the applicant, is not trustworthy.

b. A controlling person of such applicant is not trustworthy to act as a reinsurance intermediary.

c. Conditions present in paragraph "a" or "b" have given cause for revocation or suspension of a license, or a person referred to in paragraph "a" or "b" has failed to comply with any prerequisite for the issuance of a license.

Upon written request, the commissioner shall furnish a written summary of the basis for refusal to issue a license, which document is privileged and not subject to disclosure under chapter 22.

6. A licensed attorney in this state when acting in a professional capacity as an attorney is exempt from the requirements of this section.

Sec. 22. NEW SECTION. 521C.4 REQUIRED CONTRACT PROVISIONS – REINSURANCE INTERMEDIARY-BROKERS.

Transactions between a reinsurance intermediary-broker and the insurer that the reinsurance intermediary-broker represents in such capacity shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization shall, at a minimum, contain provisions that satisfy all of the following requirements:

1. The insurer may terminate the authority of the reinsurance intermediary-broker at any time.

2. The reinsurance intermediary-broker shall render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing, to the reinsurance intermediary-broker, and shall remit all funds due to the insurer within thirty days of receipt.

3. All funds collected for the account of the insurer shall be held by the reinsurance intermediary-broker in a fiduciary capacity in a bank, as defined in section 524.103.

4. The reinsurance intermediary-broker shall comply with section 521C.5.

5. The reinsurance intermediary-broker shall comply with the written standards established by the insurer for the cession or retrocession of all risks.

6. The reinsurance intermediary-broker shall disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

Sec. 23. NEW SECTION. 521C.5 BOOKS AND RECORDS – REINSURANCE INTERMEDIARY BROKERS.

1. For a minimum of ten years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-broker, the reinsurance intermediary-broker shall keep a complete record for each transaction showing all of the following:

a. The type of contract, limits, underwriting restrictions, classes or risks, and territory.

b. The period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation.

c. The reporting and settlement requirements of balances.

d. The rate used to compute the reinsurance premium.

e. The names and addresses of assuming reinsurers.

f. The rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-broker.

- g. All related correspondence and memoranda.
- h. Proof of placement.
- i. The details regarding retrocessions handled by the reinsurance intermediary-broker including the identity of retrocessionaires and percentage of each contract assumed or ceded.
- j. Financial records, including but not limited to, premium and loss accounts.
- k. If the reinsurance intermediary-broker procures a reinsurance contract on behalf of a licensed ceding insurer one or both of the following shall be included in the record:
 - (1) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk.
 - (2) If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the assuming reinsurer has delegated binding authority to the representative.
- 2. The insurer has a right of access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary-broker related to its business in a form usable by the insurer.

Sec. 24. NEW SECTION. 521C.6 DUTIES OF INSURERS UTILIZING THE SERVICES OF A REINSURANCE INTERMEDIARY-BROKER.

- 1. An insurer shall not engage the services of a person, firm, association, or corporation to act as a reinsurance intermediary-broker on its behalf unless the person is licensed as required by section 521C.3, subsection 1.
- 2. An insurer shall not employ an individual who is employed by a reinsurance intermediary-broker with which the insurer transacts business, unless such reinsurance intermediary-broker is under common control with the insurer and subject to chapter 521A relating to the regulation of insurance company holding systems.
- 3. The insurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-broker with which the insurer transacts business.

Sec. 25. NEW SECTION. 521C.7 REQUIRED CONTRACT PROVISIONS – REINSURANCE INTERMEDIARY-MANAGERS.

Transactions between a reinsurance intermediary-manager and the reinsurer that the reinsurance intermediary-manager represents in such capacity shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty days before the reinsurer assumes or cedes business through a reinsurance intermediary-manager, a true copy of the approved contract shall be filed with the commissioner for approval by the commissioner. The contract, at a minimum, shall contain the following provisions:

- 1. The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination.
- 2. The reinsurance intermediary-manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the reinsurance intermediary-manager, and shall remit all funds due under the contract to the reinsurer on not less than a monthly basis.
- 3. All funds collected for the reinsurer's account shall be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank which is a qualified United States financial institution, as defined in section 521C.2. The reinsurance intermediary-manager may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that the reinsurance intermediary-manager represents.
- 4. For at least ten years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-manager, the reinsurance intermediary-manager shall keep a complete record for each transaction showing all of the following:

- a. The type of contract, limits, underwriting restrictions, classes or risks, and territory.
- b. The period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation, and disposition of outstanding reserves on covered risks.
- c. The reporting and settlement requirements of balances.
- d. The rate used to compute the reinsurance premium.
- e. The names and addresses of reinsurers.
- f. The rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-manager.
- g. Any related correspondence and memoranda.
- h. Proof of placement.
- i. The details regarding retrocessions handled by the reinsurance intermediary-manager, as permitted by section 521C.9, subsection 4, including the identity of retrocessionaires and percentage of each contract assumed or ceded.
- j. Financial records, including but not limited to, premium and loss accounts.
- k. If the reinsurance intermediary-manager places a reinsurance contract on behalf of a ceding insurer one or both of the following shall be included in the record:
 - (1) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk.
 - (2) If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the assuming reinsurer has delegated binding authority to the representative.
5. The reinsurer has a right of access and the right to copy all accounts and records maintained by the reinsurance intermediary-manager related to its business in a form usable by the reinsurer.
6. The contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.
7. The reinsurance intermediary-manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.
8. The contract shall set forth the rates, terms, and purposes of commissions, charges, and other fees which the reinsurance intermediary-manager may levy against the reinsurer.
9. If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer, all of the following apply:
 - a. All claims shall be reported to the reinsurer in a timely manner.
 - b. A copy of the claim file shall be sent to the reinsurer at its request or as soon as it becomes known that the claim meets any or all of the following conditions:
 - (1) The claim has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer.
 - (2) The claim involves a coverage dispute.
 - (3) The claim may exceed the claims settlement authority of the reinsurance intermediary-manager.
 - (4) The claim is open for more than six months.
 - (5) The claim is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer.
 - c. All claim files shall be the joint property of the reinsurer and reinsurance intermediary-manager. However, upon an order of liquidation of the reinsurer the files shall become the sole property of the reinsurer or its estate. The reinsurance intermediary-manager shall have reasonable access to and the right to copy the files on a timely basis.
 - d. Any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.
10. If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, interim profits shall not be paid until one year after the end of each underwriting

period for property insurance business and five years after the end of each underwriting period for casualty insurance business, or a later period as determined by the commissioner for each type of insurance, but in no case until the adequacy of reserves on remaining claims has been verified pursuant to section 521C.9, subsection 3.

11. The reinsurance intermediary-manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant.

12. The reinsurer shall periodically, but not less than semiannually, conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary-manager.

13. The reinsurance intermediary-manager shall disclose to the reinsurer any relationship the reinsurance intermediary-manager has with any insurer prior to ceding or assuming any business with the insurer pursuant to this contract.

14. The acts of the reinsurance intermediary-manager are deemed to be the acts of the reinsurer on whose behalf the reinsurance intermediary-manager is acting.

Sec. 26. NEW SECTION. 521C.8 PROHIBITED ACTS.

The reinsurance intermediary-manager shall not do any of the following:

1. Bind retrocessions on behalf of the reinsurer, except that the reinsurance intermediary-manager may bind facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for such retrocessions. The guidelines shall include a list of reinsurers with which the automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules.

2. Commit the reinsurer to participate in reinsurance syndicates.

3. Appoint any producer without assuring that the producer is licensed to transact the type of reinsurance for which the producer is appointed.

4. Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, or a net amount of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year.

5. Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer.

6. Jointly employ an individual who is employed by the reinsurer.

7. Appoint an agent of a reinsurance intermediary-manager.

Sec. 27. NEW SECTION. 521C.9 DUTIES OF REINSURERS UTILIZING THE SERVICES OF A REINSURANCE INTERMEDIARY-MANAGER.

1. A reinsurer shall not engage the services of a person to act as a reinsurance intermediary-manager on its behalf unless the person is licensed as required by section 521C.3, subsection 2.

2. The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-manager whom the reinsurer has engaged pursuant to subsection 1. The statements of financial condition shall be prepared by an independent certified accountant in a form acceptable to the commissioner.

3. If a reinsurance intermediary-manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager. This opinion shall be in addition to any other required loss reserve certification.

4. Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary-manager.

5. Within thirty days of termination of a contract with a reinsurance intermediary-manager, the reinsurer shall provide written notification of the termination to the commissioner.

6. A reinsurer shall not appoint to its board of directors any officer, director, employee, controlling shareholder, or an agent of a producer of its reinsurance intermediary-manager. This

subsection shall not apply to relationships governed by chapter 521A relating to the regulation of insurance company holding systems or, if applicable, governed by chapter 510A relating to the regulation of producer controlled property and casualty insurers.

Sec. 28. NEW SECTION. 521C.10 EXAMINATION AUTHORITY.

1. A reinsurance intermediary is subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

2. A reinsurance intermediary-manager may be examined as if it were the reinsurer.

Sec. 29. NEW SECTION. 521C.11 PENALTIES AND LIABILITIES.

1. A reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a hearing conducted in accordance with chapter 17A, to be in violation of this chapter is subject to one or more of the following:

- a. For each separate violation, a civil penalty in an amount not exceeding ten thousand dollars.
- b. Revocation or suspension of the license of the reinsurance intermediary.
- c. If a violation was committed by the reinsurance intermediary, restitution by the reinsurance intermediary to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.

2. A decision, determination, or order of the commissioner made or entered pursuant to subsection 1 is subject to judicial review pursuant to chapter 17A.

3. This section does not affect the right of the commissioner to impose any other penalties provided in Title XX.

4. This chapter shall not in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties, or confer any rights to such persons.

Sec. 30. NEW SECTION. 521C.12 RULES.

The commissioner may adopt rules, pursuant to chapter 17A, as necessary or convenient for the administration of this chapter.

DIVISION V

Sec. 31. Section 505.4, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner may appoint a deputy commissioner for supervision whom the commissioner may appoint as supervisory or special deputy pursuant to chapter 507C and who shall perform such other duties as may be assigned by the commissioner. The deputy commissioner for supervision shall receive a salary to be fixed by the commissioner. The deputy commissioner for supervision shall be an exempt employee under section 19A.3, subsection 17.

Sec. 32. Section 505.7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The annual salaries of the deputy commissioner for supervision and the chief examiner appointed pursuant to section 507.4A shall be expenses of examination of insurance companies and shall be charged to insurance companies examined on a proportionate basis as provided by rule adopted by the commissioner. Insurance companies examined shall pay the proportion of the salaries of the deputy commissioner for supervision and the chief examiner charged to them as part of the costs of examination as provided in section 507.8.

Sec. 33. NEW SECTION. 507.4A CHIEF EXAMINER.

The commissioner may appoint a chief examiner who shall supervise insurance company examinations and perform such other duties as may be assigned by the commissioner. The chief examiner shall receive a salary to be fixed by the commissioner. The chief examiner shall be an exempt employee under section 19A.3, subsection 17.

Sec. 34. Section 507.14, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A report of an examination of a domestic or foreign insurer which is preliminary under the rules of the division is not a public record under chapter 22 except when sought by the insurer to which the report relates or an insurance regulator of another state, and is privileged and confidential in any judicial or administrative proceeding.

NEW UNNUMBERED PARAGRAPH. A financial statement filed by an employer self-insuring workers' compensation liability pursuant to section 87.11, or the working papers of an examiner or the division in connection with calculating appropriate security and reserves for the self-insured employer are not public records under chapter 22 except when sought by the employer to which the financial statement or working papers relate or an insurance or workers' compensation self-insurance regulator of another state, and are privileged and confidential in any judicial or administrative proceeding. The financial information of a nonpublicly traded employer which self-insures for workers' compensation liability pursuant to section 87.11 is protected as proprietary trade secrets to the extent consistent with the commissioner's duties to oversee the security of self-insured workers' compensation liability.

Sec. 35. Section 507C.12, Code 1991, is amended by adding the following unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the petition alleges that extraordinary circumstances exist and that there is imminent substantial risk to the insurer's solvency if the insurer is not immediately placed into rehabilitation, the court may issue, ex parte and without a hearing, the requested order of rehabilitation. An insurer subject to an ex parte order under this section may petition the court after the issuance of the order for a hearing and review of the order. The court shall hold the hearing and review not more than fifteen days after the request. A hearing under this section may be held privately in chambers. Upon the request of the insurer, the hearing shall be held privately in chambers.

Sec. 36. Section 508.11, subsection 43, Code 1991, is amended to read as follows:

43. All other information as required by the national association of insurance commissioners' annual statement blank. The annual statement blank shall be prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared in accordance with accounting practices and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

Sec. 37. Section 508C.8, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. 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.

Sec. 38. Section 511.8, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The investment programs developed by companies, shall take into account the safety of the company's principal, investment yield and return, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs and investment diversification.

Sec. 39. Section 514B.25, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

514B.25 FINANCIALLY IMPAIRED OR INSOLVENT HEALTH MAINTENANCE ORGANIZATIONS.

The provisions of chapter 507C shall apply to health maintenance organizations, which shall be considered insurers for the purposes of chapter 507C.

Sec. 40. Section 515.35, subsection 4, paragraph e, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Aggregate investments in below investment grade bonds shall not exceed five percent of assets.

Sec. 41. Section 515.63, unnumbered paragraph 16, Code 1991, is amended to read as follows:

Fifteenth — All other information as required by the national association of insurance commissioners' annual statement blank. The annual statement blank shall be prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared in accordance with accounting practices and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

Sec. 42. Section 515.119, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

515.119 COMPLIANCE WITH LAW — CHANGE OF ARTICLES.

An insurance company organized under this chapter, or doing business in, this state, or any foreign or alien company doing business in this state, shall conform to the provisions of this chapter and all other laws of this state applicable to the insurance company.

Sec. 43. Section 515B.2, subsection 3, unnumbered paragraph 2, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

3A. "Covered claim" does not include any amount as follows:

a. That is due any reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, or indemnity recoveries, or otherwise.

b. That constitutes the portion of a claim that is within an insured's deductible or self-insured retention.

c. That is a claim for unearned premium calculated on a retrospective basis, experience-rated plan, or premium subject to adjustment after termination of the policy.

d. That is due an attorney, adjuster, or witness as fees for services rendered to the insolvent insurer.

e. That is a fine, penalty, interest, or punitive or exemplary damages.

f. That constitutes a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of two hundred thousand dollars or more. However, such a claim shall be considered a covered claim, if as of the deadline set for the filing of claims against the insolvent insurer of its liquidator, the insured is a debtor under 11 U.S.C. § 701 et seq.

Notwithstanding the lettered paragraphs of this subsection, a person is not prevented from presenting a noncovered claim to the insolvent insurer or its liquidator, but the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer.

Sec. 44. Section 515B.5, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Request that all future payments of workers' compensation weekly benefits, medical expenses, or other payments under chapter 85, 85A, 85B, 86, or 87 be commuted to a present lump sum and upon the payment of which, either to the claimant or to a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant, the employer and the association shall be discharged from all further liability for the workers' compensation claim. Notwithstanding the provisions of section 85.45, any future

payment of medical expenses, weekly compensation benefits, or other payment by the association under this chapter pursuant to chapter 85, 85A, 85B, 86, or 87, is deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection 2, and the industrial commissioner shall fix the lump sum of the probable future medical expenses and weekly compensation benefits capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees.

Sec. 45. Section 515B.9, subsection 1, Code 1991, is amended to read as follows:

1. Any person having a claim under another policy, which claim arises out of the same facts which give rise to a covered claim, ~~shall be~~ is first required to exhaust the person's right under the policy. Any amount recovered or recoverable by a person under another insurance policy shall be credited against the liability of the association under section 515B.5, subsection 1, paragraph "a". For purposes of this section, another insurance policy means a policy issued by any insurance company, whether a member insurer or not, which policy insures against any of the types of risks set forth in section 515.48, ~~except those types of risks set forth in section 515.48, subsection 5, paragraph "a", and insured by an insurance company authorized to write insurance under chapter 515, 516A, or 520, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.~~

Sec. 46. Section 516A.3, unnumbered paragraph 2, Code 1991, is amended to read as follows:

An insurer's insolvency protection ~~shall be~~ is applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect and only if the liability insurer of the tort-feasor is insolvent at the time of such an accident ~~or becomes insolvent within one year after such an accident.~~

Sec. 47. Section 518.17, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Reinsurance coverage obtained by a county mutual insurance association shall not expose the association to a loss of more than fifteen percent from surplus in any calendar year.

Sec. 48. Section 521A.2, subsection 3, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent of the insurer's assets or fifty percent of the insurer's surplus as regards policyholders, if after the investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries shall be excluded and both of the following shall be included:

Sec. 49. Section 521A.3, subsection 4, paragraph b, Code 1991, is amended to read as follows:

b. The public hearing referred to in paragraph "a" ~~of this subsection~~ shall be held within thirty days after the statement required by subsection 1 ~~of this section~~ is filed, and at least twenty days' notice ~~thereof~~ of the public hearing shall be given by the commissioner to the person filing the statement. Not less than seven days' notice of such the public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. ~~The insurer shall give such notice to its security-holders.~~ The commissioner shall make a determination within thirty days after the conclusion of ~~such the hearing~~. At such the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected ~~thereby~~ shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct

discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

Sec. 50. Section 521A.3, subsection 5, Code 1991, is amended by striking the subsection.

Sec. 51. Section 521A.4, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Every insurer subject to registration shall file a registration statement on a form provided prescribed by the commissioner, which may be a form provided by the national association of insurance commissioners, which shall contain current information about:

Sec. 52. Section 521A.4, subsection 2, paragraph c, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) Consolidated tax allocation agreements.

Sec. 53. Section 521A.4, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 3A. REPORTING OF DIVIDENDS TO SHAREHOLDERS. Subject to section 521A.5, subsection 3, a registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen days following the declaration of the dividends or distributions.

Sec. 54. Section 521A.5, subsection 1, paragraph b, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A domestic insurer and a person in its holding company system shall not enter into any of the following transactions between each other involving amounts equal to or exceeding the greater lesser of five percent of the insurer's admitted assets or twenty-five percent of the surplus as regards policyholders as of the next preceding December 31, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

Sec. 55. Section 521A.10, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 1A. a. A director or officer of an insurance holding company system who does any of the following is subject to the civil penalty imposed under paragraph "b":

(1) Knowingly participates in or assents to transactions or investments which have not been properly reported or submitted pursuant to section 521A.4 or section 521A.5, subsection 1, paragraph "b".

(2) Knowingly permits any of the officers or agents of an insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to section 521A.4 or section 521A.5, subsection 1, paragraph "b".

(3) Knowingly violates any other provision of this chapter.

b. An officer or director of an insurance holding company system who commits any of the acts or omissions listed in paragraph "a" shall pay, in the person's individual capacity, a civil penalty of not more than one thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil penalty, the commissioner shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Sec. 56. Section 521A.10, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A director or officer, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports, or false filings with the intent to deceive the commissioner in the performance of the commissioner's duties under this chapter is guilty of a class "D" felony. Any fines imposed shall be paid by the director, officer, or employee in the person's individual capacity.

DIVISION VI

Sec. 57. Section 507.12, Code 1991, is amended to read as follows:

507.12 PROCEDURE AGAINST LIFE COMPANIES.

In case of companies organized under the provisions of chapter 508, ~~said~~ the officers shall proceed as provided in sections ~~508.17 to 508.18 and~~ 508.19.

Sec. 58. Section 508.19, Code 1991, is amended to read as follows:

508.19 SECURITIES.

The securities that are on deposit of a defaulting or insolvent company, or a company against which proceedings are pending under ~~sections 508.17 and~~ section 508.18, shall vest in the state for the benefit of all policyholders of the company.

Sec. 59. Section 511.8, subsection 16, unnumbered paragraphs 2 and 4, Code 1991, are amended to read as follows:

The securities comprising the deposit of a company or association against which proceedings are pending under ~~sections 508.17 and~~ section 508.18 shall vest in the state for the benefit of all policyholders of the company or association.

Companies or associations having securities or title to real estate on deposit with the commissioner of insurance shall have the right to collect all dividends, interest, rent, or other income ~~thereon~~ from the deposit unless proceedings against ~~such~~ the company or association are pending under ~~sections 508.17 and~~ section 508.18, in which event the commissioner shall collect such interest, dividends, rent, or other income and add the same to the deposit.

Sec. 60. Section 511.8, subsection 21, paragraph b, subparagraph (3), Code 1991, is amended to read as follows:

(3) Set forth provisions that custodian agreements executed between custodian banks and insurers shall contain. These shall include provisions stating that minimum deposit levels shall be maintained and that the parties agree securities in deposits with custodian banks shall vest in the state in accordance with ~~sections 508.17 and~~ section 508.18 whenever proceedings under ~~those sections~~ that section are instituted.

Sec. 61. Sections 507.11, 508.17, 510.1, and 515.85 through 515.87, Code 1991, are repealed.

DIVISION VII

Sec. 62. Sections 1 through 9, the model managing general agents Act, division I of this Act, take effect July 1, 1991. An insurer shall not continue to utilize the services of a managing general agent on or after July 1, 1991, except as otherwise provided in the Act, unless such utilization is in compliance with division I of this Act, regardless of the date on which the original contract was entered into with the managing general agent. An insurer which on the effective date of this Act has in effect a contract with a managing general agent shall give written notification to the commissioner of the name of the managing general agent and the relationship between the insurer and the managing general agent within thirty days of the effective date of this Act and shall comply with sections 1 through 9 of this Act within thirty days of the effective date of rules adopted by the commissioner implementing the managing general agents Act.

Sec. 63. Sections 10 through 13, the producer controlled property and casualty insurer Act, division II of this Act, take effect July 1, 1991. An insurer or producer subject to division II of this Act shall not continue, renew, or initiate a contract, or place business on or after July 1, 1991, unless in compliance with division II of this Act, regardless of the date on which the original contract was entered into between the parties.

Sec. 64. Sections 14 through 18, the model credit for reinsurance Act, division III of this Act, shall apply to all cessions and retrocessions under reinsurance agreements with an inception, anniversary, or renewal date not earlier than six months after the effective date of this Act.

Sec. 65. Sections 19 through 30, the reinsurance intermediary model Act, division IV of this Act, take effect July 1, 1991. An insurer or reinsurer shall not continue to utilize the services of a reinsurance intermediary on or after July 1, 1991, unless utilization is in compliance with division IV of this Act.

Approved April 11, 1991

CHAPTER 27

TRANSPORTATION LAWS – MISCELLANEOUS CHANGES

H.F. 307

AN ACT making technical Code changes relating to transportation.

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

Section 1. Section 321.32, Code 1991, is amended to read as follows:

321.32 REGISTRATION CARD SIGNED, CARRIED, AND EXHIBITED.

Every owner upon receipt of a registration card shall write the owner's signature thereon with pen and ink in the space provided. Every such A vehicle's registration card shall at all times be carried in the vehicle to which it refers and shall be shown to any peace officer upon the officer's request.

Sec. 2. Section 321.195, Code 1991, is amended to read as follows:

321.195 DUPLICATE CERTIFICATES, MOTOR VEHICLE LICENSES, AND NONOPERATOR'S IDENTIFICATION CARDS.

~~In the event that~~ If a motor vehicle license, or nonoperator's identification card, or extension certificate issued under the provisions of this chapter is lost or destroyed, the person to whom the same license or card was issued may, upon payment of a fee of three dollars for a motor vehicle license or nonoperator's identification card, or one dollar for an extension certificate, obtain a duplicate, or substitute thereof, upon furnishing proof satisfactory to the department that the motor vehicle license, or nonoperator's identification card, or extension certificate has been lost or destroyed. A fee of one dollar shall be charged for the voluntary replacement of a motor vehicle license or nonoperator's identification card.

Sec. 3. Section 322A.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 9. "Termination or noncontinuance" includes a reduction of the geographic area of a community.

Sec. 4. Section 327D.4, Code 1991, is amended to read as follows:

327D.4 CONNECTIONS.

If a railroad corporation in this state refuses to connect by proper switches or tracks with the tracks of another railroad corporation or refuses to receive, transport, load, discharge, reload, or return cars furnished by another connecting railroad corporation, a petition requesting resolution of the dispute may be filed with the department. The department shall notify the department of inspections and appeals which shall hold a hearing on the dispute. Upon conclusion of the hearing, the department of transportation inspections and appeals shall issue an order to resolve the dispute. The order may include the allocation of costs between the parties. The order is subject to review by the department which review shall be the final agency action.

Sec. 5. Section 601J.4, subsection 3, Code 1991, is amended to read as follows:

3. The department shall receive and distribute federal aid to political subdivisions public transit systems unless precluded by federal statute, however the department shall not retain

or redirect any portion of funds received by the department for a particular ~~political subdivision public transit system~~ except that the department may redirect unused funds after a project is completed in order to prevent the lapse of funds. The department may designate the ~~political subdivision public transit systems~~ as the direct recipient of federal aid.

Approved April 11, 1991

CHAPTER 28

SMALL BUSINESS ADVISORY COUNCIL

H.F. 322

AN ACT relating to the establishment of a small business advisory council.

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

Section 1. Section 15.108, subsection 7, paragraph h, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

h. In addition, the department shall provide assistance to a small business advisory council which shall consist of nine members appointed as follows:

(1) Not more than five of the members shall be from the same political party. The governor shall appoint the members of the advisory council to four-year terms beginning and ending as provided by section 69.19, subject to confirmation by the senate. Two-thirds of the membership of the advisory council shall consist of individuals who own and operate a small business or individuals employed in the management of a small business.

(2) A vacancy on the advisory council shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

(3) The advisory council shall meet in May of each year for the purpose of electing one of its members as chairperson and one of its members as vice chairperson. However, the chairperson and vice chairperson shall not be from the same political party. The advisory council shall meet at least quarterly.

(4) Members of the advisory council shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations to the department for those purposes.

(5) The duties of the advisory council may include but shall not be limited to the following:

(a) Advise and consult with the board with respect to matters which are of concern to small business.

(b) Submit recommendations to the board relating to actual or proposed activities concerning small business.

(c) Submit recommendations for legislative or administrative action.

(d) Review and monitor small business programs and agencies in order to determine their effectiveness and whether they complement or compete with each other, and to coordinate the delivery of programs and services aimed at small businesses.

(e) Initiate small business studies as deemed necessary.

(f) Provide other information or perform other duties which would be of assistance to small business.

Approved April 11, 1991

CHAPTER 29

TUITION AND FEE INCREASES FOR REGENTS' INSTITUTIONS

S.F. 146

AN ACT relating to the time of making decisions for and notice of final decisions for increases in tuition, fees, or charges at institutions of higher education under the control of the state board of regents.

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

Section 1. Section 262.9, subsection 18, Code 1991, is amended to read as follows:

18. 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 an increase in tuition or mandatory fees charged to all students at an institution for a fiscal year shall be made no later than the regular meeting held in November of the preceding fiscal year and shall be reflected in a final docket memorandum that states the estimated total cost of attending each of the institutions of higher education under the board's control. 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.

Approved April 15, 1991

CHAPTER 30

COOPERATIVE OWNERSHIP OF RESIDENTIAL, BUSINESS PROPERTY

S.F. 477

AN ACT relating to cooperative ownership of residential, business property, providing an applicability date, and providing an effective date.

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

Section 1. Section 499A.1, Code 1991, is amended to read as follows:
499A.1 ARTICLES.

Any two or more persons of full age, a majority of whom ~~shall be~~ are citizens of the state, may organize themselves for the following or similar purposes: Ownership of residential, business property on a ~~co-operative~~ cooperative basis. A corporation is a person within the meaning of this chapter. The organizers shall adopt, and sign and acknowledge the articles of ~~co-operation~~ incorporation, stating the name by which the ~~co-operation~~ cooperative shall be known, the location of its principal place of business, its business or objects, the number of ~~trustees, directors, managers or other officers~~ to conduct the ~~same~~ cooperative's business or objects, the names ~~thereof~~ of the directors for the first year, the time of ~~its~~ the cooperative's annual meeting, and the time of the annual meeting of its ~~trustees, or~~ directors, and the manner in which the articles may be amended. ~~Said~~ The articles of ~~co-operation~~ incorporation shall be filed with the secretary of state who shall, if the secretary approves the ~~same~~ indorse articles, ~~endorse~~, the secretary of state's approval ~~thereon~~ on the articles, record the ~~same~~ articles, and ~~thereafter~~ forward the ~~same~~ articles to the county recorder of the county where the principal place of business is to be located, and there it the articles shall be recorded, and upon recording

be returned to the ~~co-operation~~ cooperative. The said articles shall not be filed by the secretary of state until a filing fee of five dollars together with a recording fee of fifty cents per page is paid, and upon the payment of said the fees and the approval of the articles by the secretary of state, the secretary shall issue to ~~said co-operation~~ the cooperative a certificate of ~~co-operation~~ incorporation as a ~~co-operation~~ cooperative not for pecuniary profit.

Amendments to the articles ~~may~~ shall be filed and receive approval as provided ~~herein~~ in this chapter for articles, and the fee ~~therefor~~ for amendments shall be five dollars in each instance, and ~~no~~. An amendment shall be is not effective until the same amendment is approved and the fee ~~therefor~~ is paid.

Sec. 2. Section 499A.3, Code 1991, is amended to read as follows:
499A.3 MEMBERS.

A ~~co-operation~~ may cooperative shall have only one or ~~more~~ classes class of members. The designation of ~~such that~~ class or classes and the qualifications and rights of the members of each the class shall be set forth in the articles of ~~co-operation~~ incorporation or the bylaws. The ~~co-operation~~ cooperative must issue membership certificates or deeds evidencing membership or the ownership of a particular interest therein of each member of the cooperative.

Sec. 3. Section 499A.4, Code 1991, is amended to read as follows:
499A.4 DIVIDENDS.

~~No~~ A dividend or distribution of property among the ~~stockholders~~ members shall not be made until dissolution of the ~~co-operation~~ cooperative.

Sec. 4. Section 499A.7, Code 1991, is amended to read as follows:
499A.7 REORGANIZING PRIOR TO EXPIRATION OF TERM.

The ~~trustees~~, directors, or members of any ~~co-operation~~ cooperative organized under this chapter may reorganize the same cooperative, and all the property and rights ~~thereof~~ of the cooperative shall vest in the ~~co-operation~~ cooperative as reorganized.

Sec. 5. Section 499A.11, Code 1991, is amended to read as follows:
499A.11 CERTIFICATE OF OWNERSHIP.

The ~~co-operative~~ association shall have cooperative has the right to purchase real estate for the purpose of erecting, owning, and operating apartment houses or apartment buildings and the members shall be the owners thereof. The interest of each individual member in the cooperative shall be evidenced by the issuance of a certificate of ownership or deed to a particular apartment or room therein. Such membership. The certificate of membership is coupled with a possessory interest in the real and personal property of the cooperative, entitling each member to a proprietary lease with the cooperative under which each member has an exclusive possessory interest in an apartment unit and a possessory interest in common with all other members in that portion of the cooperative's real and personal property not constituting apartment units, and which creates a legal relationship of landlord and tenant between the cooperative and member. The certificate of ownership or deed membership shall be executed by the president of the co-operation cooperative and attested by its secretary in the name and in the behalf of the co-operation cooperative.

Sec. 6. Section 499A.14, Code 1991, is amended to read as follows:
499A.14 TAXATION.

The real estate shall be taxed in the name of the ~~co-operation~~ cooperative, and each person owning an apartment or room member of the cooperative shall pay that person's member's proportionate share of such the tax in accordance with the proration formula set forth in the bylaws, and each person owning member occupying an apartment as a residence and under the qualifications of the laws of the state of Iowa as such shall receive that person's member's proportionate homestead tax credit and each veteran of the military services of the United States identified as such under the laws of the state of Iowa or the United States shall receive as a credit that person's member's veterans tax benefit as prescribed by the laws of the state of Iowa.

Sec. 7. NEW SECTION. 499A.17A BYLAWS.

The initial bylaws of the cooperative shall be adopted by the cooperative's board of directors. Prior to the admission of members to the cooperative, the power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the board of directors. Following the admission of members to the cooperative, the power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the members in accordance with the method set forth in the bylaws.

The bylaws may contain any provisions for the regulation and management of the affairs of the cooperative not inconsistent with law or the articles of incorporation. However, the bylaws must provide for:

1. The number of members of the board of directors and the term of the members.
2. The election of a president, vice president, treasurer, and secretary by the board of directors.
3. The qualifications, powers and duties, terms of office, and manner of electing and removing board members and officers and filling vacancies of such members.
4. The method of amending the bylaws.

Sec. 8. NEW SECTION. 499A.17B MEETINGS OF MEMBERS.

Meetings of members may be held at such places as may be provided in the articles of incorporation or the bylaws, or as may be fixed from time to time in accordance with the provisions of the articles or the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the cooperative.

An annual meeting of the members shall be held at such time as may be provided in the articles of incorporation or the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the cooperative.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such officers or persons, or by a number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at the meeting.

Sec. 9. NEW SECTION. 499A.17C NOTICE OF MEMBERS MEETINGS.

Unless the articles of incorporation or the bylaws otherwise provide, written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each member entitled to vote at the meeting. If mailed, notice is deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on the records of the cooperative, with postage prepaid.

Sec. 10. NEW SECTION. 499A.17D VOTING.

Each member is entitled to one vote on each matter submitted to a vote of the members. A membership interest in the cooperative jointly owned by two or more persons is nevertheless entitled to one vote.

A member entitled to vote may vote in person or by proxy in the manner prescribed in the bylaws.

Sec. 11. NEW SECTION. 499A.17E UPKEEP OF THE COOPERATIVE.

It is the duty of the cooperative to maintain generally all portions of the cooperative's real property other than the apartment units. The maintenance, repair, and replacement costs of the cooperative's real property shall be contributed to by each of the members in accordance with the proration formula set forth in the bylaws. Each member is responsible for maintenance and repair of the person's apartment unit in the manner provided for in the bylaws and as prescribed by each member's proprietary lease.

Sec. 12. NEW SECTION. 499A.17F LIEN FOR ASSESSMENTS.

1. The cooperative has a lien on a member's interest in the cooperative for all operating charges or other assessments payable by the member pursuant to the member's proprietary lease from the time the operating charge or other assessment becomes due. If carrying charges and assessments are payable in installments, the full amount of the charge or assessment is a lien from the first time the first installment becomes due. Upon nonpayment of a carrying charge or assessment, the member may be evicted from the member's apartment unit in the same manner as provided by law in the case of an unlawful holdover by a tenant and the lien may be foreclosed by judicial sale in like manner as a mortgage on real estate, or may be foreclosed by the power of sale provided in this section.

A lien under this section is prior to all other liens and encumbrances on a member's cooperative interest except liens and encumbrances on the cooperative's real property which the cooperative creates, assumes, or takes subject to, and liens for real estate taxes and other governmental assessments or charges against the cooperative or the member's cooperative interest.

2. The cooperative, upon a member's nonpayment of carrying charges and assessments and the cooperative's compliance with this section, may sell the defaulting member's cooperative interest. Sale may be at a public sale or by private negotiation, and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms must be reasonable. The cooperative shall give to the member and any sublessees of the member reasonable written notice of the time and place of a public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice shall also be sent to any other person who has a recorded interest in the defaulting member's cooperative interest which would be extinguished by the sale. The notices required by this paragraph may be sent to any address reasonable under the circumstances. Sale may not be held until five weeks after the sending of the notice. The cooperative may buy at a public sale, and, if the sale is conducted by a fiduciary or other person not related to the cooperative, at a private sale.

3. The proceeds of a sale under the preceding paragraph shall be applied in the following order:

- a. The reasonable expenses of sale.
- b. The reasonable expenses of securing possession before sale, and the reasonable expenses of holding, maintaining, and preparing the cooperative interest for sale. These expenses include, but are not limited to the payment of taxes and other governmental charges, premiums on liability insurance, and to the extent provided for by agreement between the cooperative and the member, reasonable attorneys' fees and other legal expenses incurred by the cooperative.
- c. Satisfaction of the cooperative's lien.
- d. Satisfaction in the order of priority of any subordinate claim of record.
- e. Remittance of any excess to the member.

Unless otherwise agreed, the member is liable for any deficiency.

4. If a cooperative interest is sold pursuant to this section, a good faith purchaser for value acquires the member's interest in the cooperative free of the debt that gave rise to the lien under which the sale occurred, and free of any subordinate interest.

5. At any time before the cooperative has disposed of the cooperative interest or entered into a contract for its disposition under the power of sale, the member or the holder of any subordinate security interest may cure the member's default and prevent sale or other disposition by tendering the performance due, including any amounts due arising from the exercise of the rights under this section, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees of the creditor.

6. The property of a member other than the member's membership interest in the cooperative is not subject to claims of the cooperative's creditors, whether or not the member's membership interest is subject to those claims.

Sec. 13. Section 499A.18, Code 1991, is amended to read as follows:

499A.18 HOMESTEAD.

The ownership of an Each individual apartment shall constitute constitutes a homestead and be is exempt from execution, provided the owner member otherwise qualifies within the laws of the state of Iowa for such exemption.

Sec. 14. Section 499A.19, Code 1991, is amended to read as follows:

499A.19 ELECTION OF DIRECTORS.

The directors authorized under this chapter shall be elected by the members of the co-operation cooperative. If one member owns more than one apartment that member may nevertheless have but one vote at such election. If any apartment or room is owned by more than one member they may, nevertheless, have but one vote at such election. The election of officers shall be made by the board of directors. The officers and board of directors may hire a custodian or janitor for reasonable compensation to generally serve and oversee the apartment building. The annual election of the directors shall be held during the month of January of each year, and they shall serve until their successors are elected and qualified.

The board of directors shall elect as officers, a president and, a vice president, a secretary, and a treasurer.

It shall be is the duty of the secretary to keep the records of the co-operation cooperative, and a correct list of the owners and lessees of each apartment members, and all such records shall be submitted to any apartment or room owner member upon demand at any reasonable time.

Sec. 15. Section 499A.20, Code 1991, is amended to read as follows:

499A.20 TITLE OF ACT.

This chapter subchapter shall be known and cited as "The Multiple Cooperative Housing Act of 1947."

Sec. 16. The Code editor shall editorially change references to "co-operation" in chapter 499A, not amended in this Act, to "cooperative", as appropriate.

Sec. 17. Sections 499A.5, 499A.6, 499A.12, 499A.13, 499A.15, 499A.16, 499A.17, and 499A.21 are repealed.

Sec. 18. This Act applies to any cooperative organized pursuant to chapter 499A on or after December 1, 1990.

Sec. 19. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 16, 1991

CHAPTER 31**MAXIMUM LENGTH OF VEHICLES AND DRAWBARS**

H.F. 309

AN ACT relating to maximum lengths of saddle mounted or full mounted power unit combination vehicles and the length of draw bar or other connections on certain towing vehicles.

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

Section 1. Section 321.457, subsection 1, Code 1991, is amended to read as follows:

1. A combination of four vehicles is not allowed on the highways of this state, except for power units saddle mounted on other power units which shall be restricted to a maximum overall length of sixty-five feet unless subject to the maximum length provisions of subsection 3.

Sec. 2. Section 321.457, subsection 3, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Power units saddle mounted or full mounted on other power units shall not exceed seventy-five feet in overall length.

Sec. 3. Section 321.461, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the towing vehicle is a motor truck and the towed vehicle is a single trailer with a single point of articulation at the hitch connection, the draw bar or other connection shall not exceed twenty-one feet. The length of the draw bar or other connection shall be measured from the centerline of the hitch assembly on the towing vehicle to the front of the body of the towed vehicle. A vehicle which has a drawbar or other connection which measures between fifteen and twenty-one feet in length shall have at least one yellow reflector visible on each vertical face of the drawbar or other connection, located near the midpoint between the towing and the towed vehicle. A vehicle which has a drawbar or other connection which measures between fifteen and twenty-one feet in length shall have affixed to the rear of the towed vehicle a sign indicating that the vehicle is a towed vehicle.

Approved April 16, 1991

CHAPTER 32

FALSIFICATION OF CERTIFICATES REQUIRED FOR MOVING SWINE

S.F. 53

AN ACT relating to certificates required for moving swine, and creating penalties.

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

Section 1. Section 163.1, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Impose civil penalties as provided in this chapter. The department may refer cases for prosecution to the attorney general.

Sec. 2. Section 163.30, subsection 5, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may combine an official health certificate or a veterinarian inspection certificate with a certificate of inspection required under chapter 166D.

Sec. 3. **NEW SECTION.** 163.31 FALSIFICATION OF CERTIFICATES – PENALTY.

A person who falsifies an official health certificate or veterinarian inspection certificate issued pursuant to section 163.30 shall be subject to a civil penalty of not more than five thousand dollars for each reference to a swine falsified on the certificate. However, a person who falsifies a certificate of inspection issued pursuant to chapter 166D shall be subject to a civil penalty as provided in section 166D.16. A person shall not be subject to both penalties. A person shall also not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of swine falsified on the certificate.

Sec. 4. Section 166D.16, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The provisions of this chapter including departmental rules adopted pursuant to this chapter shall be administered and enforced by the department. A person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. However, a person

who falsifies a certificate of inspection issued pursuant to this chapter shall be subject to a civil penalty of not more than five thousand dollars for each swine falsified on the certificate. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of swine falsified on the certificate.

The department may combine an official health certificate or a veterinarian inspection certificate as required under chapter 163 with a certificate of inspection.

Approved April 22, 1991

CHAPTER 33

STATE PERSONNEL ADMINISTRATION

S.F. 104

AN ACT relating to certain administrative functions of the department of personnel.

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

Section 1. Section 19A.1, subsection 2, paragraph f, Code 1991, is amended to read as follows:

f. Personnel records and administration, including the ~~pre~~audit audit of all personnel-related documents.

Sec. 2. NEW SECTION. 19A.12A COMBINED CHARITABLE CAMPAIGN PROGRAM, FEES, REVOLVING FUND.

1. The department shall establish and administer a combined charitable campaign program for state employees.

2. A combined charitable campaign revolving fund is created in the state treasury. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the program. Administrative expenses shall not exceed five percent of the contributions pledged the previous year. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the program shall be set by the director to cover only the cost of administration and materials and shall not cover salaries of state employees involved in the administration of the program. The fees shall be paid to the department from the voluntary employee contributions and the payment shall be credited to the revolving fund. Notwithstanding section 8.33, any unencumbered or unobligated balance in the fund shall not revert.

Approved April 22, 1991

CHAPTER 34

IDENTIFICATION AND ERADICATION OF MARIJUANA PLANTS

S.F. 171

AN ACT providing for the identification and eradication of marijuana plants.

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

Section 1. Section 80.9, subsection 2, paragraph g, Code 1991, is amended to read as follows:

g. To identify and eradicate assist persons who are responsible for the care of private and public land in identifying growing marijuana plants found growing on public or private property when growing marijuana the plants are reported to the department, and. The department shall also provide education to the persons regarding methods of eradicating the plants. The department shall adopt rules governing the identification and eradication of marijuana plants in cooperation with local law enforcement officials necessary to carry out this paragraph.

Approved April 22, 1991

CHAPTER 35

TRADE SECRETS

S.F. 179

AN ACT relating to the protection of trade secrets and providing an effective date.

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

Section 1. Section 550.2, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

“Trade secret” means information, including but not limited to a formula, pattern, compilation, program, device, method, technique, or process that is either both of the following:

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

Approved April 23, 1991

CHAPTER 36

PROBATE CODE REVISIONS

S.F. 213

AN ACT relating to probate code provisions with respect to testamentary trusts, investments by fiduciaries, conservatorships, and the distribution of decedents' property by affidavit.

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

Section 1. Section 633.10, subsection 4, Code 1991, is amended to read as follows:

4. Trusts and trustees.

Except as otherwise provided in this subsection, the appointment of trustees; the granting of letters of trusteeship; the administration of testamentary trusts; the administration of express

trusts where jurisdiction is specifically conferred on the court by the trust instrument; the administration of express trusts where the administration of the court is invoked by the trustee, beneficiary, or any interested party; the administration of trusts which are established by a decree of court and result in the administration thereof by the court; and the settlement and closing of all such trusts.

A trust which is administered solely or jointly by a bank or trust company referred to in section 633.63, subsection 2, is not subject to the jurisdiction of the court unless jurisdiction is invoked by the trustee or beneficiary, or if otherwise provided by the governing instrument. Upon application by a bank or trust company administering a trust which is was in existence on the effective date of this Act May 20, 1985, and is subject to the court's jurisdiction, and following notice to the beneficiaries as provided in section 633.40, subsection 4, the court may for good cause shown shall release the trust from further jurisdiction unless one or more beneficiaries object, on the condition that jurisdiction may be thereafter invoked by the trustee or beneficiary.

The provisions of unnumbered paragraph 2 shall be effective for applications filed on or after July 1, 1991.

Sec. 2. NEW SECTION. 633.76A EXCEPTION – VOTING OF PUBLICLY TRADED SECURITIES.

Where there are two or more fiduciaries, a fiduciary may delegate to another fiduciary the power to vote publicly traded securities, unless the instrument creating the estate provides to the contrary. The delegating fiduciary shall not be personally liable for the manner in which such securities are voted by the fiduciary to whom the power is delegated.

Sec. 3. Section 633.123, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. INVESTMENTS BY FIDUCIARIES. When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing property for the benefit of another, a fiduciary shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the account. This standard requires that when making investment decisions, a fiduciary shall consider the role that the investment plays within the account's portfolio of assets and may consider the general economic conditions, the anticipated tax consequences of the investment, the anticipated duration of the account, and the needs of all beneficiaries of the account.

The propriety of an investment decision is to be determined by what the fiduciary knew or should have known at the time of the decision about the inherent nature and expected performance of the investment, the attributes of the account portfolio, the general economy, and the needs and objectives of the beneficiaries of the account as they existed at the time of the investment decision.

Sec. 4. Section 633.123, subsection 2, unnumbered paragraph 1, Code 1991, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

ACTIONS PURSUANT TO GOVERNING INSTRUMENT. A fiduciary acting under a governing instrument is not liable to anyone whose interests arise from the instrument for the fiduciary's good faith reliance on the express provisions of the instrument. In the absence of an express provision to the contrary in the governing instrument, a fiduciary shall not be deemed to have breached the person's fiduciary duties for continuing to hold property received into an account at the account's inception or subsequently added to the account or acquired pursuant to proper authority if the fiduciary, in good faith and with reasonable prudence, considers that retention is in the best interest of the trust or estate or in furtherance of the goals of the governing instrument.

Sec. 5. Section 633.175, Code 1991, is amended to read as follows:

633.175 WAIVER OF BOND BY COURT.

The court may, for good cause shown, exempt any fiduciary from giving bond, provided if the court finds that the interests of creditors and distributees will not thereby be prejudiced. However, the court shall not exempt a conservator from giving bond in a conservatorship with total assets of more than ten thousand dollars, excluding real property, unless it is a voluntary conservatorship in which the petitioner is eighteen years of age or older and has waived bond in the petition.

Sec. 6. NEW SECTION. 633.356 DISTRIBUTION OF PROPERTY BY AFFIDAVIT.

1. When the gross value of the decedent's personal property does not exceed ten thousand dollars and there is no real property or the real property passes to a surviving spouse as joint tenant with right of survivorship, and if forty days have elapsed since the death of the decedent, the successor of the decedent as defined in subsection 2 may, by filing an affidavit prepared pursuant to subsection 3, and without procuring letters of appointment, do any of the following with respect to one or more particular items of personal property:

- a. Receive any particular item of property that is tangible personal property of the decedent.
- b. Have any particular item of property that is evidence of a debt, obligation, interest, right, security, or chose in action belonging to the decedent transferred.
- c. Collect the proceeds from any life insurance policy or any other item of property for which a beneficiary has not been designated.

2. "Successor of the decedent" means:

a. If the decedent died testate, the beneficiary or beneficiaries who succeeded to the particular item of property of the decedent under the decedent's will. For the purposes of this subsection the trustee of a trust created during the decedent's lifetime is a beneficiary under the decedent's will if the trust succeeds to the particular item of property under the decedent's will.

b. If the decedent died intestate, the person or persons who succeeded to the particular item of property of the decedent under the laws of intestate succession of this state.

3. To collect money, receive tangible personal property, or have evidences of intangible personal property transferred under this chapter, the successor of the decedent shall furnish to the holder of the decedent's property an affidavit under penalty of perjury stating all of the following:

- a. The decedent's name and the date and place of the decedent's death.
- b. That at least forty days have elapsed since the death of the decedent, as shown by an attached certified copy of the death certificate of the decedent.
- c. That the gross value of the decedent's personal property does not exceed ten thousand dollars and there is no real property or the real property passes to a surviving spouse as joint tenant with right of survivorship.
- d. A description of the property of the decedent that is to be paid, transferred, or delivered to the successor.
- e. The name, address, and social security number of the successor of the decedent to the described property, and whether the successor is under a legal disability.
- f. If applicable, that attached copy of the decedent's will is the last will of the decedent and has been admitted to probate or otherwise filed in the office of a clerk of the district court.
- g. That no persons other than those listed in the affidavit have a right to the interest of the decedent in the described property.
- h. That the affiant requests that the described property be paid, delivered, or transferred to the successors of the decedent to the described property.
- i. That the affiant affirms under penalty of perjury that the affidavit is true and correct. More than one person may execute an affidavit under this subsection.

4. If the decedent had evidence of ownership of the property described in the affidavit and the holder of the property would have the right to require presentation of the evidence of ownership before the duty of the holder to pay, deliver, or transfer the property to the decedent would have arisen, the evidence of the ownership, if available, shall be presented with the affidavit to the holder of the decedent's property.

If the evidence of ownership is not presented to the holder of the property, the holder may require, as a condition for the payment, delivery, or transfer of the property, that the successor provide the holder with a bond in a reasonable amount determined by the holder to be sufficient to indemnify the holder against all liability, claims, demands, loss, damages, costs, and expenses that the holder may incur or suffer by reason of the payment, delivery, or transfer of the property. This subsection does not preclude the holder and the successor from dispensing with the requirement that a bond be provided, and instead entering into an agreement satisfactory to the holder concerning the duty of the successor to indemnify the holder.

Judgments rendered by any court in this state and mortgages belonging to a decedent whose personal property is being distributed pursuant to this section may, without prior order of court, be released, discharged, or assigned, in whole or in part, as to any particular property, and deeds may be executed in performance of real estate contracts entered into by the decedent, where an affidavit made pursuant to subsection 3 is filed in the office of the county recorder of the county wherein any judgment, mortgage, or real estate contract appears of record.

5. Reasonable proof of the identity of each successor of the decedent seeking distribution by virtue of the affidavit shall be provided to the satisfaction of the holder of the decedent's property.

6. If the requirements of this section are satisfied:

a. The property described in the affidavit shall be paid, delivered, or transferred to the successor of the decedent's interest in the property.

b. A transfer agent of a security described in the affidavit shall change registered ownership on the books of the corporation from the decedent to the person listed on the affidavit as the successor of the decedent's interest.

If the holder of the decedent's property refuses to pay, deliver, or transfer any property or evidence thereof to the successor of the decedent within a reasonable time, the successor may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property. If an action is brought against the holder under this subsection, the court shall award attorney's fees to the person bringing the action if the court finds that the holder of the decedent's property acted unreasonably in refusing to pay, deliver, or transfer the property to the person as required by this subsection.

7. If the requirements of this section are satisfied, receipt by the holder of the decedent's property of the affidavit constitutes sufficient acquittance for the payment of money, delivery of property, or transferring the registered ownership of property pursuant to this chapter and discharges the holder from any further liability with respect to the money or property. The holder may rely in good faith on the statements in the affidavit and has no duty to inquire into the truth of any statement in the affidavit.

If the requirements of this section are satisfied, the holder is not liable for any debt owed by the decedent by reason of paying money, delivering property, or transferring registered ownership of property pursuant to this chapter.

8. When a deceased distributee is entitled to money or property claimed in an affidavit presented under this section with respect to a deceased person whose estate is being administered in this state, the personal representative of the person whose estate is being administered shall present the affidavit to the court in which the estate is being administered. The court shall direct the personal representative to pay the money or deliver the property to the person identified by the affidavit as the successor of the deceased distributee to the extent that the court determines that the deceased distributee was entitled to the money or property under the will or the laws of intestate succession.

9. The procedure provided by this section may be used only if no administration of the decedent's estate is pending.

Sec. 7. Section 633.591, Code 1991, is amended to read as follows:

633.591 VOLUNTARY PETITION FOR APPOINTMENT OF CONSERVATOR –
STANDBY BASIS.

Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a conservator of the person's property upon the express condition that such petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in said the petition. The petition, if executed on or after ~~July 1, 1989~~ January 1, 1991, shall advise the proposed ward of a conservator's powers as provided in section 633.576.

Approved April 22, 1991

CHAPTER 37

CONTROLLED SUBSTANCES – ANABOLIC STEROIDS

S.F. 308

AN ACT relating to the Iowa uniform controlled substances Act.

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

Section 1. Section 204.208, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. Anabolic steroids as defined in section 203B.2 and rules of the board adopted pursuant to chapter 17A.

Approved April 22, 1991

CHAPTER 38

STATE PROGRAMS FOR PERSONS WITH MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, OR MENTAL ILLNESS

S.F. 345

AN ACT relating to state programs and institutions serving persons with mental retardation, developmental disabilities, or mental illness.

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

Section 1. Section 225C.21, subsection 2, Code 1991, is amended to read as follows:

2. The department shall adopt rules pursuant to chapter 17A establishing minimum standards for the programming of community, supervised apartment living arrangements. The department shall approve annually all community, supervised apartment living arrangements which meet the minimum standards.

Sec. 2. Section 225C.38, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. Except as provided in section 225C.41, a family support subsidy for a fiscal year shall be in an amount equivalent to the monthly maximum supplemental security income payment available in Iowa on July 1 of that fiscal year for an adult recipient living in the household of another, as formulated under federal regulations. In addition, the parent or legal guardian of a family member who is in an out-of-home placement at the time of application may receive

a one-time lump-sum advance payment of twice the monthly family support subsidy amount for the purpose of meeting the special needs of the family in preparing for in-home care.

Sec. 3. Section 225C.38, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. The department shall administer the family support subsidy program and the payments made under the program as follows:

a. In each fiscal year, the department shall establish a figure for the number of family members for whom a family support subsidy shall be provided at any one time during the fiscal year. The figure shall be established by dividing the amount appropriated by the general assembly for family support subsidy payments during the fiscal year by the family support subsidy payment amount established in subsection 1, paragraph "c".

b. On or before July 15 in each fiscal year, the department shall approve the provision of a number of family support subsidies equal to the figure established in paragraph "a". During any thirty-day period, the number of family members for whom a family support subsidy is provided shall not be less than this figure.

Sec. 4. Section 225C.41, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, funds remaining unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain available to provide family support subsidy payments in the succeeding fiscal year.

Sec. 5. Section 225C.42, Code 1991, is amended to read as follows:
225C.42 ANNUAL EVALUATION OF PROGRAM.

1. The department shall conduct an annual evaluation of the family support subsidy program and shall submit the evaluation report with recommendations to the governor and general assembly ~~prior to~~ by September 30 following the end of the fiscal year. ~~The evaluation shall include, but not be limited to,~~ all of the following:

2. The evaluation content shall include but is not limited to all of the following items:

a. A statement of the number of children and families served by the program during the fiscal year and the number remaining on the waiting list at the end of the fiscal year.

b. A description of the children and family needs to which payments were applied.

c. An analysis of the extent to which payments enabled children to remain in their homes. The analysis shall include but is not limited to all of the following items concerning children affected by the payments: the number and percentage of children who remained with their families; the number and percentage of children who returned to their home from an out-of-home placement and the type of placement from which the children returned; and the number of children who received an out-of-home placement during the fiscal year and the type of placement.

d. An analysis of parent satisfaction with the program.

e. An analysis of efforts to encourage program participation by eligible families.

f. The results of a survey of families participating in the program in order to assess the adequacy of subsidy payment amounts and the degree of unmet need for services and supports.

3. The evaluation content may include any of the following items:

1. The impact of the family support subsidy program upon children covered by this division in institutions and residential care programs including, to the extent possible, sample case reviews of families who choose not to participate.

2 a. Case reviews of An overview of the reasons families who voluntarily terminate terminated participation in the family support subsidy program for any reason, particularly when the family member is placed out of the family home, including and the involvement of the department in offering suitable alternatives.

3. Sample assessments of families receiving family support subsidy payments including adequacy of subsidy and need for services not available.

4. The efforts to encourage program participation of eligible families.

5 b. The geographic distribution of families receiving subsidy payments and, to the extent possible, family members presumed to be eligible for family support subsidy payments.

6. Programmatic and legislative recommendations to further assist families in providing care for family members including eligibility criteria, availability of family support services and parent satisfaction with the program.

7 c. Problems that occur in identifying family members through diagnostic evaluations An overview of problems encountered by families in applying for the program, including obtaining documentation of eligibility.

8. The number of beds reduced in state institutions and foster care facilities serving severely mentally, multiply, and autistically impaired children when the children return home to natural families as a result of the subsidy program.

The department shall report caseload figures by eligibility category as defined by administrative rule.

Sec. 6. Section 226.12, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

226.12 MONTHLY REPORTS.

The administrator shall assure that the superintendent of each institute provides monthly reports concerning the programmatic, environmental, and fiscal condition of the institute. The administrator or the administrator's designee shall periodically visit each institute to validate the information.

Approved April 22, 1991

CHAPTER 39

SPECIAL EDUCATION WEIGHTING PLAN

S.F. 378

AN ACT relating to the weighting plan to be used to provide funds for the excess cost of instruction of children requiring special education.

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

Section 1. Section 281.9, subsection 1, paragraphs b, c, and d, Code 1991, are amended to read as follows:

b. Children requiring special education who require special adaptations while assigned to a regular classroom for basic instructional purposes and handicapped pupils placed in a special education class who receive part of their instruction in regular classrooms are assigned a weighting of one and eight-tenths for the school year commencing July 1, 1975.

Effective July 1, 1991, this paragraph also applies to children requiring special education who require specially designed instruction while assigned to a regular classroom for basic instructional purposes.

c. Children requiring special education who require full-time, self-contained special education placement with little integration into a regular classroom are assigned a weighting of two and two-tenths for the school year commencing July 1, 1975.

Effective July 1, 1991, this paragraph also applies to children requiring special education who require substantial modifications, adaptations, or special education accommodations in order to benefit from instruction in an integrated classroom.

d. Children requiring special education who are severely handicapped or who have multiple handicaps are assigned a weighting of four and four-tenths for the school year commencing July 1, 1975.

Effective July 1, 1991, this paragraph also applies to children requiring special education who are severely and profoundly handicapped.

Approved April 22, 1991

CHAPTER 40

SECURITIES TRANSACTIONS – REGULATORY AND OTHER PROVISIONS

S.F. 520

AN ACT relating to securities by regulating transactions involving securities and regulating persons engaged in businesses related to the issuance or trading of securities, and providing penalties.

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

Section 1. Section 79.17, Code 1991, is amended to read as follows:

79.17 ADDITIONAL PAYROLL DEDUCTIONS.

1. For the purposes of purchasing insurance and at the request of two hundred fifty or more state officers or employees, the state officer in charge of the payroll system shall deduct from the wages or salaries of the state officers or employees an amount specified by each of the officers or employees for payment to any insurance company authorized to do business in this state if the following conditions are met:

- a. The request for the payroll deduction is made in writing to the officer in charge of the payroll system.
- b. The pay period during which the deduction is made, the frequency, and the amount of the deduction are compatible with the payroll system.
- c. The insurance coverage is not provided by the state.

2. The moneys deducted under this section shall be paid promptly to the insurance company designated by the state officers or employees. The deduction may be made even though the compensation paid to an officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full discharge of claims and demands for services rendered by the officer or employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the state officer in charge of the payroll system.

Sec. 2. Section 262.21, Code 1991, is amended to read as follows:

262.21 ANNUITY CONTRACTS.

At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees from any company the employee chooses that is authorized to do business in this state, or the board may arrange for the purchase of an individual mutual fund contract from any company the employee chooses from a broker-dealer, salesperson, or mutual fund registered in this state, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403b of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

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

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

Sec. 3. Section 502.102, subsection 4, paragraphs c and d, Code 1991, are amended by striking the paragraphs and inserting the following:

c. A bank when acting on its own account or when exercising trust or fiduciary powers permitted for banks under applicable state or federal laws and regulations providing for the organization, operation, supervision, and examination of such banks;

d. An insurance company which effects transactions in its own accounts;

Sec. 4. Section 502.102, subsection 7, paragraph b, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. With respect to a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty, the term "issuer" means the owner of an interest in the lease or payments out of production under a lease, right, or royalty, whether whole or fractional, who creates fractional interests for the purpose of sale.

Sec. 5. Section 502.102, subsection 12, Code 1991, is amended to read as follows:

12. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; ~~certificate of interest or participation in an oil, gas or mining title or fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a title or lease, right, or royalty; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.~~ "Security" does not include a ~~time-share interval as defined in section 557A-2 or~~ an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

Sec. 6. Section 502.202, subsection 3, Code 1991, is amended to read as follows:

3. Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, ~~savings institution,~~ or trust company organized and supervised under the laws of this state.

Sec. 7. Section 502.202, subsection 10, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

10. Commercial paper which is a promissory note, draft, bill of exchange, or banker's acceptance which satisfies the following criteria:

a. It evidences an obligation to pay cash within nine months after the date of issuance, exclusive of days of grace.

b. It is issued in denominations of at least fifty thousand dollars.

c. It receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization.

The exemption under this subsection applies to a renewal of an obligation under this subsection which is likewise limited, and to a guarantee of such an obligation or of a renewal.

Sec. 8. Section 502.202, subsection 11, Code 1991, is amended to read as follows:

11. A security issued in connection with an employee stock purchase, option, savings, pension, profit sharing or similar benefit plan; ~~provided, in the case of plans which are not qualified under section 401 of the Internal Revenue Code and which provide for contribution by employees, the administrator is notified in writing fifteen days before the inception of the plan of the terms of the plan.~~

Sec. 9. Section 502.202, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 19. Any security representing a time-share interval as defined in section 557A.2.

Sec. 10. Section 502.203, subsection 2, paragraph c, Code 1991, is amended to read as follows:
c. The security was issued by an issuer which has had or currently has a class of securities registered under this chapter, or under chapter 502 of the Code as it existed prior to January 1, 1976; or

Sec. 11. Section 502.203, subsection 8, Code 1991, is amended to read as follows:

8. An offer or sale to a bank, savings ~~institution~~ and loan association, credit union, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity. However, the administrator, by rule or order, may grant this exemption to a person or class of persons based upon the factors of financial sophistication, net worth, and the amount of assets under investment.

Sec. 12. Section 502.203, subsection 11, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

11. Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants, exercisable within not more than ninety days of their issuance, if:

a. A commission or other remuneration (other than a standby commission) is not paid or given directly or indirectly for soliciting a security holder in this state; or

b. The issuer first files a notice specifying the terms of the offer and the administrator does not by order disallow the exemption within the next ten days.

Sec. 13. Section 502.203, subsection 13, paragraphs a through d, Code 1991, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. The securities to be distributed are registered under the Securities Act of 1933 before the consummation of the transaction; or

b. The securities to be distributed are not required to be registered under the Securities Act of 1933, written notice of the transaction, a filing fee of fifty dollars, and a copy of the materials by which approval of the transaction will be solicited, are given to the administrator at least ten days before the consummation of the transaction, and the administrator does not disallow, by order, the exemption within the next ten days.

Sec. 14. Section 502.203, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 17. The offer or sale of securities by a small business investment company under the federal Small Business Investment Act of 1958 if:

a. The securities are offered or sold in compliance with 17 C.F.R. §§ 230.601 through 230.610a; and

b. The issuer has filed with the administrator the offering document to be used in connection with the offer and sale of the securities not later than the first use of the offering document in this state, the issuer has filed with the administrator a copy of the notification of form "1-E" required by 17 C.F.R. § 230.604 to be filed with the federal securities and exchange commission, and the issuer has paid the administrator a fee of one hundred dollars.

Sec. 15. Section 502.206, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A Unless waived by a registrant, a registration statement under this section automatically becomes effective at the moment the federal registration statement or notification becomes effective if:

Sec. 16. Section 502.208, subsection 2, Code 1991, is amended to read as follows:

2. a. Every person filing a registration statement shall pay a filing fee of one-tenth of one percent of the maximum aggregate offering price at which the registered securities are to be offered in this state, but. Except as provided in paragraph "b", the fee shall in no case be less than fifty dollars or more than one thousand dollars.

b. A face-amount certificate company, an open-end management company, or a unit investment trust, as defined in the Investment Company Act of 1940, may register an indefinite amount of securities under a registration statement. The registrant, at the time of filing, may pay the maximum fee of one thousand dollars, or may pay a fee of two hundred fifty dollars and within ninety days after the end of each fiscal year during which its registration statement is effective and within ninety days after the registration is terminated do one of the following:

(1) Pay an additional fee of one thousand two hundred fifty dollars.

(2) File a report on a form that the administrator by rule adopts, reporting sales of securities to persons within this state during the fiscal year, and pay an additional filing fee of one-tenth of one percent of the maximum aggregate offering price at which the registered securities were offered in this state. However, the fee in no case shall be more than one thousand two hundred fifty dollars.

c. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under section 502.209, the administrator shall retain the fee.

Sec. 17. Section 502.208, subsection 9, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

9. a. A registration statement shall remain effective for one year from its effective date unless it is extended by rule or order of the administrator. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any transaction by or on behalf of a person who is not the issuer, and who is not in control of the issuer or controlled by the issuer or under common control with the issuer, so long as the registration statement is effective, unless otherwise prescribed by order. A registration statement may not be withdrawn after its effective date if any of the securities has been sold in this state, unless permitted by rule or order of the administrator. A registration statement is not effective during the time a stop order is in effect under section 502.209. A registration statement which never became effective may be withdrawn without prejudice to the issuer upon request and for good cause as determined at the discretion of the administrator.

b. During the effective period of a registration statement, the administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering. If any of the securities registered has been sold in this state, the administrator may by rule or order extend the period for filing the reports for an additional period not exceeding two years from the date the registration became effective or from the date of its last amendment or extension.

Sec. 18. Section 502.209, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The applicant or registrant has abandoned the registration statement. The administrator may enter an order under this paragraph if notice is sent to the applicant or registrant, and either the administrator fails to receive a response from the applicant or registrant, or action is not taken by the applicant or registrant within the time specified by the administrator.

Sec. 19. Section 502.301, subsection 1, Code 1991, is amended to read as follows:

1. It is unlawful for any person to transact business in this state as a broker-dealer or agent unless at least one of the following conditions is satisfied:

a. The person is registered under this chapter.

b. The person is a broker-dealer who has no place of business in this state and the broker-dealer satisfies one of the following requirements:

(1) The broker-dealer effects transactions in this state exclusively with or through the issuers of the securities involved in the transaction, other broker-dealers, banks, trust companies, insurance companies, or investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees;

(2) During any period of twelve consecutive months the broker-dealer does not effect transactions in this state in any manner with more than three persons other than those specified in subparagraph (1), whether or not the offeror or any of the offerees is then present in this state; or

(3) The administrator designates the broker-dealer as exempt from these requirements by either rule or order.

Sec. 20. Section 502.302, subsection 1, Code 1991, is amended to read as follows:

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain the information the administrator requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the thirtieth day after an a completed application or an amendment completing the application is filed, unless waived by the applicant. The administrator may by rule or order specify an earlier effective date and may by order defer the effective date until noon of the thirtieth day after the filing of an amendment. Registration of a broker-dealer automatically constitutes registration of an agent named in the application or amendments to the application who is a partner, officer or director, or who is a person occupying a similar status or performing similar functions.

Sec. 21. Section 502.302, subsection 2, Code 1991, is amended to read as follows:

2. Every applicant for initial or renewal registration as a broker-dealer shall pay a filing fee of two hundred dollars. Every applicant for initial or renewal registration as an agent shall pay a filing fee of twenty thirty dollars. A filing fee is not refundable.

Sec. 22. Section 502.302, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Every Except as provided in this subsection, a broker-dealer and every an issuer who employs agents in connection with any security or transaction not exempted either by section 502.202 or section 502.203, shall file and maintain with the administrator a bond conditioned that the broker-dealer or issuer shall properly account for any moneys or securities received from or belonging to another and shall pay, satisfy, and discharge any judgment or decree that may be rendered against such broker-dealer or issuer in a court of competent jurisdiction in a suit or action brought by a purchaser or seller of securities against such broker-dealer or issuer in which it shall be found or adjudged that such securities were sold or purchased by the broker-dealer or issuer in violation of this chapter. Such bond may be drawn to cover the original license and any renewals thereof, and may contain a provision authorizing the surety therein to cancel upon thirty days' notice to the principal and the administrator. A broker-dealer who is a member of the securities investor protection corporation is not required to furnish a bond.

Sec. 23. Section 502.303, subsection 4, Code 1991, is amended to read as follows:

4. The administrator shall may make periodic examinations, within or without this state, of the business and records of each registered broker-dealer, at the times and in the scope as the administrator determines. The examinations may be made without prior notice to the

broker-dealer. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to an examination shall be paid by the broker-dealer whose business is examined, but the expense so payable shall not exceed an amount which the administrator by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the administrator may co-operate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. The administrator shall not make public the information obtained in the course of examinations, except when a duty under this chapter requires the administrator to take action regarding a broker-dealer or to make the information available to one of the agencies specified in this section, or except when the administrator is called as a witness in a criminal or civil proceeding.

Sec. 24. Section 502.304, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The administrator may by order deny, suspend, or revoke a registration or may censure, ~~an applicant or registrant or may impose a civil penalty upon, or bar an applicant, registrant, or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant.~~ A person barred under this subsection may be prohibited by the administrator from employment with a registered broker-dealer. The administrator may restrict the person barred from engaging in any activity for which registration is required. Any action by the administrator under this subsection may be taken if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer, a partner, an officer, or a director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer:

Sec. 25. Section 502.304, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities, insurance, or commodities business;

Sec. 26. Section 502.304, subsection 1, paragraph f, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

f. Is the subject of an adjudication or order entered after notice and opportunity for hearing, within the past ten years by a securities or commodities agency, an administrator of another state, or a court of competent jurisdiction, that reflects that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act, a securities or commodities law of any other state, or a United States postal service fraud order. However, the administrator may not do either of the following:

- (1) Institute a revocation or suspension proceeding under this paragraph more than one year from the final agency order relied on or, if the order has been appealed, the final court decision.
- (2) Enter an order under this paragraph on the basis of an order under another state law unless that order was based on facts which would currently constitute a ground for an order under this section.

Sec. 27. Section 502.304, subsection 1, paragraph j, Code 1991, is amended to read as follows:

j. If a ~~broker-dealer, it has~~ Has failed reasonably to supervise its agents ~~an agent or employee.~~

Sec. 28. Section 502.304, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. k. Has been denied the right to do business in the securities industry, or the person's authority to do business in the securities industry has been revoked for cause by another state, federal, or foreign governmental agency or by a self-regulatory organization.

NEW PARAGRAPH. 1. Has been the subject of a final order in a criminal, civil, injunctive, or administrative action for securities, commodities, or fraud-related violations of the laws of this state or another state, federal, or foreign governmental unit.

Sec. 29. Section 502.304, subsection 2, Code 1991, is amended to read as follows:

2. The administrator may not institute a suspension or revocation proceeding under subsection 1, paragraphs "c" through "f", on the basis of a fact known to the administrator when registration became effective unless the proceeding is instituted within ~~thirty~~ sixty days after the effective date.

Sec. 30. Section 502.304, subsection 7, Code 1991, is amended to read as follows:

7. A civil penalty levied under subsection 1 shall not exceed ~~two hundred fifty one thousand~~ two hundred fifty one thousand dollars per violation per person ~~nor ten and shall not exceed one hundred thousand dollars~~ in a single proceeding against any one person. All administrative fines received shall be deposited in the state general fund of the state.

Sec. 31. Section 502.603, subsection 2, Code 1991, is amended to read as follows:

2. a. For the purpose of any investigation or proceeding under this chapter, the administrator or any officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the administrator deems relevant or material to the inquiry, all of which may be enforced in accordance with the Iowa administrative procedure Act chapter 17A.

b. The administrator may issue and bring an action in district court to enforce subpoenas in this state at the request of a securities agency or administrator of another state, if the activity constituting an alleged violation for which the information is sought would be a violation of this chapter had the activity occurred in this state.

Sec. 32. NEW SECTION. 502.603A COOPERATION WITH OTHER AGENCIES.

1. To encourage uniform interpretation and administration of this chapter and effective securities regulation and enforcement, the administrator may cooperate with the securities agencies or administrators of any state, Canadian province or territory, another country, the securities and exchange commission, the commodity futures trading commission, the securities investor protection corporation, any self-regulatory organization, any national or international organization of securities officials or agencies, and any governmental law enforcement or regulatory agency.

2. The cooperation authorized by subsection 1 may include, but is not limited to, the following:

- a. Establishing a central depository for licensing or registration under this chapter and for documents or records required or allowed to be maintained under this chapter.
- b. Making a joint examination or investigation.
- c. Holding a joint administrative hearing.
- d. Filing and prosecuting a joint civil or administrative proceeding.
- e. Sharing and exchanging personnel.
- f. Sharing and exchanging information and documents subject to restriction of confidentiality in section 502.603, subsection 1.
- g. Formulating, in accordance with chapter 17A, rules or proposed rules on matters such as statements of policy, guidelines, and interpretive opinions.

Sec. 33. Section 502.604, Code 1991, is amended to read as follows:

502.604 CEASE AND DESIST ORDERS — INJUNCTIONS.

Whenever ~~If~~ it appears to the administrator that any a person has engaged or is about to engage in any an act or practice constituting a violation of any provision of this chapter or any rule or order hereunder adopted or issued pursuant to this chapter, the administrator may do either or both of the following:

1. Issue an order directed at any ~~such~~ the person requiring ~~such~~ the person to cease and desist from engaging in such act or practice; ~~or~~.

2. Bring an action in the district court to enjoin the aets or praetiees act or practice and to enforce compliance with this chapter or any a rule or order hereunder adopted or issued pursuant to this chapter. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. In addition, upon a proper showing by the administrator, the court may enter an order of rescission, restitution, or disgorgement directed at any person who has engaged in an act constituting a violation of this chapter, or a rule or order adopted or issued pursuant to this chapter. The administrator shall not be required to post a bond.

Sec. 34. **NEW SECTION. 502.604A COURT ACTION.**

If a person fails or refuses to file any statement or report or to produce any books, papers, correspondence, memoranda, agreements, or other documents or records, or to obey any subpoena issued by the administrator, the administrator may refer the matter to the attorney general, who, after notice, may apply to a district court to enforce compliance. The court may order any or all of the following:

1. Injunctive relief, restricting or prohibiting the offer or sale of securities.
2. Revocation or suspension of any license or registration.
3. Production of documents or records, including but not limited to books, papers, correspondence, memoranda, or agreements.
4. Such other relief as may be required.

Such an order shall be effective until the person files the statement or report or produces the documents requested, or obeys the subpoena.

Sec. 35. Section 502.609, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Every applicant for registration under this chapter, and every issuer which proposes to offer a security in this state through any person acting as agent, shall file with the administrator, in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or the administrator's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or the successor, executor or administrator of such person which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration which is then in effect. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless the plaintiff, including the administrator when acting as such,

Sec. 36. Section 502.210, Code 1991, is repealed.

Approved April 22, 1991

CHAPTER 41

PUBLIC RETIREMENT SYSTEMS – SURVIVING SPOUSE BENEFITS

H.F. 5

AN ACT relating to the payment of pension benefits to surviving spouses under the chapters 97A, 410, and 411 retirement systems, and providing retroactive applicability dates.

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

Section 1. Section 97A.6, subsection 8, paragraph b, unnumbered paragraph 5, Code 1991, is amended to read as follows:

Notwithstanding section 97A.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

Sec. 2. Section 410.10, Code 1991, is amended to read as follows:

410.10 PENSIONS – SURVIVING SPOUSE – CHILDREN – DEPENDENTS.

Upon the death of any acting or retired member of such departments, leaving a spouse or minor children, or dependent father or mother surviving, there shall be paid out of said fund as follows:

1. To the surviving spouse, so long as said spouse remains unmarried, a sum equal to one-half of the deceased member's total adjusted pension as provided for in section 410.6, but in no event less than seventy-five dollars per month.

2. If there be no surviving spouse, or upon the death or remarriage of such spouse, then to the dependent father and mother, if both survive, or to either dependent parent, if one survives, thirty dollars per month.

3. To the guardian of each surviving child under eighteen years of age, twenty dollars per month.

Effective July 1, 1991, the remarriage of a surviving spouse does not make the spouse ineligible to receive benefits under this section, and for a surviving spouse who remarried prior to July 1, 1991, the remarriage does not make the spouse ineligible to receive benefits under this section.

However, the benefits provided by this section are subject to the following definitions: The term "spouse" means a surviving spouse of a marriage contracted prior to retirement of a deceased member from active service, or of a marriage of a retired member contracted prior to March 2, 1934. Surviving spouse includes a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage contracted prior to retirement of a deceased member, or of a marriage of a retired member contracted prior to March 2, 1934, surviving spouse includes a surviving spouse of a marriage of two years or more duration contracted subsequent to retirement of the member. The terms "child" and "children" mean only the surviving issue of a deceased active or retired member, or the child or children legally adopted by a deceased member prior to the member's retirement from active service.

This section and its provisions shall be interpreted for all purposes as including all surviving spouses.

Sec. 3. Section 411.6, subsection 8, paragraph b, unnumbered paragraph 4, Code 1991, is amended to read as follows:

Notwithstanding section 411.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

Sec. 4. APPLICABILITY.

1. Sections 1 and 3 of this Act are retroactively applicable to July 1, 1990, and are applicable on and after that date.

2. The provision of section 2 of this Act relating to the remarriage of a surviving spouse prior to July 1, 1991, is applicable to benefits payable on or after July 1, 1991.

Approved April 22, 1991

CHAPTER 42

NULLIFICATION OF STATE ADMINISTRATIVE RULES

H.F. 274

AN ACT relating to the omission of nullified administrative rules from the Iowa administrative code.

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

Section 1. Section 3.6, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The secretary of state shall submit to the administrative code editor a copy of any resolution nullifying an administrative rule which is passed by the general assembly pursuant to Article III, section 40 of the Constitution of the State of Iowa.

Sec. 2. Section 17A.6, subsection 1, Code 1991, is amended to read as follows:

1. The Code editor shall cause the "Iowa Administrative Bulletin" to be published in pamphlet form at least every other week containing the following:

a. Notices of intended action and adopted rules prepared in such a manner so that the text of a proposed or adopted rule shows the text of any existing rule being changed and the change being made.

b. All proclamations and executive orders of the governor which are general and permanent in nature.

c. Resolutions nullifying administrative rules passed by the general assembly pursuant to Article III, section 40 of the Constitution of the State of Iowa.

d. Other materials deemed fitting and proper by the administrative rules review committee.

Sec. 3. Section 17A.6, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The administrative code editor shall omit or cause to be omitted from the Iowa administrative code any rule or portion of a rule nullified by the general assembly pursuant to Article III, section 40 of the Constitution of the State of Iowa.

Sec. 4. The administrative code editor shall omit or cause to be omitted from the Iowa administrative code all rules or portions of rules which have been nullified by the general assembly pursuant to Article III, section 40 of the Constitution of the State of Iowa prior to the effective date of this Act. The administrative code editor shall also notify all affected agencies that the nullified rules are to be omitted.

Approved April 22, 1991

CHAPTER 43

UNEMPLOYMENT BENEFITS — EFFECT OF CLAIMS DETERMINATIONS

H.F. 306

AN ACT relating to the collateral effect of job service division determinations regarding claims for unemployment benefits.

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

Section 1. Section 96.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. EFFECT OF DETERMINATION. A finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of the division, administrative law judge, or the employment appeal board, is binding only upon the parties to proceedings brought under this chapter, and is not binding upon any other proceedings or action involving the same facts brought by the same or related parties before the division of labor services, division of industrial services, other state agency, arbitrator, court, or judge of this state or the United States.

Approved April 22, 1991

CHAPTER 44

REORGANIZED SCHOOL DISTRICTS — CHANGE OF AREA EDUCATION AGENCY *H.F. 334*

AN ACT to permit districts which reorganize to change the area education agency which will provide services to students in the new or enlarged district.

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

Section 1. Section 275.27, Code 1991, is amended to read as follows:

275.27 COMMUNITY SCHOOL DISTRICTS — PART OF AREA EDUCATION AGENCY.

School districts created or enlarged under this chapter are community school districts and are part of the area education agency in which the greatest number of qualified electors of the district reside at the time of the special election called for in section 275.18, and sections of the Code applicable to the common schools generally are applicable to these districts in addition to the powers and privileges conferred by this chapter. If a school district, created or enlarged under this chapter and assigned to an area education agency under this section, can demonstrate that students in the district were utilizing a service or program prior to the formation of the new or enlarged district that is unavailable from the area education agency to which the new or enlarged district is assigned, the district may be reassigned to the area education agency, which formerly provided the service or program, upon an affirmative majority vote of the boards of the affected area education agencies to permit the change.

Approved April 22, 1991

CHAPTER 45

EMPLOYMENT SECURITY LAW REVISIONS *H.F. 459*

AN ACT relating to the administration of the employment security law by the division of job service of the department of employment services and providing an effective date.

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

Section 1. Section 96.4, subsection 3, Code 1991, is amended to read as follows:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while

employed at the individual's regular job, as defined in section 96.19, subsection 9, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "i".

Sec. 2. Section 96.4, subsection 6, paragraph b, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. sec. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly benefit amount wage.

Sec. 3. Section 96.5, subsection 1, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 4. Section 96.5, subsection 10, Code 1991, is amended to read as follows:

10. ALIENS – DISQUALIFIED. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

Sec. 5. Section 96.7, subsection 9, paragraph a, Code 1991, is amended to read as follows:

a. The amount of the bond or deposit shall be equal to two and seven-tenths percent of the nonprofit organization's total taxable wages paid for employment during the four calendar quarters immediately preceding the effective date of the election, or the renewal date of a bond or a deposit of money or securities during the calendar year immediately preceding the annual review date as determined by the division, whichever date is most recent and applicable. If the nonprofit organization did not pay wages in each of the four calendar quarters, the amount of the bond or deposit shall be determined by the division.

Sec. 6. Section 96.8, subsection 5, Code 1991, is amended to read as follows:

5. Liability of certain employers. Employers who by election or determination of the division of job service are liable for payments in lieu of contributions shall not be relieved of any regular benefit charges or extended benefit charges by any provision of this chapter, except for those charges which are determined to be incorrect because of an error by the division of job service.

Sec. 7. Section 96.9, subsection 4, paragraph a, Code 1991, is amended to read as follows:

a. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Such money may be requisitioned pursuant to subsection 3 of this section for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter but only pursuant to a specific appropriation by the legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which (1) specifies the purposes for which such money is appropriated and the amounts

appropriated therefor, (2) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such thirty-five twelve-month periods transferred to the account of this state pursuant to section 903 of the Social Security Act exceeds the aggregate of the amounts used by this state pursuant to this chapter and charged against the amounts transferred to the account of this state during the same twelve-month period. For purposes of this subsection, amounts used by this state for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into. The use of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States secretary of labor.

Sec. 8. Section 96.9, subsection 4, paragraph b, Code 1991, is amended by striking the subsection.

Sec. 9. Section 96.11, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 16. The division shall include in the amount set off in accordance with section 421.17, subsection 29 for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of revenue and finance.

Sec. 10. Section 96.13, subsection 3, paragraph a, unnumbered paragraph 3, Code 1991, is amended to read as follows:

Balances to the credit of the fund shall not lapse at any time but shall continuously be available to the division of job service for expenditures consistent with this subsection. However, the division shall not expend more than fifty thousand dollars from the fund in a state fiscal year beginning July 1 and ending June 30. After the end of a state fiscal year the treasurer of state shall promptly transfer the entire amount of the fund in excess of that portion of the fifty thousand dollars, which the division has expended or obligated for the preceding state fiscal year, to the temporary emergency surcharge fund, but if the treasurer of state determines that the division does not have and will not on September 30 have an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, the treasurer of state shall instead promptly transfer the entire excess amount to the unemployment trust fund established in section 96.9. Moneys remaining in the fund at the end of each fiscal year shall not revert to any fund and shall remain in the fund.

Sec. 11. Section 96.14, subsection 2, unnumbered paragraph 5, Code 1991, is amended to read as follows:

A penalty shall not be less than ten dollars for each the first delinquent report or each the first insufficient report not made sufficient within thirty days after a request to do so. The penalty shall not be less than twenty-five dollars for the second delinquent or insufficient report, and not less than fifty dollars for each delinquent or insufficient report thereafter, until four consecutive calendar quarters of reports are timely and sufficiently filed. Interest, penalties, and cost shall be collected by the division in the same manner as provided by this chapter for contributions.

Sec. 12. Sections 7 and 8 of this Act take effect October 1, 1991.

Approved April 22, 1991

CHAPTER 46**FORECLOSURES – NOTICE OF RIGHT TO CURE DEFAULT***H.F. 567*

AN ACT relating to the requirements for a notice of right to cure concerning an obligation secured by a deed of trust or mortgage.

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

Section 1. Section 654.2B, Code 1991, 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 or other person 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 the creditor or a person acting on behalf of the creditor is entitled to proceed with initiating a foreclosure action or procedure. The failure of the notice of right to cure to comply with one or more provisions of this section is not a defense or claim in any action pursuant to this chapter and does not invalidate any procedure pursuant to chapter 655A, unless the person asserting the defense, claim, or invalidity proves that the person was substantially prejudiced by such failure.

Sec. 2. Section 654.2D, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. As used in this section, "creditor" includes a person acting on behalf of a creditor.

Approved April 22, 1991

CHAPTER 47**DOCUMENTS FILED WITH GENERAL ASSEMBLY***H.F. 592*

AN ACT relating to documents filed with the general assembly by officials and departments.

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

Section 1. **NEW SECTION. 17.11 DOCUMENTS FILED WITH THE GENERAL ASSEMBLY.**

1. It is the intent of the general assembly that a department or official may notify the chief clerk of the house of representatives and the secretary of the senate of the availability of documents and materials other than those covered by subsection 2.

2. A department or official required to file a document with the general assembly shall only be required to send one copy of the document to each of the following:

- a. The chief clerk of the house of representatives.
- b. The secretary of the senate.
- c. Each caucus or research staff director of the general assembly.

3. The chief clerk of the house of representatives and the secretary of the senate shall transmit a list of the documents received, and a list of the documents and materials available to the general assembly to the legislative service bureau, which shall maintain the lists, as well

as a list of addresses where copies of the documents may be ordered. The legislative service bureau shall distribute copies of these lists to members of the general assembly weekly when the general assembly is in session, and monthly during the legislative interim.

Approved April 22, 1991

CHAPTER 48

PAYMENT OF COURT FEES

H.F. 598

AN ACT relating to the payment of certain court filing fees by the United States.

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

Section 1. Section 602.8105, subsection 1, paragraph s, Code 1991, is amended to read as follows:

s. For filing and docketing a transcript of judgment from another county, two dollars. However, transcripts of judgments submitted by the United States shall be docketed without payment of the fee at the time of filing, and the fee shall be paid by the judgment debtor at the time of filing the satisfaction of judgment.

Approved April 22, 1991

CHAPTER 49

PERSONALIZED COLLEGIATE REGISTRATION PLATES

S.F. 231

AN ACT allowing the issuance of personalized collegiate registration plates for motor vehicles and providing an effective date.

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

Section 1. Section 321.34, subsection 10, paragraph b, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) In lieu of the letter number designation provided under subparagraphs (1) through (3), the collegiate registration plates may be designated in the manner provided for personalized registration plates under subsection 5, paragraph "a", in the colors designated for the respective universities under subparagraphs (1) through (3).

Sec. 2. Section 321.34, subsection 10, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A collegiate registration plate shall not be issued if its combination of alphanumeric characters are identical to those contained on a current personalized registration plate issued under subsection 5. However, the owner of a motor vehicle who has a personalized registration plate issued for the motor vehicle may, after proper application and payment of fees, be issued a collegiate registration plate containing the same alphanumeric characters as those on the personalized plate. Upon receipt of the collegiate registration plates, the owner shall surrender the personalized registration plates to the county treasurer.

Sec. 3. This Act takes effect on December 1, 1991.

Approved April 23, 1991

CHAPTER 50**COMMISSION OF LATINO AFFAIRS AND COMMISSION ON THE STATUS OF BLACKS**
S.F. 389

AN ACT relating to the department of human rights commission of Latino affairs and commission on the status of blacks.

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

Section 1. Section 601K.12, Code 1991, is amended to read as follows:

601K.12 COMMISSION OF LATINO AFFAIRS — TERMS — COMPENSATION.

The commission of Latino affairs consists of nine members, appointed by the governor. Commission members shall be appointed in compliance with sections 69.16 and 69.16A and with consideration given to geographic residence and density of Latino population represented by each member. 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. 2. Section 601K.1, subsection 8, Code 1991, is amended to read as follows:

8. Division on the status of ~~blacks~~ African-Americans.

Sec. 3. Section 601K.141, Code 1991, is amended to read as follows:

601K.141 DEFINITIONS.

For purposes of this subchapter, unless the context otherwise requires:

1. "Commission" means the commission on the status of ~~blacks~~ African-Americans.
2. "Division" means the division on the status of ~~blacks~~ African-Americans of the department of human rights.
3. "Administrator" means the administrator of the division on the status of ~~blacks~~ African-Americans of the department of human rights.

Sec. 4. Section 601K.142, Code 1991, is amended to read as follows:

601K.142 ESTABLISHMENT.

There is established a commission on the status of ~~blacks~~ African-Americans to consist of nine members, appointed by the governor, and confirmed by the senate, to staggered four-year terms. At least five members shall be individuals who are ~~black~~ African-American. Members shall be appointed representing every geographical area of the state. No more than a simple majority of the commission shall be of the same political party. The members of the commission shall appoint from its membership a commission chairperson and a vice chairperson and other officers as the commission deems necessary. Vacancies on the commission shall be filled for the remainder of term of the original appointment.

Sec. 5. Section 601K.144, Code 1991, is amended to read as follows:

601K.144 OBJECTIVES OF COMMISSION.

The commission shall study the changing needs and problems of ~~blacks~~ African-Americans in this state, and recommend new programs, policies, and constructive action to the governor and the general assembly including, but not limited to, the following areas:

1. Public and private employment policies and practices.
2. Iowa labor laws.
3. Legal treatment relating to political and civil rights.
4. ~~Black~~ African-American children, youth, and families.
5. Expanded programs to assist ~~blacks~~ African-Americans as consumers.
6. The employment of ~~blacks~~ African-Americans and the initiation and sustaining of ~~black~~ African-American businesses and ~~black~~ African-American entrepreneurship.

7. ~~Blacks~~ African-Americans as members of private and public boards, committees, and organizations.
8. Education, health, housing, social welfare, human rights, and recreation.
9. The legal system, including law enforcement, both criminal and civil.
10. Social service programs.

Sec. 6. Section 601K.146, Code 1991, is amended to read as follows:

601K.146 DUTIES.

The commission shall do all of the following:

1. Serve as an information clearinghouse on programs and agencies operating to assist ~~blacks~~ African-Americans. Clearinghouse duties shall include, but are not limited to:
 - a. Service as a referral agency to assist ~~blacks~~ African-Americans in securing access to state agencies and programs.
 - b. Service as a liaison with federal, state, and local governmental units and private organizations on matters relating to ~~blacks~~ African-Americans.
 - c. Service as a communications conduit to state government for ~~black~~ African-American organizations in the state.
 - d. Stimulation of public awareness of the problems of ~~blacks~~ African-Americans.
2. Conduct conferences and training programs for ~~blacks~~ African-Americans, public and private agencies and organizations, and the general public.
3. Coordinate, assist, and cooperate with public and private agencies in efforts to expand equal rights and opportunities for ~~blacks~~ African-Americans in the areas of: employment, economic development, education, health, housing, recreation, social welfare, social services, and the legal system.
4. Serve as the central permanent agency for the advocacy of services for ~~blacks~~ African-Americans.
5. Provide assistance to and cooperate with individuals and public and private agencies and organizations in joint efforts to study and resolve problems relating to the improvement of the status of ~~blacks~~ African-Americans.
6. Publish and disseminate information relating to ~~blacks~~ African-Americans, including publicizing their accomplishments and contributions to this state.
7. Evaluate existing and proposed programs and legislation for their impact on ~~blacks~~ African-Americans.
8. Coordinate or conduct training programs for ~~blacks~~ African-Americans to enable them to assume leadership positions.
9. Conduct surveys of ~~blacks~~ African-Americans to ascertain their needs.
10. Assist the department of personnel in the elimination of underutilization of ~~blacks~~ African-Americans in the state's workforce.
11. Recommend legislation to the governor and the general assembly designed to improve the educational opportunities and the economic and social conditions of ~~blacks~~ African-Americans in this state.

Approved April 23, 1991

CHAPTER 51
TEACHER LICENSING
H.F. 486

AN ACT to permit the board of educational examiners to deem national board certificate holders as meeting the requirements for Iowa teachers' licenses or endorsements.

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

Section 1. **NEW SECTION. 260.20 NATIONAL CERTIFICATION.**

The board of educational examiners shall review the 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 or license meet or exceed the requirements contained in rules adopted under this chapter for that endorsement or license, the board of educational examiners shall issue endorsements or licenses to holders of certificates issued by the national board who request the endorsement or license.

Approved April 23, 1991

CHAPTER 52
STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM
S.F. 326

AN ACT exempting members, employees, and the secretary of the board of trustees for the statewide fire and police retirement system from certain liabilities, providing per diem compensation for board members, appropriating funds to the board, changing the date for completion of an actuarial study, providing that certain cities that did not participate in a chapter 411 retirement system as of May 3, 1990, are not required to participate in the statewide system, and providing retroactive applicability and effective date provisions.

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

Section 1. Section 411.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Except as otherwise provided in section 411.36, a member, employee, and the secretary of the board of trustees shall not be personally liable for a loss to the fire and police retirement fund, the loss shall be assessed against the fire and police retirement fund, and moneys are hereby appropriated from the fund in an amount sufficient to cover the losses.

Sec. 2. Section 411.36, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Members of the board shall be paid their actual and necessary expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service. Per diem and expenses shall be paid to voting members from the fire and police retirement fund created in section 411.8. Per diem and expenses of the legislative members shall be paid from the funds appropriated under section 2.12. However, legislative members shall not be paid pursuant to this section when the general assembly is actually in session at the seat of government.

NEW SUBSECTION. 6. A member, employee, and the secretary of the board of trustees are not personally liable for claims 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 for a transaction from which the person derives an improper personal benefit, even if the acts or omissions violate the standards established in section 411.7, subsection 2.

Sec. 3. Section 411.37, subsection 3, Code 1991, is amended to read as follows:

3. For each of the fiscal year years beginning July 1, 1990, and July 1, 1991, ten percent of the amount appropriated for distribution to cities as provided in section 411.20 shall be made available to the board of trustees for the statewide system to cover the administrative costs of the transition. The amount distributed to each city shall be reduced accordingly. The moneys remaining unencumbered or unexpended at the end of the fiscal year beginning July 1, 1990, and the moneys remaining unencumbered or unexpended on January 1, 1992, shall be credited to the cities in the same proportion as the reduction.

Sec. 4. 1990 Iowa Acts, chapter 1240, section 85, subsection 1,* is amended to read as follows:

1. Effective January 1, 1992, a single statewide fire and police retirement system is established to replace the individual city fire retirement systems and police retirement systems operating under this chapter prior to that date. Each city fire and** retirement system and police retirement system operating under this chapter prior to ~~January 1, 1992~~ May 3, 1990, shall participate in the statewide system.

Sec. 5. 1990 Iowa Acts, chapter 1240, section 89, subsection 5, is amended to read as follows:

5. The initial board members are entitled to expenses incurred in the performance of their duties during the transition period, and commencing on the effective date of this section a per diem as specified in section 7E.6 for each day of service. Per diem and expenses shall be paid to voting members from the funds provided in section 411.37, subsection 3. Per diem and expenses of the legislative members shall be paid from the funds appropriated under section 2.12. However, legislative members shall not be paid pursuant to this section when the general assembly is actually in session at the seat of government.

Sec. 6. 1990 Iowa Acts, chapter 1240, section 89, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A member, employee, and the secretary of the board of trustees are not personally liable for claims 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 for a transaction from which the person derives an improper personal benefit.

Sec. 7. 1990 Iowa Acts, chapter 1240, section 91, unnumbered paragraph 7, is amended to read as follows:

The study shall be completed and a report submitted to the general assembly not later than December 1, ~~1990~~ 1991.

Sec. 8. 1. A city whose population was under eight thousand prior to the results of the federal census conducted in 1990 is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240 upon attaining a population of eight thousand or more.

2. A city which did not have a paid fire department on May 3, 1990, is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240, upon establishing a paid fire department.

3. A city which did not have a paid police department on May 3, 1990, is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240, upon establishing a paid police department.

4. If a city's firefighters or police officers, or both, are appointed under the civil service law of this state, but the city was not operating a city fire or police retirement system, or both, under this chapter on May 3, 1990, the city is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240.

*Codified at §411.35 in 1991 Iowa Code

**"and" does not appear in the Act cited

Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

1. Sections 1 and 2 of this Act take effect on January 1, 1992.
2. Sections 3, 5, and 7 of this Act, being deemed of immediate importance, take effect upon enactment, and section 7 of this Act applies retroactively to November 30, 1990.
3. Sections 4, 6, and 8 of this Act are retroactive to May 3, 1990, and are applicable on and after that date.

Approved April 24, 1991

CHAPTER 53

SECONDARY ROADS — CONTRACT PROCEDURES

S.F. 337

AN ACT relating to contracts for road, bridge, and culvert construction.

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

Section 1. Section 309.40, Code 1991, is amended to read as follows:
309.40 ADVERTISEMENT AND LETTING.

All contracts for road or bridge construction work and materials ~~therefor~~ of for which the engineer's estimate exceeds ~~forty~~ fifty thousand dollars, except surfacing materials obtained from local pits or quarries, shall be advertised and let at a public letting.

Sec. 2. Section 309.42, Code 1991, is amended to read as follows:
309.42 REVIEW OF ROAD, BRIDGE OR CULVERT CONTRACTS.

Contracts for road, bridge or culvert construction work which, according to the engineer's estimate, involve a cost of more than ~~twenty~~ fifty thousand dollars in the aggregate shall be first reviewed by the department to assure compliance with this chapter before the contracts are effective.

Approved April 24, 1991

CHAPTER 54

DRAINAGE OR LEVEE DISTRICT ELECTIONS

S.F. 419

AN ACT relating to voting hours for drainage or levee district trustee elections.

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

Section 1. Section 468.516, Code 1991, is amended to read as follows:
468.516 ELECTION — CANVASS OF VOTES — RETURNS.

On the day designated for said election the polls shall open at one o'clock p.m. and remain open until five o'clock p.m. unless otherwise provided under section 468.522. If no convenient polling place is to be found within the district, the election may be held at some convenient place outside the district. The judges of election shall canvass the vote and certify the result, and deposit with the auditor the ballots cast, together with the pollbooks showing the names of the voters; but if there is more than one county in the district, the returns shall be filed with the auditor of the county having the greatest acreage of said district.

Sec. 2. Section 468.522, Code 1991, is amended to read as follows:

468.522 CHANGE OF DATE AND TIME.

The date on which said the annual election shall be held and the polling hours may be changed by the choice of a majority of electors of such the district expressed by ballot at any such annual election, and the return of such the vote shall be certified in the same manner as the returns for election of trustees. The polling hours may vary from the requirements of section 468.516, but the polls shall be open for at least three consecutive hours between the hours of 8:00 a.m. and 5:00 p.m. on the election day.

Approved April 24, 1991

CHAPTER 55

CLERK OF CITY CIVIL SERVICE COMMISSION

S.F. 488

AN ACT relating to the appointment of the clerk or secretary to a city civil service commission.

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

Section 1. Section 400.4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The commission shall elect a chairperson from among its members. In cities having a population of more than seventy-five thousand, the commission shall appoint an employee in the city clerk's office who is employed under the provisions of this chapter to be clerk of the commission and the duties as such clerk shall have precedence over any additional duties of the employee's regular employment a clerk of the commission. In all other cities the city clerk shall be clerk of the commission. If an employee is appointed clerk of the commission who is employed in a civil service status at the time of appointment as clerk of the commission, the appointee shall retain the civil service rights held before the appointment. However, this section does not grant civil service status or rights to the employee in the capacity of clerk of the commission nor extend any civil service right upon which the appointee may retain the position of clerk of the commission.

Sec. 2. Section 400.27, unnumbered paragraph 4, Code 1991, is amended to read as follows:

The appeal to the district court shall be perfected by filing a notice of appeal with the clerk of the district court within the time herein prescribed and in this section by serving notice thereof of appeal on the secretary clerk of the civil service commission, from whose ruling or decision the appeal is taken.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 1991

CHAPTER 56**SPECIAL MOBILE EQUIPMENT – CORN SHELLERS AND FEED GRINDERS***H.F. 254*

AN ACT relating to corn shellers and feed grinders and special mobile equipment.

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

Section 1. Section 321.1, subsection 17, Code 1991, is amended to read as follows:

17. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, but not including road construction or maintenance machinery and ditch-digging apparatus. This description does not exclude other vehicles which are within the general terms of this subsection. ~~However, this section does not include portable mills or cornshellers mounted upon a motor vehicle or semitrailer.~~

Sec. 2. Section 321.118, Code 1991, is repealed.

Approved April 24, 1991

CHAPTER 57**BOAT MANUFACTURERS AND DEALERS – SPECIAL CERTIFICATES***H.F. 288*

AN ACT relating to boating registration requirements for boat manufacturers or dealers and providing an effective date.

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

Section 1. Section 106.35, Code 1991, is amended to read as follows:

106.35 SPECIAL CERTIFICATE FOR MANUFACTURER OR DEALER.

A manufacturer or dealer owning, storing, repairing, or altering any vessel required to be registered under the provisions of this chapter may operate the same for purposes of transporting, testing, demonstrating, or selling the same without registering each such vessel, provided that any such vessel displays thereon a special certificate issued to such owner as provided in this chapter. This special certificate may not be used for any vessel offered for hire or for any work or service vessels owned by a manufacturer or dealer.

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

Approved April 24, 1991

CHAPTER 58

PEARL HARBOR REGISTRATION PLATES

H.F. 426

AN ACT relating to Pearl Harbor motor vehicle registration plates.

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

Section 1. Section 321.34, subsection 12, Code 1991, is amended to read as follows:

12. PEARL HARBOR PLATES. Effective January 1, 1990, the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who was at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates ~~which~~. The special registration plates shall bear the notation or emblem reading "PEARL HARBOR VETERAN SURVIVOR, DECEMBER 7, 1941": The special plates shall bear the identification "DEC 7" followed by a two digit four identifying number letters or numbers. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department. Upon receipt of the special registration plates, the applicant shall surrender the regular registration plates to the county treasurer. The fee for the issuance of the special registration plates is twenty-five dollars which shall be in addition to the regular annual registration fee. Seriously disabled veterans who are exempted from payment of the annual registration fee under section 321.105, shall pay only the twenty-five dollar fee for issuance of the special registration plates. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section with no additional registration fee being required other than the regular annual registration fee.

Approved April 24, 1991

CHAPTER 59

INSURANCE — DEMOLITION RESERVES

H.F. 499

AN ACT relating to demolition insurance reserves required for property within the corporate limits of a city.

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

Section 1. Section 515.150, subsections 1, 3, 4, and 5, Code 1991, are amended to read as follows:

1. An insurer shall reserve five ten thousand dollars or ten percent, whichever amount is greater, of the payment for damages to the property excluding personal property on which ~~it~~ the insurer has issued a fire and casualty insurance policy as demolition cost reserve if the following are applicable:

- a. The property is located within the corporate limits of a city.
- b. The damage to the property renders it uninhabitable or unfit for the purpose for which it was intended, without repair.
- c. Proof of loss has been submitted by the policyholder for a sum in excess of seventy-five percent of the face value of the policy covering the building or other insured structure.

3. The city shall release all interest in the demolition cost reserve within ninety one hundred eighty days after receiving notice of the existence of the demolition cost reserve unless the city has instituted legal proceedings for the demolition of said the building or other insured structure, and has notified the insurer in writing of the institution of such the legal proceedings. Failure of the city to notify the insurer of such the legal proceedings shall terminate terminates the city's claim to any proceeds from the reserve.

4. A reserve for demolition costs shall is no longer be required if as a result of either of the following:

a. The insurer has received notice from both the insured and the city council that the insured has commenced completed repairs to the property or has commenced completed demolition of the property in compliance with all applicable statutes and local ordinances.

b. The city has failed to notify the insurer as provided under subsection 3.

5. If the city has instituted legal proceedings, undertaken emergency action, or is required to demolish the damaged property at city expense, after instituting legal proceedings, emergency actions, or obtaining waivers for the demolition of the building or other insured structure, the city shall present to the insurer the actual cost of demolition of the property, including engineering, legal, and other demolition project costs incurred, since the date of the fire or other occurrence, including but not limited to legal costs, engineering costs, and demolition costs related directly to the enforcement of any local ordinance, and the insurer shall compensate the city for that actual cost of the demolition project the incurred costs up to the amount in the demolition cost reserve. Any amount left from the demolition cost reserve after the cost of demolition of the property is paid to the city shall be paid to the insured if the insured is entitled to the remaining proceeds under the policy.

Approved April 24, 1991

CHAPTER 60

CITY OFFICERS' AND EMPLOYEES' INTEREST IN CITY CONTRACTS

H.F. 565

AN ACT relating to contracts for the purchase of goods or services by a city.

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

Section 1. Section 362.5, subsection 10, Code 1991, is amended to read as follows:

10. 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, 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 five hundred dollars in a fiscal year.

Sec. 2. Section 362.5, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. 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.

Approved April 24, 1991

CHAPTER 61

COLLEGE STUDENT AID COMMISSION MEMBERSHIP

S.F. 78

AN ACT relating to the membership of the college student aid commission, to substitute a representative from the community colleges for the member of the state council on vocational education.

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

Section 1. Section 261.1, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 2. Section 261.1, subsection 6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Seven Eight additional members to be appointed by the governor. One of sueh the members shall be selected to represent private colleges, private universities and private junior colleges located in the state of Iowa. When appointing sueh one this member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of some or all private colleges, private universities and private junior colleges located in the state of Iowa. One of the members shall be selected to represent community colleges located in the state of Iowa. When appointing this member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of Iowa community colleges. One sueh member shall be enrolled as a student at a board of regents institution, community college, or accredited private institution. One sueh member shall be a representative of a lending institution located in this state. One sueh member shall be a representative of the Iowa student loan liquidity corporation. The other three sueh members, none of whom shall be official board members or trustees of an institution of higher learning or of an association of sueh institutions of higher learning, shall be selected to represent the general public.

Approved April 29, 1991

CHAPTER 62

SUPPORT PAYMENT COLLECTION AND DISBURSEMENT RESPONSIBILITIES

S.F. 291

AN ACT relating to the date of completion of the transfer of responsibilities for certain child support orders from the department of human services to the judicial department.

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

Section 1. 1990 Iowa Acts, chapter 1224, section 1, unnumbered paragraph 1, is amended to read as follows:

In order to implement this Act, the department of human services and the judicial department shall mutually agree on a schedule to complete the transfer of support payment collection and disbursement responsibilities from the collection services center to the clerks of the district court. The schedule shall provide for the completion of the transfer of the responsibilities for all affected orders by June 30, ~~1991~~ 1993. The following procedure shall be used for any order affected by the initial transfer of responsibilities:

Approved April 29, 1991

CHAPTER 63**INDUSTRIAL LOAN COMPANIES — THRIFT GUARANTY CORPORATION***S.F. 310*

AN ACT relating to the repeal of chapter 536B, and the restrictions on investments made by, and debt instruments offered for sale by, an industrial loan company.

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

Section 1. Section 536A.16, Code 1991, is amended to read as follows:

536A.16 CEASE AND DESIST ORDERS.

~~Whenever~~ If the superintendent has reasonable cause to believe that ~~any~~ a licensee is violating ~~any provision of this chapter, chapter 536B, or rules adopted under either pursuant to this chapter,~~ the superintendent may, after ten days' advance written notice, in addition to all actions provided for in this chapter, and without prejudice thereto, enter an order requiring the licensee to cease, desist, and refrain from the violation. After receipt of the advance written notice as ~~provided above,~~ any the licensee, within five days from the receipt of ~~such~~ the notice, may file with the superintendent a written demand for a hearing. Hearings shall promptly be held in the office of the superintendent and a cease and desist order shall not be issued until after the hearing. The licensee shall be entitled to present evidence and the testimony of witnesses at the hearing.

Sec. 2. Section 536A.17, Code 1991, is amended to read as follows:

536A.17 INJUNCTIONS.

The superintendent by counsel of the attorney general may commence an action in the district court, in the name of the state of Iowa as plaintiff on the relation of the superintendent to restrain and enjoin any licensee from violating this chapter, ~~chapter 536B,~~ or rules adopted ~~under either pursuant to this chapter,~~ or to restrain and enjoin any person, copartnership, firm, or corporation from engaging in the business of operating an industrial loan company without obtaining a license as required by this chapter.

Sec. 3. Section 536A.22, Code 1991, is amended to read as follows:

536A.22 THRIFT CERTIFICATES.

Licensed industrial loan companies may sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness. The total amount of such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits and subordinated debt that gives priority to such securities of the issuing industrial loan company. ~~Except as provided in chapter 536B, the~~ The sale of such securities shall be subject to the provisions of chapter 502, and shall not be construed to be exempt ~~therefrom~~ by reason of the provisions of section 502.202, subsection 10, except that the sale of thrift certificates or installment thrift certificates which are redeemable by the holder thereof either upon demand or within a period not in excess of one hundred eighty days ~~shall be~~ are exempt from sections 502.201 and 502.602.

Sec. 4. Section 536A.25, Code 1991, is amended to read as follows:

536A.25 RESTRICTIONS.

1. ~~No~~ An industrial loan company licensed under this chapter shall ~~not~~ make ~~any~~ a loan of money or property to, or guarantee the obligations of, ~~any of its directors or officers;~~ or loan to any borrower, other than a subsidiary or affiliated corporation, more than twenty percent of its total capital, surplus, and undivided profits. ~~No~~ A licensee shall ~~not~~ make ~~any~~ a loan under any other name or at any other place of business than that named in the license.

2. An industrial loan company licensed under this chapter that sells debt instruments to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness, shall not loan to a

borrower, including a subsidiary or an affiliated corporation, more than twenty percent of the industrial loan company's total of capital, surplus, and undivided profits. The aggregate of all loans to subsidiaries and affiliated corporations of the industrial loan company shall not exceed ten percent of the industrial loan company's total assets.

A debt instrument sold by an industrial loan company which is not insured by the federal deposit insurance corporation, shall contain on its face a notice in bold print that the debt instrument is not insured or guaranteed by the federal deposit insurance corporation.

3. Investments by an industrial loan company licensed under this chapter are subject to the provisions of section 524.901 as applied to state banks.

Sec. 5. Section 546.3, Code 1991, is amended to read as follows:

546.3 BANKING DIVISION.

The banking division shall regulate and supervise banks under chapter 524, regulated loan companies under chapter 536, and industrial loan companies under chapter 536A, ~~and the industrial loan thrift guaranty corporation of Iowa under chapter 536B,~~ and shall perform other duties assigned to the division by law. The division is headed by the superintendent of banking who ~~shall be~~ is appointed pursuant to section 524.201. The state banking board shall perform duties within the division as prescribed by law.

Sec. 6. Chapter 536B, Code 1991, is repealed.

Approved April 29, 1991

CHAPTER 64

SMOKE DETECTORS

S.F. 383

AN ACT relating to the installation of smoke detectors in multiple-unit residential buildings and single-family dwellings and making penalties applicable.

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

Section 1. Section 100.18, subsection 1, paragraph b, Code 1991, is amended to read as follows:

b. "Multiple-unit residential building" means a residential building, an apartment house, or a portion of a building or an apartment house with ~~four~~ two or more units, hotel, motel, dormitory, or rooming house.

Sec. 2. Section 100.18, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. Except as provided in subsection 4, multiple-unit residential buildings and single-family dwellings the construction of which is begun on or after July 1, 1991, shall include the installation of smoke detectors in compliance with the rules established by the state fire marshal under subsection 5.

b. The rules shall require the installation of smoke detectors in existing single-family rental units and multiple-unit residential buildings. Existing single-family dwelling units shall be equipped with approved smoke detectors. A person who files for a homestead credit pursuant to chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector installed in compliance with this section, or that one will be installed within thirty days of the date the filing for the credit is made. The state fire marshal shall adopt rules and establish appropriate procedures for the distribution and filing of such certificates with the state fire marshal.

c. An owner or an owner's agent of a multiple-unit residential building or single-family dwelling shall supply light-emitting smoke detectors, upon request, for a tenant with a hearing impairment.

Sec. 3. Section 100.18, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 4. Section 100.18, subsection 5, Code 1991, is amended to read as follows:

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

Sec. 5. Section 100.18, subsection 7, Code 1991, is amended to read as follows:

7. If a smoke detector is found to be inoperable the owner or manager of the multiple-unit residential building or single-family dwelling shall correct the situation within fourteen days after written notification to the owner or manager by the tenant, guest, roomer, state fire marshal, fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials. If the owner or manager of a multiple-unit residential building fails to correct the situation within the fourteen days the tenant, guest, or roomer may cause the smoke detector to be repaired or purchase and install a ~~single-station~~ smoke detector required under this section and may deduct the repair cost or purchase price from the next rental payment or payments made by the tenant, guest, or roomer. However, a lessor or owner may require a lessee, tenant, guest, or roomer who has a residency of longer than thirty days to provide the battery for a battery operated smoke detector.

Sec. 6. Section 100.18, subsection 9, unnumbered paragraph 2, Code 1991, is amended by striking the paragraph.

Approved April 29, 1991

CHAPTER 65

MORTGAGE BANKERS AND BROKERS — REGULATORY AUTHORITY

S.F. 435

AN ACT relating to the transfer of regulatory authority over mortgage bankers and brokers from the superintendent of savings and loans to the superintendent of banking.

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

Section 1. Section 535B.1, subsection 6, Code 1991, is amended to read as follows:

6. "Administrator" means the superintendent of the division of savings and loans banking of the department of commerce.

Sec. 2. Section 535B.13, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. For the purposes of this subsection, "administrator" means either the superintendent of savings and loans banking or the official or agency charged with enforcing this chapter, or parts thereof, against the person under investigation.

Approved April 29, 1991

CHAPTER 66

LIGHT RAIL STUDY

S.F. 454

AN ACT authorizing the state department of transportation to contract for a light rail study.

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

Section 1. **INTENT.** It is the intent of the general assembly to increase energy conservation and efficiency, to reduce air pollution, and to provide efficient and convenient transportation to metropolitan airport facilities through use of a light rail system within the state.

Sec. 2. **LIGHT RAIL SYSTEM.** The state department of transportation shall contract with a private consultant to study the feasibility of operating a light rail system within the state. The routes studied shall include a route from West Des Moines through metropolitan Des Moines, a route from the Des Moines airport through Ankeny to Ames, and a route from Iowa City through North Liberty to Cedar Rapids. The department shall only contract for the light rail system feasibility study authorized by this section if the study is financed from adequate funds made available by the federal government or the private sector. The department is authorized to accept and use any available federal or private funds for conducting the study. The department shall submit a report of findings and recommendations to the general assembly.

Approved April 29, 1991

CHAPTER 67

DEPARTMENTAL RULES ON RECOVERY FOR DAMAGE TO HIGHWAYS

H.F. 275

AN ACT requiring the state department of transportation to adopt administrative rules relating to damage to highways and highway structures.

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

Section 1. Section 321.475, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules pursuant to chapter 17A, stating the department's policy for recovery of damages to highways or highway structures pursuant to this section. The policy shall exclude from recoverable damages the costs of traffic control at the scene of an accident.

Sec. 2. FILING DATE FOR RULES. The rules required to be adopted by section 1 of this Act shall be filed within six months of the enactment of this Act.

Approved April 29, 1991

CHAPTER 68
PUBLIC UTILITY REORGANIZATION
H.F. 386

AN ACT relating to public utility reorganizations and providing an effective date.

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

Section 1. Section 476.77, Code 1991, is amended to read as follows:
476.77 TIME AND STANDARDS FOR REVIEW.

1. A reorganization shall not take place if the board disapproves. Prior to reorganization, the applicant shall file with the board a proposal for reorganization with supporting testimony and evidence to establish that the reorganization is not contrary to the interests of the public utility's ratepayers and the public interest.

2. A proposal for reorganization shall be deemed to have been approved unless the board disapproves the proposal within ~~forty-five~~ ninety days after its filing. However, the board shall not disapprove a proposal for reorganization without providing for notice and opportunity for hearing. The notice of hearing shall be provided no later than ~~twenty-one~~ fifty days after the proposal for reorganization has been filed.

3. In its review of a proposal for reorganization, the board may consider all of the following:

a. Whether the board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.

b. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.

c. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.

d. Whether ratepayers are detrimentally affected.

e. Whether the public interest is detrimentally affected.

4. The board may adopt rules which exempt any a public utility or class of public utility or class of reorganization from this section if the board finds that with respect to the public utility or class of public utility or class of reorganization review is not necessary in the public interest. The board may adopt rules necessary to protect the interest of the customers of the exempt public utility. These rules may include, but are not limited to, notification of a proposed sale or transfer of assets or stock. The board may waive the requirements of this section, if the board finds that board review is not necessary in the public interest.

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

Approved April 29, 1991

CHAPTER 69**ANIMALS ASSISTING DISABLED OR HANDICAPPED PERSONS***H.F. 392*

AN ACT relating to animals specially trained or being trained to assist a disabled or handicapped person, making a penalty applicable, and providing an effective date.

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

Section 1. Section 601D.11, Code 1991, is amended to read as follows:
601D.11 SERVICE DOGS AND ASSISTIVE ANIMALS.

1. For purposes of this section "service dog" means a dog specially trained at a recognized training facility to assist a disabled or handicapped person, whether described as a service dog, a support dog, an independence dog, or otherwise. "Assistive animal" means a simian or other animal specially trained or in the process of being trained under the auspices of a recognized training facility to assist a disabled or handicapped person.

2. A disabled or handicapped person or person training an assistive animal has the right to be accompanied by a service dog or an assistive animal, under control, in any of the places listed in sections 601D.3 and 601D.4 without being required to make additional payment for the service dog or assistive animal. A landlord shall waive lease restrictions on the keeping of dogs animals for the service dog or assistive animal of a disabled or handicapped person. The person is liable for damage done to any premises or facility by a service dog or assistive animal.

3. A person who knowingly denies or interferes with the right of a person under this section is, upon conviction, guilty of a simple misdemeanor.

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

Approved April 29, 1991

CHAPTER 70**SCHOOL BUS TRAFFIC VIOLATIONS***H.F. 419*

AN ACT relating to school bus traffic violations and making a penalty applicable.

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

Section 1. Section 321.372, subsection 3, Code 1991, is amended to read as follows:

3. The driver of ~~any~~ a vehicle, including the driver of a vehicle operating on a private road or driveway, when meeting a school bus on which the ~~with~~ flashing amber warning lamps are flashing shall reduce the vehicle's speed of said vehicle to not more than twenty miles per hour, and shall bring said the vehicle to a complete stop when the school bus stops and the stop signal arm is extended ~~and~~ said. The vehicle shall remain stopped until the stop signal arm is retracted after which time the driver may proceed with due caution.

The driver of ~~any~~ a vehicle, including the driver of a vehicle operating on a private road or driveway, overtaking a school bus shall not pass a school bus when red or amber warning signal lights are flashing ~~and~~. The driver shall bring said the vehicle to a complete stop ~~not~~ no closer than fifteen feet of from the school bus when it is stopped and the stop arm is extended, and the vehicle shall remain stopped until the stop arm is retracted and the school bus resumes motion, ~~or~~ until signaled by the driver to proceed.

Approved April 29, 1991

CHAPTER 71**MATH AND SCIENCE EDUCATION***H.F. 485*

AN ACT to establish a math and science grant program under the administration of the department of education, creating a math and science account, and providing for licensing changes by the board of educational examiners.

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

Section 1. NEW SECTION. 256.45A MATH AND SCIENCE GRANT PROGRAM.

1. The department shall establish a math and science education grant program to provide for the allocation of grant moneys to public school corporations and to contract for the development of statewide program models and recommendations in keeping with the goals stated in this section. A public school corporation desiring to receive grant moneys under the program may submit plans and a proposed budget to the department for approval. The department shall review each plan and its proposed budget and award grants, which may be matching funds grants, for approved plans by July 1 of the calendar year in which the approved plans were submitted. Provision of matching funds from institutional private sources shall be considered by the department in reviewing plans and proposed budgets and awarding grant moneys.

However, for the first school year for which program funds are appropriated, a board of directors of a public school corporation may submit a proposed plan and budget not later than January 1 of that school year and the department shall notify public school corporations by February 15 of that same school year that their plans have been approved or disapproved by the department.

In addition to awarding grants, and if the activity does not violate federal matching funds requirements for an Iowa math and science grant program, the department may expend funds to contract with a public or private nonprofit education organization, association, or laboratory for the development of models or recommendations with statewide applications to further the goals of this section.

2. The department shall make recommendations for, and the state board shall adopt, rules relating to program goals and program administration. The goals of the math and science education program may include, but are not limited to, the development of a model multidisciplinary science curricula that will serve as the framework for the development of individual teaching modules; the design and implementation of a statewide model for staff development in science and math education; the development of specific recommendations and rationale for changes in school standards that will facilitate improvements in math and science education and provide outcomes that serve as a standard of successful learning; provision of a sequence of competencies and instructional strategies for inclusion in teacher preparation programs for those entering math and science programs in Iowa teacher preparation institutions; development and implementation of a new statewide assessment program that is consistent with the materials and approaches envisioned; and the development and implementation strategies for recruitment and retention of females and minorities in math and science education.

The board of educational examiners may develop recommendations for specific changes in the licensing requirements for math and science teachers.

Program administration rules shall include, but are not limited to, development of standard formats and procedures for the submission and assessment of grant applications.

3. There is established in the state treasury a math and science education account that is under the control of and administered by the department of education. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal funds, and shall deposit the moneys in the account to be used for distribution as grant award moneys under the math and science education program. Moneys in the account are appropriated and may be used for the purposes of this section. The department shall not comingle federal, state,

and private funds within the account. Not more than six percent of any state funds appropriated for the program may be used for administrative purposes. State funds appropriated and any interest earned on the state funds but not expended for the first two years of the program shall not revert to the general fund under section 8.33, but shall remain available for expenditure until June 30 of the third year of the program. In subsequent years, state funds and any interest earned on the state funds which are appropriated, but not expended by June 30 of the school year shall revert to the general fund as provided under section 8.33. Receipt of funds during the first year of the program shall not affect eligibility to receive funds during any subsequent years.

Approved April 29, 1991

CHAPTER 72

BANKS — LOCATION OF LOAN RECORDKEEPING FUNCTIONS

H.F. 617

AN ACT relating to the central location of original loan documentation recordkeeping functions at the office of a bank holding company.

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

Section 1. Section 524.1201, Code 1991, is amended to read as follows:
524.1201 GENERAL PROVISIONS.

A bank shall not open or maintain a branch bank. A state bank may establish and operate bank offices subject to approval and regulation of the superintendent and to the restrictions upon location and number imposed by section 524.1202. A bank office may furnish all banking services ordinarily furnished to customers and depositors at the principal place of business of the state bank which operates the office, and a bank office manager or an officer of the bank shall be physically present at each bank office during a majority of its business hours. The central executive and official business and principal recordkeeping functions of a state bank shall be exercised only at its principal place of business, except that data processing services referred to in section 524.804 may be performed for the state bank at some other point. All transactions of a bank office shall be immediately transmitted to the principal place of business of the state bank which operates the office, and no current recordkeeping functions shall be maintained at a bank office except to the extent the state bank which operates the office deems it desirable to keep there duplicates of the records kept at the principal place of business of the state bank. Notwithstanding any of the other provisions of this section, original trust recordkeeping functions may be centrally located at an authorized bank office. Original, and original loan documentation recordkeeping functions may be located at an authorized bank office or at the office of the holding company of a state bank, subject to the approval of the superintendent.

Approved April 29, 1991

CHAPTER 73**HISTORICAL RESOURCE DEVELOPMENT PROGRAM***S.F. 336*

AN ACT relating to the historical resource development program.

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

Section 1. Section 303.16, subsection 3, paragraph a, Code 1991, is amended to read as follows:

a. County and city governments ~~that are certified local governments by the state historic preservation officer, and agencies of certified local governments.~~

Sec. 2. Section 303.16, subsection 3, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. State agencies.

NEW PARAGRAPH. f. Governments and traditional tribal societies of recognized resident American Indian tribes in Iowa.

NEW PARAGRAPH. g. Other units of government.

Sec. 3. Section 303.16, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. Not more than twenty percent of the total grant moneys combined shall be given to or received by any state agency, institution agencies and institutions, or its representative their representatives or agent agents.

Sec. 4. Section 303.16, subsection 6, paragraph b, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A portion of the applicant's operating expenses may be used as a cash match or in-kind match as specified by the division's rules.

Sec. 5. Section 303.16, subsection 6, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Grant or loan funds shall not be awarded to a city or county government for a project in the historic preservation category unless the city or county government has been approved as a certified local government by the state historic preservation officer.

Sec. 6. Section 303.16, subsection 7, paragraph a, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

a. All units of government and nonprofit corporations, fifty cents, of which at least twenty-five cents must be in cash.

Sec. 7. Section 303.16, subsection 9, paragraph a, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any applicant, who is otherwise eligible, who receives a direct or indirect appropriation from the general assembly for a project or portion of a project is ineligible for a historical resources development grant for that same project during the fiscal year for which the appropriation is made. For purposes of this paragraph, "project" includes any related activities, including, but not limited to construction, restoration, supplies, equipment, consulting, or other services.

Approved April 30, 1991

CHAPTER 74

REGULATION OF DAIRY AND OTHER FOOD PRODUCTS

S.F. 525

AN ACT relating to the regulation of dairy products, providing for the repeal of certain sections, and providing effective dates.

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

Section 1. Section 159.1, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Official laboratory" means a biological, chemical, or physical laboratory which performs testing or analysis pursuant to scientific procedures, to the extent the laboratory is recognized by the department as a reliable indicator of scientific results.

NEW SUBSECTION. 1B. "Pasteurization" or "pasteurized" means the procedure of processing milk or a milk product, in order to ensure its safety from contaminants, if the procedure of pasteurization is consistent with standards adopted by the department pursuant to section 192.2.

Sec. 2. Section 190.1, subsections 4 through 6, Code 1991, are amended by striking the subsections.

Sec. 3. Section 190.1, subsections 32 through 57, Code 1991, are amended by striking the subsections.

Sec. 4. Section 190.2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules specifying standards for milk and dairy products which are consistent with the "Pasteurized Milk Ordinance", as provided in chapter 192, and applicable federal standards of identity.

Sec. 5. Section 190.3, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The provisions of subsections 2 and 3 of this section shall not apply to the addition of vitamins approved by the United States Pharmacopoeia or the removal of milk fat from milk as defined in section 190.1, subsection 39.

Sec. 6. **NEW SECTION. 190.14 ADMINISTRATION OF THE CHAPTER.**

1. The department shall administer this chapter consistent with the provisions of the "Grade "A" Pasteurized Milk Ordinance, 1989 Revision", as provided in section 192.2.

2. The department, as provided in section 192.48, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

Sec. 7. **NEW SECTION. 190.15 VIOLATIONS.**

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

Sec. 8. Section 191.2, subsection 5, paragraph j, subparagraphs (1) and (2), Code 1991, are amended to read as follows:

(1) Only the identity of the milk producer shall be required on cans delivered to a milk plant as provided in chapter 192 which receives only grade "A" raw milk for pasteurization, and which immediately dumps, washes, and returns the cans to the milk producer.

(2) The identity of both milk producer and the grade shall be required on cans delivered to a milk plant as provided in chapter 192 which receives both grade "A" raw milk for pasteurization and ungraded raw milk and which immediately dumps, washes, and returns the cans to the milk producer.

Sec. 9. **NEW SECTION. 191.9 ADMINISTRATION OF THE CHAPTER.**

1. The department shall administer this chapter consistent with the provisions of the "Grade "A" Pasteurized Milk Ordinance, 1989 Revision", as provided in section 192.2.

2. The department, as provided in section 192.48, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

Sec. 10. NEW SECTION. 191.10 VIOLATIONS.

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

Sec. 11. NEW SECTION. 192.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Grade "A" Milk Inspection Law".

Sec. 12. NEW SECTION. 192.2 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade "A" Pasteurized Milk Ordinance, 1989 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 13. Section 192.5, Code 1991, is amended to read as follows:

192.5 MILK OR MILK PRODUCTS PERMIT.

It shall be unlawful for any A person who does not possess a permit ~~from issued by the secretary or authorized municipal corporation to department shall not bring into, send into, or receive into the state for sale, or to sell, or offer for sale therein, or to have in storage store~~ any milk or milk products defined product as provided in this chapter and in chapters 190 and 191; provided that, ~~However, the department may exempt from this requirement grocery stores, restaurants, soda fountains, and or similar establishments where milk or a milk products or both are product is served or sold at retail, but not processed, may be exempt from the requirements of this section.~~

Only a person who complies with the requirements of this chapter and chapters 190 and 191 shall be entitled to receive and retain such a permit from the department ~~or authorized municipal corporation.~~ Permits shall not be transferable with respect to persons or locations.

~~The secretary or authorized municipal corporation~~ department shall suspend such a permit whenever there is reason to believe that a public health hazard exists, ~~or whenever the permit holder has violated any of the requirements of said chapters this chapter, chapter 190, or chapter 191, or whenever the permit holder has interfered with the secretary or authorized municipal corporation~~ department in the performance of their its duties: ~~Except. However,~~ where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health; ~~or in any case of a willful refusal to permit authorized inspection, the secretary or authorized municipal corporation~~ department shall serve upon the holder a written notice of intent to suspend the permit. The notice shall specify with particularity the violations in question and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties, or in the absence of agreement, ~~fixed established~~ by the secretary or ~~authorized municipal corporation~~ before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the ~~secretary or authorized municipal corporation~~ department. As used in this section, the terms "public health hazard" and "imminent hazard" shall be defined by rules adopted by the department. The rules shall include examples of public health hazards and imminent hazards.

Upon written application of any person whose permit has been suspended, or upon application within forty-eight hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the ~~secretary or authorized municipal corporation~~ department shall within seventy-two hours proceed to a hearing to ascertain the facts

of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

Upon repeated violation, the ~~secretary or authorized municipal corporation~~ department may revoke such a permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of a court action as provided in sections 192.11 and 192.16 ~~this chapter, chapter 190, or chapter 191.~~

The provisions of this section are intended for the regulation of the production, processing, labeling, and distribution of grade "A" milk and grade "A" milk products under sanitary requirements which are uniform throughout the state.

Sec. 14. Section 192.11, unnumbered paragraphs 4 through 7, Code 1991, are amended by striking the paragraphs.

Sec. 15. Section 192.30, unnumbered paragraph 1, Code 1991, is amended by striking the paragraph.

Sec. 16. Section 192.30, unnumbered paragraph 2, Code 1991, is amended to read as follows: ~~Municipal corporations~~ The department may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this section; however no municipal corporation chapter. However, a governmental body, including the department, a county as provided in chapter 331, or a city as provided in chapter 364 shall not require a grade "A" rating for these products as a condition precedent to their sale within the city.

Sec. 17. Section 192.32, Code 1991, is amended to read as follows:
192.32 INJUNCTION FOR VIOLATIONS.

~~Any A person who shall violate violates any of the provisions provision of this chapter and chapters, chapter 190 and, or chapter 191, or a rule adopted under any of those chapters may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute constitutes a separate violation.~~

Sec. 18. Section 192.33, Code 1991, is amended to read as follows:
192.33 RATING REQUIRED TO RETAIN PERMIT.

~~A pasteurized milk and milk products sanitation compliance rating of ninety percent or more calculated according to the rating system as contained in Public Health Service Publication the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers 1989" and "Method of Making Sanitation Ratings of Milk Supplies, 1987 Revision", shall be is necessary to receive or retain a permit under section 192.5. Said publication is hereby~~ The applicable provisions of these publications are incorporated into this section by this reference and made a part hereof insofar as applicable, a. A copy of which each publication shall be on file in the office of the secretary with the department or in the office of the clerk of an authorized municipal corporation at all times the person subject to an inspection contract as provided in section 192.48.

Sec. 19. Section 192.48, Code 1991, is amended to read as follows:

192.48 ADMINISTRATION OF THE CHAPTER — INSPECTIONS REQUIRED — AGREEMENTS.

~~The department shall administer this chapter and rules adopted pursuant to this chapter. The department shall be is responsible for the inspection of a dairy farm, milk plant, or transfer station, or receiving station to ensure compliance with this chapter and chapters 190 and 191. Whenever practical, the department shall enter into an agreement inspection contract with a person, including but not limited to a municipal corporation, qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection assures ensures compliance with state and federal law. A person entering into an agreement~~

~~inspection contract with the secretary or a person entering into a subagreement with an authorized municipal corporation department for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the secretary or municipal corporation department, and shall have the same authority under this chapter provided to the secretary or authorized municipal corporation department, unless the agreement or subagreement contract specifies otherwise. The department shall review inspection services performed by a person under an agreement with the department or subagreement with a municipal corporation inspection contract to ensure quality cost-effective inspections. If a person is acting in a manner which is inconsistent with the provisions of the applicable chapter, agreement, or subagreement or contract, the secretary or municipal corporation entering into the agreement or subagreement with the person department may revoke the agreement or subagreement with the person inspection contract after notice and hearing, in the manner described for permit revocation in section 192.5 and perform such acts as are necessary to enforce this chapter. Except as provided in this chapter or chapter 194, a person shall not charge a milk plant, receiving station, or transfer station a fee for inspection relating to milk or milk products.~~

Sec. 20. Section 192.56, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

192.56 CONTAINER.

As used in this chapter, "container" means a rigid or nonrigid receptacle, including but not limited to a can, bottle, case, paper carton, cask, keg, or barrel.

Sec. 21. Section 192.63, Code 1991, is amended to read as follows:

192.63 CERTIFIED LABORATORIES.

To insure uniformity in the tests and reporting, an employee certified by the United States public health service of the bacteriological laboratory of the department shall annually certify, in accordance with the United States food and drug administration publication "Evaluation of Milk Laboratories" (1985 revision), all laboratories doing work in the sanitary quality of milk and dairy products for public report. ~~Such~~ The approval by the department shall be based on the evaluation of these laboratories as to personnel training, laboratory methods used, and reporting. The results on tests made by approved laboratories shall be reported to the department on request, on forms prescribed by the secretary of agriculture, and such reports may be used by the department.

The department shall annually certify, in accordance with the United States food and drug administration publication "Evaluation of Milk Laboratories" (1985 revision), every laboratory in the state doing work in the sanitary quality of milk and dairy products for public report. The certifying officer may enter any such place at any reasonable hour to make ~~such~~ the survey. The management of the laboratory shall afford free access to every part of the premises and render all aid and assistance necessary to enable the certifying officer to make a thorough and complete examination.

Sec. 22. Section 194.20, Code 1991, is amended to read as follows:

194.20 INSPECTION FEES — GRADE "B" MILK.

A purchaser of milk from a grade "B" milk producer shall pay an inspection fee not greater than one-half cent per hundredweight. The fee is payable monthly to the secretary department at a time prescribed by the secretary department. A fee imposed by this section shall not be paid on milk subject to inspection by a municipal corporation pursuant to person administering the inspection pursuant to an inspection contract as provided in section 192.14 192.48. Fees collected under section 192.47, subsection 2 and this section shall be deposited in the milk fund established in section 192.47.

Sec. 23. Section 548.13, subsection 5, Code 1991, is amended to read as follows:

5. Marks for dairy products, as provided for in sections 192.23 through 192.39, inclusive chapter 192.

Sec. 24. REPEALS.

1. Sections 192.7 through 192.10, Code 1991, are repealed.
2. Sections 192.12 through 192.17, Code 1991, are repealed.
3. Sections 192.19 through 192.29, Code 1991, are repealed.
4. Sections 192.39, 192.41, 192.46, and 192.65, Code 1991, are repealed.

Sec. 25. CODE EDITOR.

1. The Code editor is directed to transfer section 192.66 to chapter 194, and number the section appropriately.
2. The Code editor is directed to reorganize chapter 192 to enhance its organization and readability, but shall not make substantive changes.

Sec. 26. EFFECTIVE DATE.

1. Except as provided in subsection 2, all sections of this Act take effect on January 1, 1992.
2. This section and sections 12 and 25 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 30, 1991

CHAPTER 75

DECORATIVE FOUNTAINS

H.F. 91

AN ACT exempting certain decorative fountains from regulation as swimming pools and spas.

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

Section 1. Section 135I.1, subsection 4, Code 1991, is amended to read as follows:

4. "Swimming pool" means an artificial basin and its appurtenances, either constructed or operated for swimming, wading, or diving, and includes a swimming pool, wading pool, water-slide, or associated bathhouse. "Swimming pool" does not include a decorative fountain which does not serve primarily as a wading or swimming pool and the drain of which fountain is not connected to any type of suction device for removing or recirculating the water.

Approved April 30, 1991

CHAPTER 76

TERMS OF AIRPORT COMMISSIONERS

H.F. 92

AN ACT relating to establishing commencement dates and terms of office for airport commissioners by ordinance.

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

Section 1. Section 330.20, Code 1991, is amended to read as follows:

330.20 APPOINTMENT OF COMMISSION.

When a majority of the voters favors airport control and management by a commission, the governing body shall, within ten days, appoint an airport commission of three or five resident voters. In case of a commission of three members the first appointees shall hold office, one for two years, one for four years, and one for six years. In case of a commission of five members the first appointees shall hold office, one for two years, one for three years, one for four years, one for five years, and one for six years. All subsequent appointments shall be for a term of six years. The governing body shall by ordinance set the commencement dates of office and the length of the terms of office which shall be no more than six and no less than three years. The terms of the first appointees of a newly created commission shall be staggered by length of term and all subsequent appointments shall be for full terms. The governing body shall also provide for staggered terms of office for the appointees of commissions existing on the effective date of this Act. Vacancies shall be filled as original appointments are made. Members of the airport commission shall serve without compensation. Each commissioner shall execute and furnish a bond in an amount fixed by the governing body and filed with the city clerk or county auditor. The commission shall elect from its own members a chairperson and a secretary who shall serve for a term as the commission shall determine.

Approved April 30, 1991

CHAPTER 77

PREMARITAL AGREEMENTS

H.F. 357

AN ACT establishing the Iowa uniform premarital agreement Act, and providing effective date and applicability provisions.

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

Section 1. NEW SECTION. 595A.1 DEFINITIONS.

As used in this chapter:

1. "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.
2. "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property.

Sec. 2. NEW SECTION. 595A.2 CONSTRUCTION AND APPLICATION.

This chapter shall be construed and applied to effectuate its general purpose to make uniform the law with respect to premarital agreements.

Sec. 3. NEW SECTION. 595A.3 SHORT TITLE.

This chapter may be cited as the Iowa uniform premarital agreement Act.

Sec. 4. NEW SECTION. 595A.4 FORMALITIES.

A premarital agreement must be in writing and signed by both prospective spouses. It is enforceable without consideration other than the marriage. Both parties to the agreement shall execute all documents necessary to enforce the agreement.

Sec. 5. NEW SECTION. 595A.5 CONTENT.

1. Parties to a premarital agreement may contract with respect to the following:

a. The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located.

b. The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property.

c. The disposition of property upon separation, dissolution of the marriage, death, or the occurrence or nonoccurrence of any other event.

d. The making of a will, trust, or other arrangement to carry out the provisions of the agreement.

e. The ownership rights in and disposition of the death benefit from a life insurance policy.

f. The choice of law governing the construction of the agreement.

g. Any other matter, including the personal rights and obligations of the parties, not in violation of public policy or a statute imposing a criminal penalty.

2. The right of a spouse or child to support shall not be adversely affected by a premarital agreement.

Sec. 6. NEW SECTION. 595A.6 EFFECTIVE DATE OF AGREEMENT.

A premarital agreement becomes effective upon the marriage of the parties.

Sec. 7. NEW SECTION. 595A.7 REVOCATION.

After marriage, a premarital agreement may be revoked only as follows:

1. By a written agreement signed by both spouses. The revocation is enforceable without consideration.

2. To revoke a premarital agreement without the consent of the other spouse, the person seeking revocation must prove one or more of the following:

a. The person did not execute the agreement voluntarily.

b. The agreement was unconscionable when it was executed.

c. Before the execution of the agreement the person was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse; and the person did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other spouse.

Sec. 8. NEW SECTION. 595A.8 ENFORCEMENT.

A premarital agreement is not enforceable if the person against whom enforcement is sought proves any of the following:

1. The person did not execute the agreement voluntarily.

2. The agreement was unconscionable when it was executed.

3. Before the execution of the agreement the person was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse; and the person did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other spouse.

If a provision of the agreement or the application of the provision to a party is found by the court to be unenforceable, the provision shall be severed from the remainder of the agreement and shall not affect the provisions, or application, of the agreement which can be given effect without the unenforceable provision.

Sec. 9. NEW SECTION. 595A.9 UNCONSCIONABILITY.

In any action under this chapter to revoke or enforce a premarital agreement the issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

Sec. 10. NEW SECTION. 595A.10 ENFORCEMENT – VOID MARRIAGE.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Sec. 11. NEW SECTION. 595A.11 LIMITATION OF ACTIONS.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

Sec. 12. NEW SECTION. 595A.12 EFFECTIVE DATE.

This chapter takes effect on January 1, 1992, and applies to any premarital agreement executed on or after that date. This chapter does not affect the validity under Iowa law of any premarital agreement entered into prior to January 1, 1992.

Approved April 30, 1991

CHAPTER 78

WARNING CITATIONS BY CONSERVATION PEACE OFFICERS

H.F. 373

AN ACT authorizing the issuance of warning citations by state conservation officers and employees who are peace officers.

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

Section 1. Section 107.24, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Adopt rules authorizing officers and employees of the department who are peace officers to issue warning citations for violations of chapters 106 through 112 and chapter 321G.

Approved April 30, 1991

CHAPTER 79

PROHIBITED SALES BY STATE EMPLOYEES – RULES

H.F. 384

AN ACT to establish a single method for obtaining agency consent for an employee to sell goods or services to individuals, associations, or corporations subject to the regulatory authority of the agency.

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

Section 1. Section 68B.4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Each regulatory agency The department of personnel shall adopt rules specifying the method by which employees may obtain agency consent under this section may be obtained. Each regulatory agency shall adopt rules specifying the method by which officials may obtain agency consent under this section.

Approved April 30, 1991

CHAPTER 80**LEVEE AND DRAINAGE DISTRICTS***H.F. 480*

AN ACT relating to common outlet determination and constructive notice of levee and drainage districts.

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

Section 1. Section 468.27, unnumbered paragraph 2, Code 1991, 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 468.11 and 468.12 or as shown on the permanent survey, plat and profile, if one is made. The filing of the survey and report or permanent survey, plat and profile, as set forth in sections 468.172 and 468.173, shall constitute constructive notice to all persons of the rights conferred by this section. 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.

Sec. 2. Section 468.38, Code 1991, is amended to read as follows:

468.38 COMMISSIONERS TO CLASSIFY AND ASSESS.

When a levee or drainage district shall have has been located and finally established or, unless otherwise provided by law, when the required proceedings have been taken to enlarge, deepen, widen, change, or extend any of the ditches, laterals, settling basins, or drains of such a district, or the required proceedings have been ~~had~~ taken to annex additional lands to such a district, or a plan of the United States government for original construction of the improvements in such a district has been ~~heretofore~~ or hereafter adopted by such the district under the provisions of sections 468.201 through 468.216, the board shall appoint three commissioners to assess benefits and classify the lands affected by such the improvement. One of such the commissioners shall be a competent civil engineer and two of them shall be resident freeholders of the county in which the district is located, but not living within, nor interested in, any lands included in said the district, nor related to any party whose land is affected ~~thereby~~ by the district. The commissioners shall take and subscribe an oath of their qualifications and to perform the duties of classification of said the lands, to fix the percentages of benefits, and apportion and assess the costs and expenses of constructing the said improvement, divide and rename original improvements, and, if included in the boards' resolution, adopt special common outlet classifications to be maintained independent of the district's regular assessment schedules, according to law and their best judgment, skill, and ability. If said the commissioners or any of them fail or neglect to act or perform the duties in the time and as required of them by law, the board shall appoint others with like qualifications to take their places and perform said the duties.

Sec. 3. Section 468.65, Code 1991, is amended by adding the following new unnumbered paragraph after subsection 4:

NEW UNNUMBERED PARAGRAPH. The board may include in its resolution an order to the commissioners that they prepare special common outlet classifications, if needed, in conjunction with the reclassification of the district.

Approved April 30, 1991

CHAPTER 81**TAXATION OF PAY TELEVISION SERVICE***H.F. 487*

AN ACT relating to the imposition of the state sales, services, and use tax on pay television service provided by a municipality.

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

Section 1. Section 422.43, subsection 1, Code 1991, is amended to read as follows:

1. There is imposed a tax of four percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water, heat, pay television service, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

Sec. 2. Section 422.45, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The gross receipts or* from services rendered, furnished, or performed and of all sales of goods, wares, or merchandise used for public purposes to any tax-certifying or tax-levying body of the state or governmental subdivision of the state, including regional transit systems, as defined in section 601J.1, the state board of regents, state department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which have no earnings going to the benefit of an equity investor or stockholder except sales of goods, wares, or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity or, heat, or pay television service to the general public.

Sec. 3. Section 422.45, subsection 7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A private nonprofit educational institution in this state, nonprofit private museum or a tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which do not have earnings going to the benefit of an equity investor or stockholder, may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares, or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency, or instrumentality of the state or a political subdivision, a private nonprofit educational institution in this state, or a nonprofit private museum if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, is devoted to educational uses, or becomes a nonprofit private museum; except goods, wares, or merchandise, or services rendered, furnished, or performed used in the performance of any contract in connection with

*See Chapter 97, §46 herein

the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public or in connection with the operation of a municipal pay television system; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares, or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

Sec. 4. Section 422.45, subsection 20, Code 1991, is amended to read as follows:

20. The gross receipts from sales or services rendered, furnished, or performed by a county or city. This exemption does not apply to the tax specifically imposed under section 422.43 on the gross receipts from the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service to the public by a municipal corporation in its proprietary capacity and does not apply to fees paid to cities and counties for the privilege of participating in any athletic sports.

Approved April 30, 1991

CHAPTER 82

EMPLOYMENT RETRAINING PROGRAM

H.F. 498

AN ACT relating to updating criteria under the Iowa retraining program and providing an effective date.

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

Section 1. Section 15.291, subsection 8, paragraph d, Code 1991, is amended by striking the paragraph.

Sec. 2. Section 15.295, subsection 2, Code 1991, is amended to read as follows:

2. The department shall approve, deny, or defer applications and award financial assistance based on selection criteria. The department shall score and rank the criteria according to the relative importance of the criteria. The importance assigned to each criterion shall be determined by the department. Approval, denial, or deferral of an application shall be based on, but not limited to, the following selection criteria:

a. The total amount of dollars which have been invested in the business for the previous three years to increase productivity or efficiency, including capital improvements in retooling past, current, and future financial commitment of the business to increase productivity or efficiency, including capital investments in retooling, and the general financial viability of the business as demonstrated by the business's financial information.

b. The total amount of dollars planned to be invested in the business for the following three years to increase productivity or efficiency, including capital improvements in retooling.

c. A ratio comparing the total amount of dollars invested or to be invested pursuant to paragraphs "a" and "b" plus the amount of profit in dollars made by the business in the previous three years, to the amount of dollars proposed to assist the business in retraining.

d. A ratio comparing the total amount planned to be invested by the business in the actual costs of retraining to the amount of dollars being requested for retraining. This ratio shall indicate that the business's investment amount is at least equal to the amount requested. If not the application shall be denied.

- e c. The quality of jobs resulting from the retraining proposal.
- f d. The need of the proposed business for retraining assistance.
- g e. The number of businesses, contained in the training proposal, applying for combined assistance.
- h f. The endorsement of the labor union or affiliate which represents workers proposed to participate in retraining.
- i g. ~~The degree to which the product made by the business's retooling operation is new, creates new market opportunities, or diversifies the state's economy products or processes of the business's retooling operation is new, creates new or expanded marketing opportunities, diversifies the state's economy, introduces new manufacturing processes into state industry, or improves existing manufacturing processes.~~
- j. ~~The degree to which the business's retooling operation introduces new manufacturing processes into state industry.~~
- k. ~~The past performance of the proposed retraining agency in training persons, by considering the placement and retention of former trainees and employer satisfaction with former trainees.~~
- l h. ~~The result of a cost-benefit analysis which measures the value of the proposed retraining based upon job-related calculations, including but not limited to, the number of participating workers in the proposal, the cost of retraining each worker, the dollar value of wages and benefits to be earned by each retrained worker, and the market demand for the proposed retraining.~~
- m i. ~~The procedure to evaluate the proposed retraining program and collect data required to make the evaluation, based on a procedure which monitors the retraining program, including accounting and auditing systems adequate to ensure the accuracy and reliability of expenditures recorded by the business and related to the proposed retraining.~~
- n j. ~~The feasibility of implementing the retraining proposal relevance of the retraining proposal to the retooling project.~~

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 30, 1991

CHAPTER 83

ADMISSIBILITY OF DOCUMENTARY EVIDENCE

H.F. 506

AN ACT relating to the admission into evidence of reproduced, rerecorded, or duplicated original writings, documents, and other records kept in the regular course of business or activity.

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

Section 1. Section 622.30, subsection 2, Code 1991, is amended to read as follows:

2. If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry print, representation or combination thereof, of any act, transaction, occurrence or event and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, electronic imaging, electronic data processing, or other process which accurately reproduces or forms a durable medium for so accurately and legibly reproducing an unaltered image or reproduction of the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation

is required by law, except if the originals are records, reports, or other papers of a county officer they shall not be destroyed until they have been preserved for ten years. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original recording, copy, or reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

Approved April 30, 1991

CHAPTER 84

TEACHER EXCHANGE PROGRAM

H.F. 516

AN ACT to establish a teacher exchange program within the state.

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

Section 1. Section 256.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 21. If funds are appropriated by the general assembly for the program, adopt rules for the administration of the teacher exchange program, including, but not limited to, rules for application to participate in the program, rules relating to the number of times that a given applicant may participate in the program, and rules describing reimbursable expenses and establishing honoraria for teacher participants.

Sec. 2. Section 256.9, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 45. If funds are appropriated by the general assembly for the program, administer the teacher exchange program, develop forms for requests to participate in the program, and process requests from teacher participants for reimbursement of expenses incurred as a result of participating in the program.

Sec. 3. NEW SECTION. 279.55 TEACHER EXCHANGE PROGRAM.

If funds are appropriated by the general assembly, an Iowa teacher exchange program is established to permit school districts to exchange licensed instructional personnel with other districts in order to promote the exchange and enhancement of instructional methods and materials and encourage the educational development of Iowa's teachers.

Sec. 4. NEW SECTION. 279.56 BOARD PARTICIPATION.

If funds are appropriated by the general assembly, the board of directors of a school district may obtain permission to participate in the teacher exchange program by making application in writing to the department of education, on forms provided by the department, by November 1 of the school year preceding the year that the district wishes to participate. Each district participating in the program shall prescribe standards and procedures explaining the district's expectations and requirements for each participating teacher. The district's standards and procedures shall also prescribe the method and form by which teachers within the district may apply to the board for permission to participate in the program. Each participating district shall continue to compensate the program participant at the same rate that the participant would be compensated if the participant had continued the participant's instructional or other duties within the home district. Each participating district shall report to the department the number and performance of exchange teachers from other districts that are included in the

district's instructional staff during the relevant periods during the school year. The department shall summarize the information and include it in the report submitted under section 256.9, subsection 28.

Each participating teacher shall submit a report of the teacher's experiences in the exchange program to the teacher's employing district at the conclusion of the exchange period.

Sec. 5. NEW SECTION. 279.57 PERIOD OF EXCHANGE.

Teachers may be exchanged for one quarter, one semester, or one school year under the program. Expenses incurred by a teacher participant may be reimbursed by application to the department of education. Reimbursable expenses shall include, but are not limited to, mileage for travel to and from the new school district and the teacher's residence, the cost incurred for meals consumed as a result of travel to and from the new school district and the teacher's residence, the difference between the cost for living quarters incurred by the teacher in the teacher's district of residence and the cost for similar quarters in the new district, and cost of additional educational materials required to be provided by instructional personnel in the new district.

Approved April 30, 1991

CHAPTER 85

CLAIMS TO SAVINGS AND LOAN DEPOSITS

H.F. 626

AN ACT relating to adverse claims over deposits held by a savings and loan association.

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

Section 1. NEW SECTION. 534.309 ADVERSE CLAIMS TO DEPOSITS.

1. An association is not required, in the absence of a court order or indemnity required by this section, to recognize any claim to, or any claim of authority to exercise control over, a deposit account made by a person or persons other than:

a. The customer in whose name the account is held by the association.

b. An individual or group of individuals who are authorized to draw on or control the account pursuant to certified corporate resolution or other written arrangement with the customer, currently on file with the association, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other customer, of which the association has received notice and which is not the subject of a dispute known to the association as to its original validity. The deposit account records of an association are presumptive evidence as to the identity of the customer on whose behalf the money is held.

2. To require an association to recognize an adverse claim to, or adverse claim of authority to control, a deposit account, whoever makes the claim must do either of the following:

a. Obtain and serve on the association an appropriate court order or judicial process directed to the association, restraining any action with respect to the account until further order of such court or instructing the association to pay the balance of the account, in whole or in part, as provided in the order or process.

b. Deliver to the association a bond, in form and amount and with sureties satisfactory to the association, indemnifying the association against any liability, loss, or expense which the association might incur because of its recognition of the adverse claim or because of its refusal by reason of such claim to honor any check or other order of anyone described in subsection 1, paragraphs "a" and "b".

Approved April 30, 1991

CHAPTER 86

TRANSFER OF TITLE BY AFFIDAVIT

H.F. 627

AN ACT relating to transfer of title by affidavit of the surviving spouse.

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

Section 1. Section 558.66, Code 1991, is amended to read as follows:

558.66 TITLE DECREE — ENTRY ON TRANSFER BOOKS.

Upon receipt of a certificate from the clerk of the district court or an appellate court that the title to real estate has been finally established in any named person by judgment or decree or by will or by affidavit of ~~the~~ or on behalf of a surviving spouse that has been recorded by the recorder, the auditor shall enter the information in the certificate upon the transfer books, upon payment of a fee in the amount specified in section 331.507, subsection 2, paragraph "a", ~~which~~. In the case of a certificate from the clerk of the district court or an appellate court, the fee shall be taxed as court costs, collected by the clerk, and paid to the treasurer by the recorder as provided in section 331.902, subsection 3. In the case of the affidavit filed with the recorder, the fee set forth in section 331.507, subsection 2, paragraph "a", and the fee set forth in section 331.604, shall be collected by the recorder and paid to the treasurer as provided in section 331.902, subsection 3.

An affidavit of ~~the~~ or on behalf of a surviving spouse ~~shall~~ may be filed with the clerk auditor only when real estate owned by a decedent, who died on or after January 1, 1988, was held in joint tenancy with right of survivorship solely with the surviving spouse and shall be in the following form:

AFFIDAVIT OF SURVIVING SPOUSE FOR CHANGE OF TITLE TO REAL ESTATE
STATE OF IOWA)

COUNTY OF) ss:

I,, being first duly sworn on oath, depose and state as follows:

1. I am [..... is] the surviving spouse of, who died on the day of, 19...

2. The following described real estate was owned only by and this Affiant, [or] as joint tenants with full rights of survivorship at the time of my spouses's [.....]'s death:

.....
.....
.....

3. I hereby request that the Clerk of Court certify the change of title to the above described real estate to the County Auditor pursuant to section 602.8102(10) auditor enter this information on the transfer books pursuant to section 558.66 of the Iowa Code.

.....
Subscribed and sworn to before me this day of, 19...

.....
Notary Public in and for the State of Iowa

Sec. 2. Section 602.8102, subsection 10, Code 1991, is amended to read as follows:

10. When title to real estate is finally established in a person by a judgment or decree of the district court or by decision of an appellate court or when the title to real estate is changed by judgment, decree, will, proceeding, filing of an affidavit of the surviving spouse pursuant to section 558.66, or order in probate, certify the final decree, judgment, affidavit of the surviving spouse, or decision under seal of the court to the auditor of the county in which the real estate is located.

Approved April 30, 1991

CHAPTER 87

ETHANOL BLENDED GASOLINE

H.F. 657

AN ACT relating to alcohol blended gasoline, by changing references from gasohol to ethanol blended gasoline.

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

Section 1. Section 214A.2, subsection 3, paragraphs a and b, Code 1991, are amended to read as follows:

a. Gasoline with a mixture of ten percent or more ethanol, but not more than thirteen percent, shall be known as ~~gasohol~~ conventional blend ethanol.

b. Gasoline with a mixture of more than thirteen percent ethanol, but not more than twenty-five percent, shall be known as high blend ethanol. For purposes of chapters 323A, 324, and 422, high blend ethanol shall be treated as ~~gasohol~~ conventional blend ethanol.

Sec. 2. Section 323A.2, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. At least forty-eight hours prior to entering into an agreement to purchase motor fuel from another source, the franchisee has requested delivery of motor fuel from the franchisor and the requested motor fuel has not been delivered and the franchisor has given the franchisee notice that the franchisor is unable to provide the requested motor fuel, or prior to entering into an agreement the franchisor has stated to the franchisee that the requested motor fuel will not be delivered. The request to the franchisor for delivery shall be for a type of fuel normally provided by the franchisor to the franchisee and for a quantity of fuel not exceeding the average amount sold by the franchisee in one week, based upon average weekly sales in the three months preceding the request, except that this provision shall not restrict a franchisee from purchasing ~~gasohol~~ ethanol blended gasoline from a source other than the franchisor or limit the quantity to be purchased when the franchisor does not normally supply the franchisee with ~~gasohol~~ ethanol blended gasoline.

Sec. 3. Section 324.2, subsection 7, Code 1991, is amended to read as follows:

7. "~~Gasohol~~" "Ethanol blended gasoline" means motor fuel containing at least ten percent alcohol distilled from cereal grains.

Sec. 4. Section 324.3, subsection 5, unnumbered paragraph 3, Code 1991, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of fifteen cents per gallon for the period beginning January 1, 1986, and ending March 31, 1988, and seventeen cents per gallon for the period beginning April 1, 1988, and ending December 31, 1988, and nineteen cents per gallon beginning January 1, 1989, and ending June 30, 1992, is imposed upon the use of ~~gasohol~~ ethanol blended gasoline used for any purpose except as otherwise provided in this division.

Sec. 5. Section 324.8, subsection 6, Code 1991, is amended to read as follows:

6. The sum of the number of invoiced gallons of ~~gasohol~~ ethanol blended gasoline which are received tax free by the distributor during the next preceding calendar month less the number of gallons of ~~gasohol~~ ethanol blended gasoline equal to two per centum of the first three hundred thousand gallons and one per centum of all gallonage in excess of three hundred thousand gallons of ~~gasohol~~ ethanol blended gasoline received or blended by the distributor within this state during the next preceding calendar month after deduction provided in this subsection, this percentage being a flat allowance to cover evaporation, shrinkage and losses in collection, accounting for, and paying over the tax on ~~gasohol~~ ethanol blended gasoline, and the number of gallons of ~~gasohol~~ ethanol blended gasoline blended by the distributor during the next preceding calendar month shall be multiplied by the per gallon motor fuel tax rate applicable to ~~gasohol~~ ethanol blended gasoline.

Sec. 6. Section 324.8, subsection 7, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For the purpose of determining the amount of the tax liability on alcohol blended to produce ~~gasohol~~ ethanol blended gasoline, each licensed blender shall, not later than thirty-one days following the last day of each month, file with the department a monthly report, signed under penalty for false certificate, which shall include the following: The number of gallons of gasoline blended into ~~gasohol~~ ethanol blended gasoline, the number of gallons of alcohol blended into ~~gasohol~~ ethanol blended gasoline. The amount of alcohol blended shall be multiplied by the per gallon motor fuel tax rate applicable to ~~gasohol~~ ethanol blended gasoline.

Sec. 7. Section 324.18, Code 1991, is amended to read as follows:
324.18 REFUND PERMIT.

A person shall not claim a refund under section 324.17 or section 324.21 until the person has obtained a refund permit from the department. A special permit shall be obtained by applicants claiming a refund under this chapter on account of motor fuel used to blend ~~gasohol~~ ethanol blended gasoline. Application for a refund permit shall be made to the department on a form provided by the department, shall be certified by the applicant under penalty for false certificate and shall contain among other things, the name, address, and occupation of the applicant, the nature of the applicant's business, and a sufficient description for identification of the machines and equipment in which is to be used motor fuel for which refund may be claimed under the permit. Each permit shall bear a separate number and each claim for refund shall bear the number of the permit under which it is made. The department shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A refund permit shall continue in effect until it is revoked or becomes invalid.

Sec. 8. Section 324.21, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Persons other than distributors licensed under this division who blend motor fuel and alcohol to produce ~~gasohol~~ ethanol blended gasoline may file for a refund for the difference between taxes paid on the motor fuel purchased to produce ~~gasohol~~ ethanol blended gasoline and the tax due on the ~~gasohol~~ ethanol blended gasoline blended. If, during any month, a person licensed as a distributor under this division uses tax paid motor fuel to blend ~~gasohol~~ ethanol blended gasoline and the refund otherwise due under this section is greater than the distributor's total tax liability for that month, the distributor will be entitled to a credit. The claim for credit shall be filed as part of the report required by section 324.8.

Sec. 9. Section 324.21, unnumbered paragraph 3, Code 1991, is amended to read as follows:

A refund or credit memorandum will not be issued unless the claim is filed within ninety days following the end of the month during which the ~~gasohol~~ ethanol blended gasoline was actually blended.

Sec. 10. Section 324.85, subsection 1, Code 1991, is amended to read as follows:

1. Persons having title to motor fuel, ~~gasohol~~ ethanol blended gasoline, or special fuel in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ~~gasohol~~ ethanol blended gasoline, or special fuel under this chapter shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day next preceding the effective date of the increased excise tax rate of motor fuel, ~~gasohol~~ ethanol blended gasoline, or special fuel which will be subject to the increased excise tax rate.

Sec. 11. Section 422.45, subsection 11, Code 1991, is amended to read as follows:

11. The gross receipts from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the gross receipts from the sales of ~~gasohol~~ ethanol blended gasoline, as defined in section 324.2.

CHAPTER 88
ELDER FAMILY HOMES
S.F. 10

AN ACT relating to the establishment and registration of elder family homes.

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

Section 1. NEW SECTION. 135K.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Assessment" means the administration of a standardized tool and the use of other procedures to identify existing impairments, situations, and problems which are barriers to a resident's ability to function and to identify strengths and specific needs.
2. "Department" means the department of elder affairs.
3. "Elder" means a person sixty years of age or older.
4. "Elder family home" means a private household owned by a responsible party offering a social living arrangement for at least two but not more than five persons, the majority of whom are elders, who are not related within the third degree of consanguinity and who are not able or willing to adequately maintain themselves in an independent living arrangement, but who are essentially capable of physical self care.
5. "Essentially capable of self care" means the elder is ambulatory or can move from place to place; is of sound mind; can manage the activities of daily living including personal hygiene and grooming, toileting, dressing and undressing, feeding, and medicating; and can attend to the care of personal property adequately with minimal support or occasional assistance.
6. "Not able or willing to adequately maintain themselves in an independent living arrangement" means that the elders require some assistance, encouragement, or social stimulation for adequate self care or to maintain physical or mental health or personal safety.
7. "Responsible party" means the person providing room and board in an elder family home who resides in the home. The responsible party may be but is not required to be an elder.

Sec. 2. NEW SECTION. 135K.2 REGISTRATION OF ELDER FAMILY HOMES.

1. The department shall establish a registration program for elder family homes. In order to meet the zoning requirements for classification as an elder family home under section 358A.31 or 414.29, all of the following conditions must be met:
 - a. The responsible party shall register the home as an elder family home with the department.
 - b. The responsible party shall comply with visitation and assessment requirements as determined by the department.
 - c. The responsible party shall attend annual training as prescribed by the commission of elder affairs.
2. If, following a visitation, the care review committee finds that the needs of all of the residents of an elder family home are not being adequately met, the care review committee shall notify the appropriate area agency on aging. The area agency on aging shall cause to be performed a complete assessment of any of the residents whose needs are not being met. If, following the full assessment, the care review committee determines that any of the residents require additional services to meet the needs of the resident, the care review committee shall inform the responsible party that unless the resident relocates to a facility which is able to provide necessary services, the elder family home will no longer be designated as an elder family home and will no longer be in compliance with zoning requirements. The department shall notify the city council or the county board of supervisors if an elder family home is found to no longer be in compliance.
3. If the responsible party does not comply with the recommendations of the care review committee pursuant to subsection 2, the elder family home shall lose its designation for the purposes of zoning.
4. If the care review committee has probable cause to believe that any elder family home is in fact acting as a health care facility as defined under chapter 135C, upon producing

identification that an individual is an inspector, an inspector of the department of inspections and appeals may enter the elder family home to determine if the home is in fact operating as an unlicensed health care facility. If the inspector is denied entrance, the inspector may, with the assistance of the county attorney in the county in which the elder family home is located, apply to the district court for an order requiring the responsible party to permit entry and inspection.

5. The department of elder affairs shall maintain a registry of elder family homes and shall act as a resource and referral agency for elder family homes.

6. Upon application for registration by a person seeking approval for an elder family home, the department shall notify the city council or county board of supervisors of the city or county in which the proposed elder family home is to be located. The city council or county board of supervisors shall respond to the application within thirty days of notification.

7. The department may delegate any duties under this section to local area agencies on aging.

8. The commission shall adopt by rule procedures for appointing members of a care review committee for each elder family home. To the maximum extent possible, the care review committee appointed for an elder family home shall include a person involved in a local retired senior volunteer program. The rules shall incorporate the provisions, if applicable, for care review committees pursuant to sections 135C.25, 135C.38, and 249D.44.

9. The commission of elder affairs shall adopt rules as necessary, to implement this section.

Sec. 3. NEW SECTION. 358A.31 ELDER FAMILY HOMES.

A county board of supervisors or county zoning commission shall consider an elder family home a family home, as defined in section 358A.25, for purposes of zoning, in accordance with section 135K.2, and may identify limitations regarding the proximity of one proposed elder family home to another.

Sec. 4. NEW SECTION. 414.29 ELDER FAMILY HOMES.

A city council or city zoning commission shall consider an elder family home a family home, as defined in section 414.22, for purposes of zoning, in accordance with section 135K.2, and may identify limitations regarding the proximity of one proposed elder family home to another.

Approved May 1, 1991

CHAPTER 89

PESTICIDE DEALER LICENSING

S.F. 33

AN ACT amending the pesticide Act of Iowa, by providing requirements for pesticide dealers, and providing for fees.

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

Section 1. Section 206.8, subsection 2, Code 1991, is amended to read as follows:

2. A pesticide dealer shall pay by June 30 of each year to the department an annual license fee based on the gross retail sales of all pesticides sold for use in this state by the dealer in the previous year. The license fee shall be set as follows:

a. A pesticide dealer with less than one hundred thousand dollars in gross retail pesticide sales shall have the option to pay a license fee based on one-tenth of one percent of the gross retail pesticide sales in the previous year or to pay a license fee according to the following:

(1) Twenty-five dollars, if the annual gross retail pesticide sales are less than twenty-five thousand dollars.

(2) Fifty dollars, if the annual gross retail pesticide sales are twenty-five thousand dollars or more but less than fifty thousand dollars.

(3) Seventy-five dollars, if the annual gross retail pesticide sales are fifty thousand dollars or more but less than seventy-five thousand dollars.

(4) One hundred dollars, if the annual gross retail pesticide sales are seventy-five thousand dollars or more but less than one hundred thousand dollars.

The secretary shall provide for a three-month grace period for licensure and shall impose a late fee of ten dollars upon the licensure of a dealer applying for licensure during the month of October, a late fee of fifteen dollars upon the licensure of a dealer applying for licensure during the month of November, a late fee of twenty-five dollars upon the licensure of a dealer applying for licensure during the month of December, and a late fee of twenty-five dollars upon the licensure of a dealer applying for licensure for each month after the month of December.

b. A pesticide dealer with one hundred thousand dollars or more in gross retail pesticide sales shall pay the greater of a minimum annual license fee of twenty-five dollars or an annual license fee based on one-tenth of one percent of the gross retail pesticide sales of all pesticides sold at retail for use in this state 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. The secretary shall provide for a ninety-day three-month grace period for licensure and shall impose a late fee of two percent of gross retail sales the license fee upon the licensure of a pesticide dealer applying for licensure during the period July 2 through July 31 month of October, a late fee of four percent of gross retail sales the license fee upon the licensure of a pesticide dealer applying for licensure during the month of August November, and a late fee of five percent of gross retail sales the license fee upon the licensure of a pesticide dealer applying for licensure during the month of September December, and a late fee of five percent upon the licensure of a dealer applying for licensure for each month after the month of December. A licensee shall pay a fee of twenty-five dollars for the period July 1, 1987, through June 30, 1988.

The initial Up to 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.

Sec. 2. Section 206.10, Code 1991, is amended to read as follows:

206.10 LICENSE RENEWALS — DELINQUENT FEE.

If the application for renewal of any a license provided for in this chapter, other than a pesticide dealer license, is not filed prior to the first of January in any year, a delinquent fee of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be is issued. A delinquent fee shall does not apply if the applicant furnishes an affidavit certifying that the applicant has not applied pesticides after the expiration of the applicant's license. All licenses issued under this chapter shall expire December 31 each year. However, a license issued to a pesticide dealer expires as provided in section 206.8.

Sec. 3. Section 206.12, subsection 7, paragraph a, subparagraph (1), Code 1991, is amended to read as follows:

(1) The gross retail sales of the all pesticides sold by the licensee at retail for use in this state by a licensee with one hundred thousand dollars or more in gross retail sales of the pesticides sold for use in this state.

Approved May 1, 1991

CHAPTER 90

TRANSIENT FOOD SERVICE ESTABLISHMENTS

S.F. 269

AN ACT regulating transient food service establishments and providing for licensing fees.

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

Section 1. Section 137B.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 11A. "Transient food service establishment" means a food service establishment which operates at various locations during a year, if the establishment does not operate at one location for more than three consecutive days in conjunction with a single event or celebration.

Sec. 2. Section 137B.6, subsection 2, Code 1991, is amended by adding the following new paragraph after paragraph b, and relettering the subsequent paragraphs:

NEW PARAGRAPH. c. Transient food service establishments.

Sec. 3. Section 137B.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For a transient food service establishment, forty dollars.

Approved May 1, 1991

CHAPTER 91

MOBILE HOME PARKS – TRAFFIC REGULATION

S.F. 331

AN ACT extending traffic enforcement authority to mobile home parks.

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

Section 1. Section 321.251, Code 1991, is amended to read as follows:

321.251 RIGHTS OF OWNERS OF REAL PROPERTY.

1. ~~Nothing in this~~ This chapter shall not be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this chapter, or otherwise regulating such use as may seem best to such owner.

2. a. The owner of real property upon which a mobile home park is located, may elect to have the vehicular traffic provisions of this chapter, or the ordinances, rules, or regulations of the local authority where the real property is located, apply to the real property and any persons located on the real property by granting authority to any peace officer to enforce the vehicular traffic provisions of this chapter, or the ordinances, rules, or regulations of the local authority as well as any regulations or conditions imposed on the real property pursuant to subsection 1. An election made pursuant to this subsection shall not create a higher priority for the enforcement of traffic laws on real property upon which a mobile home is located than exists for the enforcement of traffic laws on public property.

b. A written notice of election shall be filed with the designated officials of the local authority whose ordinances, rules, or regulations will govern the vehicular traffic. The appropriate officials shall be the city clerk and chief of police of the city in which the real property is located and the county sheriff and the county recorder of the county in which the real property is located. The notice shall include the legal description of the real property, the street address,

if any, and the date and time when the owner wishes the election to become effective. The notice shall be signed by every titleholder of the real property and acknowledged by a notary public.

c. An election shall terminate fourteen days following the filing of a written notice of withdrawal with the designated officials of the local authority whose ordinances, rules, or regulations will govern.

d. For purposes of this subsection, "titleholder of real property" means the person or entity whose name appears on the documents of title filed in the official county records as the owner of the real property upon which a mobile home park is located.

Approved May 1, 1991

CHAPTER 92

REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

S.F. 494

AN ACT relating to the transfer of the regulatory authority of the superintendent of savings and loan associations to the director of the department of commerce and the superintendent of banking.

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

Section 1. Section 527.3, subsection 1, Code 1991, is amended to read as follows:

1. For purposes of this chapter the superintendent of banking only shall have has the power to issue rules applicable to, to accept and approve or disapprove applications or informational statements from, to conduct hearings and revoke any approvals relating to, and to exercise all other supervisory authority created by this chapter with respect to banks; the superintendent of savings and loan associations only shall have and exercise such powers and authority with respect to savings and loan associations; the superintendent of credit unions only shall have and exercise has such powers and authority with respect to credit unions; and the superintendent of banking or the superintendent's designee only shall have and exercise has such powers and authority with respect to industrial loan companies.

Sec. 2. Section 534.102, subsection 12, Code 1991, is amended to read as follows:

12. "Insured", when used in conjunction with the words "association", "state association", "foreign association", or "federal association", means an institution whose deposits are insured in part by the federal savings and loan savings association insurance fund of the federal deposit insurance corporation or another insurance plan approved by the superintendent.

Sec. 3. Section 534.102, subsection 28, Code 1991, is amended to read as follows:

28. "Superintendent" means the superintendent of savings and loan associations who is the director of the department of commerce.

Sec. 4. Section 534.103, subsection 1, Code 1991, is amended to read as follows:

1. GENERAL CORPORATE POWER. To sue and be sued, complain and defend in any court of law or equity; to purchase, acquire, hold, and convey real and personal estate consistent with its objects and powers; to mortgage, pledge, or lease any real or personal estate owned by the association and to authorize such a pledgee to repledge same the property; to take property by gifts gift, devise, or bequest; to have a corporate seal, which may be affixed by imprint, facsimile, or otherwise; to appoint officers, agents, and employees as its business shall require requires and allow them suitable compensation; to provide for life, health, and casualty insurance for its officers and employees and to adopt and operate reasonable bonus plans and retirement benefits for such the officers and employees to enter into payroll savings plans; to adopt

and amend bylaws; to insure its accounts with the federal savings and loan savings association insurance fund of the federal deposit insurance corporation and qualify as a member of a federal home loan bank; to become a member of, deal with, or make contributions to any organization to the extent that ~~such~~ the organization assists in furthering or facilitating the association's purposes or powers and to comply with conditions of membership; to accept savings as provided in this chapter together with ~~such~~ other powers as are otherwise expressly provided for in this chapter, together with ~~such~~ implied powers as are reasonably necessary for the purpose of carrying out the express powers granted in this chapter.

Sec. 5. Section 534.111, Code 1991, is amended to read as follows:

534.111 RIGHTS OF FEDERAL ASSOCIATIONS — RECIPROCITY.

Every federal savings and loan association incorporated under the ~~provisions~~ of Home Owners' Loan Act of 1933, [12 U.S.C. § 1461-1468], as ~~now or hereafter~~ amended, and the holders of share accounts issued by any such association shall have all the rights, powers, and privileges and shall be are entitled to the same exemptions and immunities, as savings and loan associations organized under the laws of this state and members thereof are entitled.

Every association organized under this chapter has all the rights, powers, and privileges 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, 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 office of thrift supervision.

Sec. 6. Section 534.112, Code 1991, is amended to read as follows:

534.112 REGULATORY CAPITAL.

An association shall maintain regulatory capital in the amount required by regulations of the federal savings and loan insurance corporation office of thrift supervision. 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. 7. Section 534.205, subsection 1, Code 1991, is amended to read as follows:

1. APPRAISAL. A qualified person shall conduct an inspection of the property securing the loan and submit a signed appraisal of the market value of that property, ~~provided that~~. However, an appraisal is only required where if the loan is secured by a first lien. An appraisal must conform to the standards promulgated by the federal office of thrift supervision as mandated by Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Sec. 8. Section 534.213, subsection 1, paragraph c, Code 1991, is amended by striking the paragraph.

Sec. 9. Section 534.213, subsection 1, paragraph g, Code 1991, is amended to read as follows:

g. Savings accounts of any savings and loan association the deposits of which are insured by the federal savings and loan deposit insurance corporation.

Sec. 10. Section 534.214, subsection 5, Code 1991, is amended to read as follows:

5. DEFINITIONS. For purposes of this section an "insured bank" is a bank whose deposits are insured in part by the bank insurance fund of the federal deposit insurance corporation; a "bank service corporation" is as defined by, and in accordance with, the laws of the United States, and the "superintendent of banking" is the person appointed pursuant to section 524.201.

Sec. 11. Section 534.301, subsection 6, Code 1991, is amended to read as follows:

6. OPERATING UNDER FEDERAL RULES AS TO DEPOSITS AND INTEREST. A savings and loan association operating under this chapter may operate in a manner similar to federally chartered savings and loan associations regarding the use of the terms "deposit" and

"interest" and with such other powers as have been authorized to federally chartered associations under the Homeowners Loan Act of 1933, Title 12, section 1464, United States Code U.S.C. § 1464, and as permitted under the rules and regulations of the federal home loan bank system and federal savings and loan insurance corporation the federal office of thrift supervision, to the extent that similar rules and regulations have been adopted by the superintendent and have been filed with the secretary of state. This subsection shall does not diminish or restrict the powers otherwise granted to such association by the laws of Iowa.

The adoption and filing of such rules or regulations by the superintendent shall not diminish or restrict the rights of associations which do not make the above determination.

Sec. 12. Section 534.401, Code 1991, is amended to read as follows:

534.401 DIVISION OF SAVINGS AND LOAN ASSOCIATIONS.

1. DIVISION OF SAVINGS AND LOAN ASSOCIATIONS CREATED — SUPERINTENDENT. A savings and loan association division is created within the department of commerce. The superintendent of savings and loan associations is the chief administrative officer of the division. The governor shall appoint the superintendent subject to confirmation by the senate. The superintendent shall serve a four-year term. The term begins and ends as provided in section 69.19. A vacancy in an unexpired term shall be filled in the same manner as a full-term appointment is made. The superintendent shall have at least five years' practical experience in savings and loan management, examination, or supervision. The superintendent's salary shall be set by the governor within a range set by the general assembly. The superintendent is entitled to actual expenses incurred in the performance of the superintendent's duties.

2. GENERAL SUPERVISORY POWER. The superintendent has general supervision over all supervised organizations.

The superintendent may appoint examiners and assistants necessary to properly execute the duties of the office. An examiner shall have had at least one year of actual experience as examiner, officer, or employee, of a savings and loan association. The examiners' salaries shall be fixed by the superintendent subject to the approval of the director of management and governor, which salaries shall be commensurate with those in the range of other employees as prescribed by certain classifications in accordance with their experience and qualifications. In addition the examiners shall be reimbursed for their actual and necessary expense.

Before entering upon their duties, the superintendent and each examiner appointed by the superintendent shall take an oath of office and shall each give bond to the state, signed by a responsible surety company, in the penal sum of two thousand dollars, conditioned upon faithful and impartial discharge of the person's duty and on proper accounting for all funds and other valuables which may come into the person's hands. The bonds shall be approved by and filed with the auditor of state, together with oaths of office of the officers.

The superintendent may adopt further rules deemed necessary to enable savings and loan associations to properly carry on the activities authorized under this chapter.

3. DUTIES. The superintendent shall, at least once each year, cause examination and audit to be made of the affairs of every association subject to this chapter. If an association is insured under Title IV of the National Housing Act, 12 U.S.C. ch. 13, the superintendent may, in lieu of examination and audit, accept an examination or audit made by the federal savings and loan insurance corporation office of thrift supervision. An association may, in lieu of examination and audit by the superintendent, at the option of the superintendent be audited by a certified public accountant, or by a public accountant qualified and licensed to practice accountancy under the Code of Iowa. At least two copies of each examination or audit report, signed and verified by the accountant making it, shall promptly be filed with the superintendent. When, in the judgment of the superintendent, the condition of an association renders it necessary or expedient to make an extra examination or audit or to devote extraordinary attention to its affairs, the superintendent shall cause such work to be done. A copy of every examination or audit report shall be furnished to the association examined, exclusive of confidential comments made by the examiner, and a copy of every report and comments and any other information pertaining to an association may be furnished to the federal home loan bank board, federal home loan

bank, and federal savings and loan insurance corporation office of thrift supervision. A copy of an examination or audit report shall be presented to the board of directors at its next regular or special meeting, their action on it shall be recorded in the minutes, and two certified copies of the minutes shall be transmitted to the superintendent.

4. SUPERINTENDENT'S ANNUAL REPORT. The superintendent, as of December 31 of each year, shall prepare and publish a report showing in general terms the condition of all savings and loan associations doing business in this state, and containing other general information as in the superintendent's judgment seems desirable. The reports shall also list the names of all examiners and other assistants employed appointed by the superintendent, together with their respective salaries and expenses, shall list all receipts from savings and loan associations, and shall show all expenditures made on account of the supervision and examination of the associations.

Sec. 13. Section 534.403, subsections 2 and 3, Code 1991, are amended to read as follows:

2. EXPENSES, PER DIEM, VACATION, AND SICK LEAVE. If the examination is made under section 534.401, subsection 3, each examiner shall file with the superintendent an itemized, certified, and sworn voucher of the examiner's expense for the time the examiner is actually engaged in an examination. On the fifteenth and last days of each month each examiner shall file in triplicate with the superintendent a certified statement of the actual days engaged in examinations. The salaries shall be included in a two-week payroll period. Upon approval of the superintendent, the director of revenue and finance is authorized to issue warrants for payment of the vouchers and salaries, including a prorated amount for vacation and sick leave, from the savings and loan revolving fund. Repayment to the state shall be made as provided by section 534.408, subsection 4. Savings and loan examiners shall be paid salaries at rates commensurate with, and shall be reimbursed for meals and lodging at the same rate and in the same manner as, that which is received by federal examiners operating under the federal home loan bank board.

3. RECORD REQUIRED. A record of all examinations, reports, and related information shall be kept in the superintendent's office, showing in detail as to each association all matters connected with the conduct of its business, its financial standing, and everything touching its solvency, plan of business, and integrity.

The examinations, reports, and information shall be kept confidential in the office of the superintendent, and are not subject to publication or disclosure to others except as provided in this chapter. However, the superintendent may furnish any examination, report, or information to the federal savings and loan insurance corporation office of thrift supervision, federal deposit insurance corporation, or a successor deposit insurance instrumentality, federal home loan bank board, or financial institution regulatory authorities of any state. Any evidence of felonious acts on the part of the officers, directors, or employees of an association may be referred by the superintendent to proper authorities. Members of associations, other than their officers and directors, are not entitled to inspection of any such records or information, and are not entitled to any information relative to the names of the members of an association, or the amounts invested by them, as disclosed in the superintendent's office, or in the records of an association.

Sec. 14. Section 534.405, unnumbered paragraph 6, Code 1991, is amended to read as follows:

If the association has the insurance protection provided by Title IV of the National Housing Act, 12 U.S.C. ch. 13, a signed and sealed copy of each order and certificate mentioned in this section shall be promptly sent by the superintendent by registered mail to the federal savings and loan insurance corporation office of thrift supervision, Washington, D.C. If the association is insured by the federal savings and loan savings association insurance fund of the federal deposit insurance corporation, that the resolution trust corporation shall be named receiver if the superintendent has determined the need for a receivership.

Sec. 15. Section 534.408, subsections 1, 8, and 9, Code 1991, are 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 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.

8. ADMINISTRATIVE SERVICES COST. The savings and loan association division shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated 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, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to the division or any underpayment shall be paid by the division.

9. ADDITIONAL FUNDS FOR EXAMINATIONS. The savings and loan association division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for savings and loan association examinations and directly result from examinations of savings and loan associations. 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 savings and loan associations 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. 16. Section 534.506, subsection 1, Code 1991, is amended to read as follows:

1. An association organized under this chapter as a condition of maintaining its privilege of organization after July 1, 1984, shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the association. The insurance shall be obtained from the federal savings and loan deposit insurance corporation or another insurance plan approved by the superintendent.

Approved May 1, 1991

CHAPTER 93**MENTALLY DISABLED PERSONS — MARRIAGE AND ANNULMENT***S.F. 495*

AN ACT relating to the ability of a mentally disabled person to obtain a marriage license or an annulment, and findings by the court in guardianship proceedings concerning capacity to contract a valid marriage.

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

Section 1. Section 229.27, subsection 1, Code 1991, is amended to read as follows:

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose including but not limited to any circumstances to which sections 447.7, 472.15, 545.402, subsection 5, paragraph "b", 545.705, ~~595.3~~, 597.6, ~~598.29~~, 614.8, 614.19, 614.22, 614.24, 614.27, 622.6, 633.244, and 675.21 are applicable.

Sec. 2. Section 595.3, subsection 5, Code 1991, is amended to read as follows:

5. Where either party is mentally ill or retarded, a mental retardate, or a ward under a guardianship as an incompetent and the court has made a finding that the ward lacks the capacity to contract a valid marriage.

Sec. 3. Section 598.29, subsection 4, Code 1991, is amended to read as follows:

4. Where either party was mentally ill or a mental retardate at the time of the marriage a ward under a guardianship and was found by the court to lack the capacity to contract a valid marriage.

Sec. 4. Section 633.635, subsection 3, Code 1991, is amended to read as follows:

3. The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary, and may direct that the guardian have only a specially limited responsibility for the ward. In that event, the court shall state those areas of responsibility which shall be supervised by the guardian and all others shall be retained by the ward. The court may make a finding that the ward lacks the capacity to contract a valid marriage.

Approved May 1, 1991

CHAPTER 94**CIVIL RIGHTS LAW REVISIONS***H.F. 324*

AN ACT relating to aiding and abetting and retaliation under the civil rights law.

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

Section 1. Section 601A.11, Code 1991, is amended to read as follows:

601A.11 AIDING, OR ABETTING, OR RETALIATION.

It shall be an unfair or discriminatory practice for:

1. Any person to intentionally aid, abet, compel, or coerce another person to engage in any of the practices declared unfair or discriminatory by this chapter.

2. Any person to discriminate or retaliate against another person in any of the rights protected against discrimination ~~on the basis of age, race, creed, color, sex, national origin, religion~~

or disability by this chapter because such person has lawfully opposed any practice forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified, or assisted in any proceeding under this chapter. An employer, employment agency, or their employees, servants or agents may offer employment or advertise for employment to only the disabled, when other applicants have available to them other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such employment or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex or national origin.

Approved May 1, 1991

CHAPTER 95

PRESERVATION OF FINANCIAL INSTITUTION RECORDS

H.F. 619

AN ACT relating to the preservation of financial institution records.

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

Section 1. Section 524.221, subsection 1, Code 1991, is amended to read as follows:

1. A state bank shall ~~is not be required to preserve its records for a period longer than eleven years after the first day of January of the year following the time of the making or filing of such records, provided, however, that account records showing unpaid balances due to depositors shall not be destroyed. Film, photographie, photostatic, or other copies which accurately reproduce all lines and markings on the~~ A copy of an original may be kept in lieu of any such original record. For purposes of this subsection, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original record.

Sec. 2. Section 533.26, Code 1991, is amended to read as follows:

533.26 PRESERVATION OF RECORDS.

The superintendent shall prescribe by rule the period of preservation of records or files for credit unions. A copy of an original may be kept in lieu of any original records. For purposes of this section, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original record.

Sec. 3. Section 534.106, subsection 7, Code 1991, is amended to read as follows:

7. ~~Any association may cause any or all records kept by such association to be copied or reproduced by any photostatic, photographie or microfilming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material and such association may thereafter dispose of the original record. A copy of an original may be kept by an association in lieu of any original records. For purposes of this section, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered~~

image or reproduction of the original record. Any such copy or reproduction shall be ~~is~~ deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such copy or reproduction reproduced from a film record shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original.

Approved May 1, 1991

CHAPTER 96

PUBLIC RECORDS – CLAIMS SETTLEMENTS

S.F. 327

AN ACT requiring that certain settlements of claims involving governmental bodies be filed with the governmental bodies as public records.

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

Section 1. **NEW SECTION. 22.13 SETTLEMENTS – GOVERNMENTAL BODIES.**

A written summary of the terms of settlement, including amounts of payments made to or through a claimant, or other disposition of any claim for damages made against a governmental body or against an employee, officer, or agent of a governmental body, by an insurer pursuant to a contract of liability insurance issued to the governmental body, shall be filed with the governmental body and shall be a public record.

Approved May 2, 1991

CHAPTER 97

NONSUBSTANTIVE CORRECTIONS

H.F. 198

AN ACT relating to nonsubstantive Code and Act corrections.

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

Section 1. Section 2A.2, Code 1991, is amended to read as follows:

2A.2 TERMS.

Members of the commission shall serve for a term of office of five years, and ~~for the initial commission, one member appointed by each shall be appointed to serve for five years, one for four years, one for three years, one for two years, and one for one year.~~ Vacancies A vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment was made.

Sec. 2. Section 7.14, subsection 2, Code 1991, is amended to read as follows:

2. The finding of or failure to find a disability shall be immediately made public, and in case if the governor is found to be unable to discharge the duties of the office, the person next in line of succession to the office of governor shall be immediately notified. After receiving the notification such that person may, under Article IV, section 17, and amendment 2 of 1952 sections 17 and 19, Constitution of the State of Iowa, become governor until the disability be is removed.

Sec. 3. Section 12.51, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The treasurer of state shall adopt rules to implement a main street linked investments loan program to increase the availability of lower cost funds to stimulate building restorations or rehabilitations of historic buildings within the central business district of a city which is a certified local government, or in the Iowa main street program or, if enacted by the Seventy-third General Assembly, in the rural main street program. The rules shall include the following conditions:

Sec. 4. Section 18.18, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When purchasing paper products, the department of general services shall, ~~whenever~~ when the price is reasonably competitive and the quality as intended, purchase the recycled product. The department of general services shall also purchase, ~~whenever~~ when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and starch-based plastics, including but not limited to starch-based plastic garbage can liners.

Sec. 5. Section 18.75, subsection 2, Code 1991, is amended to read as follows:

2. Have charge of the office equipment and supplies of the ~~printing board~~ and of the stock, if any, required in connection with printing contracts.

Sec. 6. Section 93.40, subsection 7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

For purposes of this section ~~and section 93.41~~:

Sec. 7. Section 103A.5, subsection 5, Code 1991, is amended to read as follows:

5. Administer and enforce the ~~provisions of chapter~~ chapters 104A and 104B.

Sec. 8. Section 116.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

As used in this chapter unless the context otherwise requires: "Accounting practitioner" means a person licensed by the board as provided in this chapter, who does not hold a certificate as a certified public accountant or ~~public accountant~~ under this chapter, and who offers to perform or performs for the public, and for compensation, any of the following services:

Sec. 9. Section 116.3, subsections 3 through 6, Code 1991, are amended to read as follows:

3. All fees and other moneys received by the board, pursuant to the ~~provisions of this chapter~~, shall be paid monthly to the treasurer of state for deposit in the professional licensing revolving fund.

The board shall make a biennial report to the governor of its proceedings, with an account of all moneys received and disbursed, a list of the names of certified public accountants, ~~public accountants~~, and accounting practitioners whose certificates, permits to practice, or licenses have been revoked or suspended, and ~~such~~ other information as it ~~may deem~~ deems proper or the governor requests.

4. The board may ~~promulgate~~ adopt rules of professional conduct appropriate to establishing and maintaining high standards of integrity and dignity in the practice as a certified public accountant, ~~public accountant~~, or accounting practitioner. Rules shall be adopted relating to the following matters:

a. ~~Rules relating to the~~ The propriety of opinions on financial statements by a certified public accountant or ~~public accountant~~ who is not independent.

b. Actions discreditable to the practice as a certified public accountant, ~~public accountant~~, or accounting practitioner.

c. ~~Rules relating to the~~ The professional confidences between a certified public accountant, ~~public accountant~~, or accounting practitioner and a client.

d. Contingent fees.

e. ~~Rules relating to technical~~ Technical competence and the expression of opinions on financial statements.

f. ~~Rules relating to the~~ The failure to disclose a material fact known to the certified public accountant or ~~public accountant~~, or accounting practitioner.

g. ~~Rules relating to material~~ Material misstatement known to the certified public accountant, ~~public accountant~~, or accounting practitioner.

h. ~~Rules relating to negligent~~ Negligent conduct in an examination or in making a report on an examination.

i. ~~Rules relating to the failure~~ Failure to direct attention to any material departure from generally accepted accounting principles.

5. A certified public accountant, ~~public accountant~~, or accounting practitioner shall not commit and shall not permit associates or persons who are under the accountant's or practitioner's supervision to commit any of the following acts:

a. Pay a commission, brokerage, or other participation in the fees or profits of professional work directly or indirectly to the laity.

b. Directly or indirectly accept commission, brokerage, or other participation in the fees, charges, or profits of work recommended or turned over to the laity as incident to services for clients.

c. Permit others to carry out on behalf of the accountant or practitioner, either with or without compensation, acts which, if carried out by the accountant or practitioner, would place that person in violation of rules of the board adopted pursuant to this chapter.

6. The board shall establish rules relative to the conduct of practice as a certified public accountant, ~~public accountant~~, and accounting practitioner in respect to the enumerated items in subsections 4 and 5, but ~~such this~~ this direction ~~shall is~~ is not be construed as a limitation upon the rights of the board to make and adopt any rules and regulations relating to the rules of conduct of certified public accountants, ~~public accountants~~, or accounting practitioners, which are not specifically enumerated in this chapter.

Sec. 10. Section 116.8, subsection 1, Code 1991, is amended to read as follows:

1. If the applicant has had two or more years actual experience in practice as an accounting practitioner as an employee of a certified public accountant, a ~~public accountant~~, or an accounting practitioner, or

Sec. 11. Section 116.15, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Staff may be employed to collect and account for all fees and pay them to the treasurer of state for deposit as provided by law. The board shall set the fees for examination as a certified public accountant, and for examination as an accounting practitioner, based upon the annual cost of administering the examinations. The fees for registration and renewal of a certificate and permit as a certified public accountant, ~~registration as a public accountant~~, registration of a foreign public accountant, and licensure and renewal as an accounting practitioner, shall be based upon the administrative costs of sustaining the board which shall include, but are not limited to, the costs for:

Sec. 12. Section 116.19, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or partnership or corporation of certified public accountants, ~~or by a public accountant or a partnership of public accountants~~, or by an accounting practitioner or partnership of accounting practitioners, or by a person registered under section 116.17, shall be registered annually under this chapter with the board, but no fee shall be charged for ~~such~~ the registration.

Sec. 13. Section 116.20, subsection 1, Code 1991, is amended to read as follows:

1. The certificate of certified public accountant granted by the board under section 116.5 ~~and the registration with the board as a public accountant under section 116.6~~, and the license to practice as an accounting practitioner under section 116.7 or 116.8 shall be renewed as determined by the board. There shall be a renewal fee, in the amount to be determined from time to time by the board. The board shall give notice by restricted certified mail, return receipt

requested, to the holder of a certificate, ~~registration~~, or license who has failed to renew it. If the holder fails to renew the certificate, ~~registration~~, or license within thirty days of receipt of the notice, the certificate, ~~registration~~, or license lapses and is void.

Sec. 14. Section 116.20, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. Persons holding the certificate of certified public accountant on July 1, 1975, and who have had three years' continuous practical accounting experience as a ~~public accountant~~ or a staff accountant, or three years' continuous employment as a field examiner under a revenue agent-in-charge of the income tax bureau of the treasury department of the United States, or as a field examiner in the office of the auditor of state, department of management, department of revenue and finance, or the insurance division of the department of commerce, of this state, or a bank examiner employed by the banking division of the department of commerce of this state pursuant to section 524.208 shall be issued permits by the board.

Sec. 15. Section 116.20, subsections 3 through 5, Code 1991, are amended to read as follows:

3. Permits to engage in the practice of public accounting in this state shall also be issued by the board to persons, partnerships, and corporations registered under sections ~~116.6~~, 116.17 and 116.18 if all offices of the registrant are maintained and registered as required under section 116.19.

4. There shall be a permit fee in an amount to be determined by the board, payable by certified public accountants, ~~public accountants~~, and accounting practitioners engaged in practice in this state. A fee shall not be charged for the renewal of a partnership or corporation permit to practice. All permits shall expire as determined by the board.

5. ~~No~~ A person, firm, or corporation shall ~~not~~ practice as a certified public accountant, ~~public accountant~~, or accounting practitioner without a permit.

Sec. 16. Section 116.21, unnumbered paragraph 1 and subsections 1 and 8, Code 1991, are amended to read as follows:

After notice and hearing as provided in section 116.23, the board may revoke or may suspend for a period not to exceed two years, ~~any a~~ certificate issued under section 116.5, ~~or any registration granted under section 116.6~~, or ~~any a~~ license issued under section 116.7 or 116.8, or may revoke, suspend, or refuse to renew ~~any a~~ permit issued under section 116.20, or may censure the holder of ~~any such a~~ permit, for any one or any combination of the following causes:

1. The certificate, permit, or license shall be permanently revoked if fraud or deceit was used in obtaining a certificate as a certified public accountant, ~~registration as a public accountant~~, or a license as an accounting practitioner, or in obtaining a permit to practice public accounting under this chapter.

8. Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant, ~~a public accountant~~, or an accounting practitioner by any other state, for any cause other than failure to pay appropriate fees in the other state.

Sec. 17. Section 116.23, subsection 4, Code 1991, is amended to read as follows:

4. At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on behalf of the accused, cross-examine witnesses, and examine evidence which is produced against the accused. A corporation may be represented before the board by counsel, or by ~~a~~ shareholder who is a certified public accountant, ~~public accountant~~, or accounting practitioner of this state in good standing. The accused shall be is entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on behalf of the accused.

Sec. 18. Section 116.25, subsections 3, 4, and 10, Code 1991, are amended to read as follows:

3. ~~No~~ A person shall ~~not~~ assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that ~~such the~~ person is a public accountant, ~~unless such person is registered as a public accountant under section 116.6~~, or unless ~~such the~~ person has received a certificate as a certified public accountant under section 116.5.

4. No A partnership or corporation shall not assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that ~~such~~ the partnership or corporation is composed of certified public accountants, unless ~~such~~ the partnership or corporation is registered as a partnership or corporation of public accountants under section 116.6, or as a partnership or corporation of certified public accountants under section 116.18.

10. No A person shall not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation or in conjunction with the designation "and company", ~~and~~ "and co.", or a similar designation, if in any such case, there is in fact no bona fide partnership or corporation registered under section 116.6 ~~or~~ 116.18; however, a sole proprietor or partnership lawfully using such a title or designation on July 1, 1975, may continue to do so if the sole proprietor or partnership otherwise complies with the provisions of this chapter.

Sec. 19. Section 116.26, Code 1991, is amended to read as follows:

116.26 EMPLOYEES OF ACCOUNTANTS.

~~Nothing contained in this~~ This chapter shall does not prohibit any person not a certified public accountant, ~~public accountant~~, or accounting practitioner from serving as an employee of, or an assistant to, a certified public accountant, ~~public accountant~~, or accounting practitioner, or partnership or corporation composed of certified public accountants, ~~public accountants~~, or accounting practitioners, holding a permit to practice issued under section 116.20, or a foreign accountant registered under section 116.17; however, ~~such~~ the employee or assistant shall not issue any accounting or financial statement over the employee's or assistant's name.

Sec. 20. Section 116.31, unnumbered paragraph 1, Code 1991, is amended to read as follows:

All statements, records, schedules, working papers, and memoranda made by a certified public accountant, ~~public accountant~~, or accounting practitioner incident to or in the course of professional service to clients by ~~such~~ the accountant, except reports submitted by a certified public accountant, ~~public accountant~~, or accounting practitioner to a client, ~~shall be and~~ remain the property of ~~such~~ the accountant in the absence of an express agreement between ~~such~~ the accountant and the client to the contrary.

Sec. 21. Section 117.47, subsection 2, is amended to read as follows:

2. ~~Except as otherwise provided in subsection 7,~~ The commission shall contract with an insurance provider for a group policy under which coverage is available to all licensees. The contract shall be solicited by competitive, sealed bid.

Sec. 22. Section 123.32, subsection 3, Code 1991, is amended to read as follows:

3. Licensed premises for local events. A local authority may define, by motion of the local authority, licensed premises which shall be used by holders of liquor control licenses, beer permits, and wine permits at festivals, fairs, or celebrations which are sponsored or authorized by the local authority. The licensed premises defined by motion of the local authority shall be used by the holders of five-day or fourteen-day liquor control licenses, ~~five-day or fourteen-day wine permits,~~ or five-day or fourteen-day beer permits only.

Sec. 23. Section 123.34, subsection 3, Code 1991, is amended to read as follows:

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

Sec. 24. Section 198.3, subsection 1, Code 1991, is amended to read as follows:

1. "Brand name" means any word, name, symbol, or device or any combination thereof, identifying the commercial feed of a distributor ~~or registrant~~ and distinguishing it from that of others.

Sec. 25. Section 198.5, subsection 2, paragraph d, Code 1991, is amended to read as follows:

d. The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.

Sec. 26. Section 198.9, subsection 2, paragraph b, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute in this section is sufficient cause for the cancellation of all registrations on file for the license of the distributor.

Sec. 27. Section 198.10, subsection 2, Code 1991, is amended to read as follows:

2. Before the issuance, amendment, or repeal of any a rule authorized by this chapter, the secretary shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current registrants licensees, adequate notice, and shall afford all interested persons an opportunity to be heard, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the secretary shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. The provisions of this subsection notwithstanding However, if the secretary, pursuant to the authority of this chapter, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association association of American Feed Control Officials feed control officials, or rules regulations promulgated pursuant to the authority of the federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said that association, or by the secretary of health, education and welfare and human services in the case of regulations promulgated pursuant to the federal Food, Drug and Cosmetic Act, shall be adopted automatically under this chapter without regard to publication of the notice required by this subsection, unless the secretary, by order specifically determines that said an amendment or modification shall not be adopted.

Sec. 28. Section 198.12, subsection 1, Code 1991, is amended to read as follows:

1. When the secretary or the secretary's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed rules adopted under this chapter, the secretary or agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the secretary or the court. The secretary shall release the lot of commercial feed so withdrawn when said the provisions and rules have been complied with. If compliance is not obtained within thirty days, the secretary may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

Sec. 29. Section 198.15, Code 1991, is amended to read as follows:

198.15 PUBLICATION.

The secretary shall publish at least annually, in such forms as the secretary may deem deems proper, information concerning the sales of commercial feeds, together with such data on their production and use as the secretary may consider considers advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label. Provided, that However, the information concerning production and use of commercial feed shall not disclose the operations of any person.

Sec. 30. Section 235A.15, subsection 2, paragraph e, subparagraph (3), Code 1991, is amended to read as follows:

(3) To the department of public safety justice for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3 through 5.

Sec. 31. Section 235C.3, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The council shall seek to improve effective treatment services within the state for chemically exposed infants. As part of this responsibility, the council shall make recommendations to the addiction treatment effectiveness advisory council established in section 125.15A. Such recommendations which shall include, but are not limited to, the following:

Sec. 32. Section 249A.4, subsection 13, Code 1991, is amended by striking the subsection.

Sec. 33. Section 252B.1, unnumbered paragraph 1, Code 1991, is amended to read as follows: As used in sections 252B.2 to 252B.10 this chapter, unless the context otherwise requires:

Sec. 34. Section 255.16, Code 1991, 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 bears the same relation to the total number of committed indigent patients admitted during the year as the population of the county bears to the total population of the state according to the last preceding official census. This standard shall apply applies to indigent patients, the expenses of whose commitment, transportation, care, and treatment shall be are borne by appropriated funds, and shall does not govern the admission of 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 exceeds 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 the patients in excess of ten percent of the quota shall be paid from the funds of such the county at actual cost; but if the number of excess patients from any county does 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. Notwithstanding the quota established for a county under this section, the governor, upon a finding of necessity due to a regional or statewide economic emergency, may increase a county's quota of the number of committed indigent patients admitted to the university hospital.

Sec. 35. Section 255.27, Code 1991, is amended to read as follows:
255.27 FACULTY TO PREPARE BLANKS — PRINTING.

The medical faculty of the state university hospital shall from time to time prepare blanks containing such questions and requiring such information as may, in its judgment, be that it finds necessary and proper to be obtained by the physician who examines such a patient under order of court. Such The blanks shall be printed by the state, and a sufficient supply thereof shall be furnished by the state board superintendent of printing to the clerk of each juvenile court in the state. The cost of printing said the blanks shall be audited, allowed, and paid in the same manner as other bills for public printing.

Sec. 36. Section 262.9, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Manage and control the property, both real and personal, belonging to the institutions. The board shall purchase or require the purchase of, whenever when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and starch-based plastics, including but not limited to starch-based plastic garbage can liners.

Sec. 37. Section 262A.6A, subsection 1, Code 1991, is amended to read as follows:

1. The board shall issue bonds authorized under section 262A.4 by the Seventy-second General Assembly in an amount not exceeding nineteen million dollars; and from the forty-one million three hundred thousand dollars authorized by 1990 Iowa Acts, House Concurrent Resolution 133, if approved by the governor chapter 1273, in an amount not exceeding fifteen million dollars; in the form of capital appreciation bonds as provided in this section rather than the form prescribed in sections 262A.5 and 262A.6. The capital appreciation bonds shall be designed to be marketed primarily to Iowans to facilitate savings for future higher education costs.

Sec. 38. Section 273.9, subsections 4 and 5, Code 1991, are amended to read as follows:

4. The costs of media services provided through the area education agency ~~shall be funded as provided in section 257.37.~~ Media services shall not be funded until the program plans submitted by the administrators of each area education agency as required by section 273.4 are modified as necessary and approved by the director of the department of education according to the criteria and limitations of ~~sections 257.37 and section 273.6.~~

5. The costs of educational services provided through the area education agency shall be funded within the limitations in ~~section 257.37.~~

Sec. 39. Section 273.12, Code 1991, is amended to read as follows:

273.12 FUNDS — USE RESTRICTED.

Funds generated for educational services ~~under section 257.37 and subject to approval under section 273.9, subsection 5,~~ shall not be expended by an area education agency for the purpose of assisting either a public employer or employee organization in collective bargaining negotiations under chapter 20 if the public employer is a school district, or the employee organization consists of employees of a school district, located within the boundaries of the area education agency.

Sec. 40. Section 303.89, subsection 1, Code 1991, is amended to read as follows:

1. The Iowa arts and culture challenge grant foundation is established. The foundation is an independent nonprofit quasi-public instrumentality and the exercise of the powers granted to the foundation as a corporation in this chapter is an essential governmental function. As used in this ~~chapter~~ subchapter, "foundation" means the Iowa arts and culture challenge grant foundation.

Sec. 41. Section 305A.7, Code 1991, is amended to read as follows:

305A.7 REINTERRING ANCIENT REMAINS.

The state archaeologist ~~shall have~~ has the primary responsibility for investigating, preserving, and reinterring discoveries of ancient human remains. For the purposes of this section, ancient human remains ~~shall be~~ are those remains found within the state which are more than one hundred fifty years old. The state archaeologist shall make arrangements for the services of a forensic osteologist in studying and interpreting ancient burials and may designate other qualified archaeologists to assist the state archaeologist in recovering physical and cultural information about the ancient burials. The state archaeologist shall file with the Iowa department of public health a written report containing both physical and cultural information regarding the remains at the conclusion of each investigation. ~~[Appropriations to the state board of regents] to be used by the state archaeologist in investigating, reporting upon and interring ancient human remains pursuant to this section.~~

Sec. 42. Section 307.21, subsection 4, paragraph a, Code 1991, is amended to read as follows:

a. Provide centralized purchasing services for the department, in co-operation with the department of general services. The administrator shall, ~~whenever~~ when the price is reasonably competitive and the quality as intended, purchase soybean-based inks and starch-based plastics, including but not limited to starch-based garbage can liners, and shall purchase these items in accordance with the schedule established in section 18.18. However, the administrator need not purchase garbage can liners in accordance with the schedule if the liners are utilized by a facility approved by the environmental protection commission created under section 455A.6, for purposes of recycling.

Sec. 43. NEW SECTION. 321.18A RECORDS OF IMPLEMENTS OF HUSBANDRY.

A person selling at retail new implements of husbandry with a retail list price in excess of five thousand dollars upon which the manufacturer has affixed a vehicle identification number, shall maintain for ten years a record of the number, the name and address of the purchaser, and the date of sale.

Sec. 44. Section 321.100, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 45. Section 421.27, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The penalties imposed under this ~~section~~ subsection are not subject to waiver.

Sec. 46. Section 422.45, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The gross receipts ~~or~~ from services rendered, furnished, or performed and of all sales of goods, wares, or merchandise used for public purposes to ~~any~~ a tax-certifying or tax-levying body of the state or a governmental subdivision of the state, including regional transit systems, as defined in section 601J.1, the state board of regents, state department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which have no earnings going to the benefit of an equity investor or stockholder, except sales of goods, wares, or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity, or heat to the general public.

Sec. 47. Section 422.74, Code 1991, is amended to read as follows:

422.74 CERTIFICATION OF REFUND.

~~Wherever~~ ~~If~~ a refund is authorized in any division of this chapter a refund is authorized, the director shall certify the amount of the refund and the name of the payee to the state comptroller. ~~Upon certification from the director, the state comptroller shall and~~ draw a warrant on the state general fund of the state in the amount specified payable to the named payee, and the state treasurer of state shall pay the same warrant.

Sec. 48. Section 425.1, subsection 3, Code 1991, is amended to read as follows:

3. The amount due each county shall be paid by the state comptroller ~~upon requisition of the director of revenue~~ in two payments on November 15 and March 15 of each fiscal year, drawn upon warrants payable to the respective county treasurers. The two payments shall be as nearly equal as possible.

Sec. 49. Section 425.2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years, and the owner of the property being claimed as a homestead declares residency in Iowa for purposes of income taxation, and the property is occupied by that person or that person's spouse for at least six months in each of those calendar years in which the ~~tax~~ fiscal year begins. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to refile for the credit. Property divided pursuant to chapter 598 shall not be modified following the division of the property. An owner who ceases to use a property for a homestead or intends not to use it as a homestead for at least six months in a calendar year shall provide written notice to the assessor by July 1 following the date on which the use is changed. A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

Sec. 50. Section 425.11, subsection 1, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The homestead ~~must include~~ includes the dwelling house which the owner, in good faith, is occupying as a home on July 1 of the year for which the credit is claimed and occupies as a home for at least six months during the calendar year in which the ~~tax~~ fiscal year begins, except as otherwise provided.

Sec. 51. Section 425A.4, subsection 1, Code 1991, is amended to read as follows:

1. The family farm tax credit allowed on agricultural land under section 425A.3, subsection 1, shall only be granted upon tracts of agricultural land on which the persons designated in section 425A.3, subsection 2, paragraphs "a", "b", "c", and "d" were actively engaged in farming, and for which the persons have filed an application for the credit for each tract. To apply for the credit, the person shall each year on or before October 1 deliver to the county assessor, on forms furnished by the assessor, a verified statement and designation of the tracts of agricultural land for which the credit is claimed. The ~~auditor~~ assessor shall return the statement and designation on October 15 of each year to the county board of supervisors with a recommendation for allowance or disallowance. However, the deadline for filing claims in the 1990 calendar year shall be is December 1, 1990, and the assessor shall return the statements and designations to the county board of supervisors on December 15, 1990.

Sec. 52. Section 427.1, subsection 18, Code 1991, is amended to read as follows:

18. Fraternal beneficiary funds. The accumulations and funds held or possessed by fraternal beneficiary associations for the purposes of paying the benefits contemplated by section ~~512.2~~, 512B.16, or for the payment of the expenses of ~~such~~ the associations.

Sec. 53. Section 427.1, subsection 37, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Land designated as native prairie or land designated as a protected wetland by the department of natural resources pursuant to section 108.12. Application for the exemption shall be made on forms provided by the department of revenue and finance. Land designated as a protected wetland shall be assessed at a value equal to the average value of the land where the wetland is located and which is owned by the person granted the exemption. The application forms shall be filed with the assessing authority not later than the first of February of the year for which the exemption is requested. The application must be accompanied by an affidavit signed by the applicant that if the exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted. If the property is used for economic gain during the assessment year in which the exemption is granted, the property shall lose its tax exemption and shall be taxed at the rate levied by the county for the fiscal year beginning in that assessment year. The first annual application shall be accompanied by a certificate from the department of natural resources stating that the land is native prairie or protected wetland. The department of natural resources shall issue a certificate for the native prairie exemption if the ~~board or~~ department finds that the land has never been cultivated, is unimproved, is primarily a mixture of warm season grasses interspersed with flowering plants, and meets the other criteria established by the natural resource commission for native prairie. The department of natural resources shall issue a certificate for the wetland exemption if the department finds the land is a protected wetland, as defined under section 108.1, or if the wetland was previously drained and cropped but has been restored under a nonpermanent restoration agreement with the department or other county, state, or federal agency or private conservation group. A taxpayer may seek judicial review of a decision of the department according to chapter 17A. The natural resource commission shall adopt rules to implement this subsection.

Sec. 54. Section 490.632, subsection 2, unnumbered paragraph 1 and paragraph a, Code 1991, are amended to read as follows:

~~When~~ If a corporation reacquires its own shares after December 30, 1989, but ~~prior to~~ before January 1, 1991, those shares shall constitute issued but not outstanding shares as of and after their reacquisition if either of the following is applicable:

a. If ~~When~~ the shares are reacquired, the articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

Sec. 55. Section 508C.16, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~The provisions of section 496A.4A shall~~ Sections 490.850 through 490.858 apply to the association.

Sec. 56. Section 512B.15, subsection 2, Code 1991, is amended to read as follows:

2. If the commissioner finds that the contract is in conformity with this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to that effect. Upon the commissioner's approval, the contract shall be in full force and effect unless a society which is a party to the contract is incorporated under the laws of another state, Canada, or Canadian province or territory. In that event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of the other state and a certificate of approval has been filed with the commissioner of this state or, if the laws of the other state contain no equivalent provision for issuing a certificate of consolidation or merger, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of the other state and a certificate conforming with the laws of this state has been filed with the commissioner. If the contract is not approved it shall be inoperative, and the fact of submission and its contents shall not be disclosed by the commissioner. For the purposes of this subsection, "state" includes Canada and Canadian provinces and territories.

Sec. 57. Section 522.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A person shall not, directly or indirectly, act within this state as agent, or otherwise, in receiving or procuring applications for insurance, or in doing or transacting any kind of insurance business for a company or association unless exempt from the provisions of this chapter by section ~~512.33~~ 512B.31, except that the licensing of persons so acting for county mutuals is subject only to section 518.16, until the person has procured a license from the commissioner of insurance.

Sec. 58. Section 546.7, Code 1991, is amended to read as follows:

546.7 UTILITIES DIVISION.

The utilities division shall regulate and supervise public utilities operating in the state. The division shall enforce and implement chapters 476, 476A, 478, and 479, and 479A and shall perform other duties assigned to it by law. The division is headed by the administrator of public utilities who shall be appointed by the governor pursuant to section 474.1.

Sec. 59. Section 601L.3, subsection 12, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Manage and control the property, both real and personal, belonging to the department. The commission shall, according to the schedule established in this subsection, whenever when the price is reasonably competitive and the quality as intended, purchase soybean-based inks and starch-based plastics, including but not limited to starch-based garbage can liners.

Sec. 60. Section 616.10, Code 1991, is amended to read as follows:

616.10 INSURANCE COMPANIES.

Insurance companies may be sued in any county in which their principal place of business is kept, or in which the contract of insurance was made, or in which the loss insured against occurred, or, in case of insurance against death or disability, in the county of the domicile of the insured at the time the loss occurred, or in the county of plaintiff's residence. As used in this section the term "insurance companies" includes nonprofit hospital service corporations and nonprofit medical service corporations which have incorporated under the provisions of chapter 504 or chapter 504A.

Sec. 61. Section 714.23, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. A refund of ninety percent of the tuition for a terminating student shall be paid to the appropriate agency based upon the ratio of completed number of school days to the total school days of the school term or course. This paragraph applies to those persons offering courses of instruction at the postsecondary level, for profit, whose cohort default rate for students under the Stafford loan program as defined by the United States department of education is more than one hundred ten percent of the national average cohort default rate for that program for that period or six percent, whichever is higher.

Sec. 62. 1990 Iowa Acts, chapter 1233, section 10, unnumbered paragraph 12, is amended by striking the paragraph and inserting in lieu thereof the following:

A student, whose district of residence, for the purposes of school attendance, changes by August 1, 1989, shall be permitted to attend school during the 1989-1990 school year in the district in which the student attended during the 1988-1989 school year if a request to use the open enrollment option under this section is filed by August 1, 1989.

Sec. 63. The Iowa Code editor shall amend the form published in section 52.21, entitled "Voting Machine Return and Tally Sheet" so that the spaces for voting for the governor and lieutenant governor are combined into one space in column four, and present column six becomes column five.

Approved May 2, 1991

CHAPTER 98

COUNTY AND DISTRICT FAIRS

S.F. 56

AN ACT requiring reporting of county aid by societies organized to administer local fairs.

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

Section 1. Section 174.19, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

174.19 REPORT OF COUNTY AID.

A society shall not receive an appropriation from a county under this chapter, until the society submits a financial statement to the county board of supervisors. The statement shall show all expenditures of moneys appropriated to the society from the county in the previous year. The financial statement submitted to the board of supervisors shall include vouchers related to the expenditures.

Approved May 6, 1991

CHAPTER 99

COMMUNITY-BASED CORRECTIONS — ADVISORY COMMITTEES

S.F. 112

AN ACT relating to the membership on community-based correctional program project advisory committees.

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

Section 1. Section 905.1, subsection 7, Code 1991, is amended to read as follows:

7. "Project advisory committee" means a committee of no more than seven persons which shall act in an advisory capacity to the director on matters pertaining to the planning, operation, and other pertinent functions of each project in the judicial district. The members of the project advisory committee for each project shall be initially appointed by the director from among the general public. Not more than one half of the project advisory committee shall hold

public office or public employment during membership on the committee. A person who holds public office as a county supervisor and serves on the board of directors under section 905.3 shall not be a member of a project advisory committee under this section. The terms of the initial members of the project advisory committee shall be staggered to permit the terms of just over half of the members to expire in two years and those of the remaining members to expire in one year. Subsequent appointments to the project advisory committee shall be by vote of a majority of the whole project advisory committee for two-year terms.

Approved May 6, 1991

CHAPTER 100

PRACTICE OF NURSING — DEFINITIONS

S.F. 114

AN ACT relating to the definition of a physician for the purpose of the practice of nursing.

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

Section 1. Section 152.1, subsection 6, Code 1991, is amended to read as follows:

6. "Physician" means a person licensed in this state to practice medicine and surgery, osteopathy and surgery, or osteopathy, or a person licensed in this state to practice dentistry or podiatry when acting within the scope of the license. A physician licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in a state bordering this state shall be considered a physician for purposes of this chapter unless previously determined to be ineligible for such consideration by the Iowa board of medical examiners.

Approved May 6, 1991

CHAPTER 101

FIREWORKS IN STATE PARKS AND PRESERVES

S.F. 134

AN ACT relating to the use of fireworks in state parks and preserves and providing a penalty.

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

Section 1. Section 111.42, Code 1991, is amended to read as follows:

111.42 USE OF FIREARMS, EXPLOSIVES, FIREWORKS, PROHIBITED — EXCEPTIONS.

1. The use by the public of firearms, fireworks, explosives, and weapons of all kinds is prohibited in all state parks and preserves, except preserves or portions of preserves designated as hunting areas by the state advisory board on preserves upon the request of the commission. However, any person may use a bow and arrow with attached bow fishing reel and ninety-pound minimum line attached to the arrow to take rough fish under rules and regulations prescribed by the commission.

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish,

by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves. A person violating this subsection is guilty of a serious misdemeanor. The court may order restitution for damages caused by the violation which may include, but is not limited to community service. The court may also require that the violator provides proof of restitution.

Approved May 6, 1991

CHAPTER 102

CONSUMER FRAUDS AGAINST OLDER PERSONS

S.F. 211

AN ACT relating to consumer frauds against the elderly, providing a civil penalty, and creating a special fund.

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

Section 1. **NEW SECTION. 668B.1 CIVIL PENALTY AND CAUSE OF ACTION FOR CONSUMER FRAUDS COMMITTED AGAINST ELDERLY — FUND ESTABLISHED.**

1. If a person violates section 714.16, and the violation is committed against an older person, in addition to any other civil penalty, the court may impose an additional civil penalty not to exceed five thousand dollars for each such violation.

A civil penalty imposed pursuant to this section shall be paid to the treasurer of state, who shall deposit the money in the elderly victim fund, a separate fund created in the state treasury and administered by the attorney general for the investigation and prosecution of frauds against the elderly. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state. An award of restitution pursuant to section 714.16 has priority over a civil penalty imposed by the court pursuant to this subsection.

2. In determining whether to impose a civil penalty under subsection 1, and the amount of any such penalty, the court shall consider the following:

- a. Whether the defendant's conduct was in willful disregard of the rights of the older person.
- b. Whether the defendant knew or should have known that the defendant's conduct was directed to an older person.
- c. Whether the older person was substantially more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility, or disability, than other persons.

- d. Any other factors the court deems appropriate.

3. As used in this section, "older person" means a person who is sixty-five years of age or older.

Approved May 6, 1991

CHAPTER 103**TARGETED SMALL BUSINESSES***S.F. 257*

AN ACT changing the definition of targeted small business and providing an effective date.

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

Section 1. Section 15.102, subsection 5, Code 1991, is amended to read as follows:

5. "Targeted small business" means a small business which is fifty-one percent or more owned, operated, and actively managed by one or more women or minority persons, provided the business meets all of the following requirements:

a. Is located in this state.

b. Is operated for profit.

c. ~~Has twenty or fewer full-time equivalent employees.~~

d c. Has an annual gross income of less than three million dollars computed as an average of the three preceding fiscal years.

As used in this subsection, "minority person" means an individual who is a Black, Hispanic, Asian or Pacific Islander, ~~or American Indian, or Alaskan native~~ American.

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

Approved May 6, 1991

CHAPTER 104**SCHOOL ACCREDITATION***S.F. 313*

AN ACT relating to the accreditation process for schools and school districts.

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

Section 1. Section 256.11, subsection 10, Code 1991, is amended to read as follows:

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 biennial on-site visit each year~~ visits 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 on-site visit to an accredited school or school district if any of the following conditions exist:

a. When either the annual monitoring or the biennial on-site visit of phase I indicates that a school or school district may be is deficient or and 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 shall be provided with the opportunity to respond to the accreditation committee's report.

Sec. 2. MANDATE REVIEW. The department of education shall review all functions that school districts are required to perform in order to receive state or local funds or to remain accredited. The department shall evaluate the utility of and the need for each of the functions and assign a priority to each function that reflects whether the function must be retained, could be modified or combined with other functions, or is no longer necessary and can be abolished. The department shall submit its review, along with the evaluation of functions and assignment of priorities, in a report to the general assembly by January 1, 1993.

Approved May 6, 1991

CHAPTER 105**PUBLIC EMPLOYEES' RETIREMENT SYSTEM – DISABILITY RETIREMENT***S.F. 340*

AN ACT relating to retirement benefits of members of the Iowa public employees' retirement system who retire due to disability and providing an effective date and applicability date.

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

Section 1. Section 97B.50, subsection 2, paragraph a and unnumbered paragraph 1, Code 1991, are amended to read as follows:

a. A member 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 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1987 1990 for a member meeting the requirements of this paragraph who retired from the system at any time between after July 4, 1953 and June 30, 1987. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990.

Effective July 1, 1990, for members terminating on or after July 4, 1953, a member who terminates covered employment due to disability and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), who has not attained the age of fifty-five years, is eligible to receive benefits under section 97B.49, reduced by twenty-five hundredths of one percent for each month that the retirement date precedes the first day of the month in which the member attains the age of fifty-five. However, the benefits shall be suspended during any period in which the member returns to covered employment. Eligible members are entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month after July 1, 1990, in which written notice was submitted to the department.

Sec. 2. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect immediately upon enactment and applies retroactively to July 1, 1990.

Approved May 6, 1991

CHAPTER 106**HOMESTEAD RIGHTS – RELINQUISHMENT BY SPOUSE***S.F. 355*

AN ACT relating to authorizing a spouse to execute a power of attorney instrument sufficient to relinquish homestead rights and surviving spouse's statutory share in the homestead.

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

Section 1. Section 561.13, Code 1991, is amended to read as follows:

561.13 CONVEYANCE OR ENCUMBRANCE.

A conveyance or encumbrance of, or contract to convey or encumber the homestead, if the owner is married, is not valid, unless and until the spouse of the owner executes the same or a like instrument, or a power of attorney for the execution of the same or a like instrument,

and the instrument or power of attorney sets out the legal description of the homestead. However, when the homestead is conveyed or encumbered along with or in addition to other real estate, it is not necessary to particularly describe or set aside the tract of land constituting the homestead, whether the homestead is exclusively the subject of the contract or not, but the contract may be enforced as to real estate other than the homestead at the option of the purchaser or encumbrancer. If a spouse who holds only homestead rights and inchoate dower rights surviving spouse's statutory share in the homestead specifically relinquishes homestead rights in an instrument, including a power of attorney constituting the other spouse as the husband's or wife's attorney in fact, as provided in section 597.5, it is not necessary for the spouse to join in the granting clause of the same or a like instrument.

Sec. 2. Section 597.5, Code 1991, is amended to read as follows:
597.5 ATTORNEY IN FACT.

A husband or wife may constitute the other spouse as the husband's or wife's attorney in fact, to control and dispose of the husband's or wife's property, including the relinquishment of homestead rights and surviving spouse's statutory share in the homestead, as provided in section 561.13, for their mutual benefit, and may revoke the appointment, the same as other persons.

Approved May 6, 1991

CHAPTER 107

INSPECTIONS AND APPEALS DEPARTMENT — HEALTH CARE AND OTHER PROVISIONS

S.F. 412

AN ACT relating to the department of inspections and appeals by expanding its investigatory authority, providing that certain information regarding health care facilities be available to the public, relating to health care facilities under receivership, providing additional grounds for suspension and revocation of certain licenses issued by the department, increasing criminal penalties for wanton neglect of a resident of a health care facility, and providing an effective date and a penalty.

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

Section 1. Section 10A.402, subsection 7, Code 1991, is amended to read as follows:

7. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food stamp program, and the aid to dependent children program and any other state or federal benefit assistance program.

Sec. 2. Section 135B.12, Code 1991, is amended to read as follows:
135B.12 CONFIDENTIALITY.

The department's final findings or the final survey findings of the joint commission on the accreditation of health care organizations or the American osteopathic association with respect to compliance by a hospital with requirements for licensing or accreditation shall be made available to the public in a readily available form and place. Other information relating to a hospital obtained by the department which does not constitute the department's findings from an inspection of the hospital or the final survey findings of the joint commission on the accreditation of health care organizations or the American osteopathic association shall not be made available to the public, except in proceedings involving the denial, suspension, or revocation

of a license under this chapter. The name of a person who files a complaint with the department shall remain confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees or agents involved in the investigation of the complaint.

Sec. 3. Section 135C.30, subsection 4, paragraph d, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Expenses incurred by the facility in the ordinary course of business, such as employees' salaries and accounts receivable payable.

Sec. 4. Section 135C.37, unnumbered paragraph 2, Code 1991, is amended by striking the paragraph.

Sec. 5. Section 135C.38, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. 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.

b. The complaint investigation shall include, at a minimum, an interview with the complainant, the alleged perpetrator, and the victim of the alleged violation, if the victim is able to communicate, if the complainant, alleged perpetrator, or victim is identifiable, and if the complainant, alleged perpetrator, or victim is available. Additionally, witnesses who have knowledge of facts related to the complaint shall be interviewed, if identifiable and available. The names of witnesses may be obtained from the complainant or the victim. The files of the facility may be reviewed to ascertain the names of staff persons on duty at the time relevant to the complaint. The department shall apply a preponderance of the evidence standard in determining whether or not a complaint is substantiated. For the purposes of this subsection, "a preponderance of the evidence standard" means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. "A preponderance of the evidence standard" does not require that the investigator personally witnessed the alleged violation.

c. 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.

Sec. 6. Section 135C.38, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. 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.

b. Upon conclusion of the investigation, the department shall notify the complainant of the results. The notification shall include a statement of the factual findings as determined by the investigator, the statutory or regulatory provisions alleged to have been violated, and a summary of the reasons for which the complaint was or was not substantiated.

c. The department shall mail the notification to the complainant without charge. Upon the request of the complainant, the department shall mail to the complainant, without charge, a copy of the most recent final findings regarding compliance with licensing requirements by the facility against which the complaint was filed.

d. A person who is dissatisfied with any aspect of the department's handling of the complaint may contact the long-term care resident's advocate, established pursuant to section

249D.42, or may contact the protection and advocacy agency designated pursuant to section 135C.2 if the complaint relates to a resident with a developmental disability or a mental illness.

Sec. 7. Section 137A.9, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

137A.9 SUSPENSION OR REVOCATION OF LICENSES.

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's food establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.
2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.
3. The person conducts an activity constituting a criminal offense in the food establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 8. NEW SECTION. **137B.11 SUSPENSION OR REVOCATION OF LICENSES.**

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's food service establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.
2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.
3. The person conducts an activity constituting a criminal offense in the food service establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 9. Section 137C.10, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

137C.10 SUSPENSION OR REVOCATION OF LICENSES.

A regulatory authority may suspend or revoke a license issued to a person under the Iowa hotel sanitation code if any of the following occurs:

1. The person's hotel does not conform to a provision of the Iowa hotel sanitation code or a rule adopted pursuant to this chapter.
2. The person violates a provision of the Iowa hotel sanitation code or a rule adopted pursuant to this chapter.
3. The person conducts an activity constituting a criminal offense in the hotel and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 10. NEW SECTION. **137D.8 SUSPENSION OR REVOCATION OF LICENSES.**

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's home food establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.
2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.
3. The person conducts an activity constituting a criminal offense in the home food establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 11. Section 249A.2, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 7A. "Provider" means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance to recipients under this chapter.

Sec. 12. NEW SECTION. **249A.8 FRAUDULENT PRACTICE.**

A person who knowingly makes or causes to be made false statements or misrepresentations of material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter is guilty of a fraudulent practice.

Sec. 13. Section 726.7, Code 1991, is amended to read as follows:

726.7 WANTON NEGLECT OF A RESIDENT OF A HEALTH CARE FACILITY.

1. A person commits wanton neglect of a resident of a health care facility when the person knowingly acts in a manner likely to be injurious to the physical, or mental or moral welfare of a resident of a health care facility as defined in section 135C.1. Wanton neglect of a resident of a health care facility is a serious misdemeanor.

2. A person who commits wanton neglect resulting in serious injury to a resident of a health care facility is guilty of a class "C" felony.

3. A person who commits wanton neglect not resulting in serious injury to a resident of a health care facility is guilty of an aggravated misdemeanor.

Sec. 14. Sections 1 and 2 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 6, 1991

CHAPTER 108**CIVIL COMMITMENT PROCEEDINGS***S.F. 453*

AN ACT relating to judicial officers having jurisdiction over civil commitment proceedings and providing an effective date.

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

Section 1. Section 125.77, Code 1991, is amended to read as follows:
125.77 SERVICE OF NOTICE.

Upon the filing of an application for involuntary commitment, the clerk shall docket the case and immediately notify a district court judge, a district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. The clerk shall send copies of the application and supporting documentation, together with the notice informing the respondent of the procedures required by this division, to the sheriff, for immediate service upon the respondent. If the respondent is taken into custody under section 125.81, service of the application, documentation, and notice upon the respondent shall be made at the time the respondent is taken into custody.

Sec. 2. Section 125.81, unnumbered paragraph 1, and subsection 1, Code 1991, are amended to read as follows:

If a person filing an application requests that a respondent be taken into immediate custody, and the judge court upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is a chronic substance abuser who is likely to injure the person or other persons if allowed to remain at liberty, the judge court may enter a written order directing that the respondent be taken into immediate custody by the sheriff, and be detained until the commitment hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next business day. The judge court may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 125.88, in accordance with subsection 1 if possible, and if not, then in accordance with subsection 2 or, only if neither of these alternatives is available in accordance with subsection 3. Detention may be:

1. In the custody of a relative, friend, or other suitable person who is willing and able to accept responsibility for supervision of the respondent, with reasonable restrictions as the judge

court may order including but not limited to restrictions on or a prohibition of any expenditure, encumbrance, or disposition of the respondent's funds or property.

Sec. 3. Section 125.82, subsections 1 through 3, Code 1991, are amended to read as follows:

1. At a commitment hearing, evidence in support of the contentions made in the application shall be presented by the applicant, or by an attorney for the applicant, or by the county attorney if the county attorney is the applicant. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of other interested persons. If the respondent is present at the hearing, as provided in subsection 3, and has been medicated within twelve hours, or a longer period of time as the court may designate, prior to the beginning of the hearing or a session of the hearing, the judge court shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

2. A person not necessary for the conduct of the hearing shall be excluded, except that the court may admit a person having a legitimate interest in the hearing. Upon motion of the applicant, the judge court may exclude the respondent from the hearing during the testimony of a witness if the judge court determines that the witness' testimony is likely to cause the respondent severe emotional trauma.

3. The person who filed the application and a physician or professional who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless prior to the hearing the judge court for good cause finds that their presence is not necessary. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the judge court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

Sec. 4. Section 229.7, Code 1991, is amended to read as follows:

229.7 SERVICE OF NOTICE UPON RESPONDENT.

Upon the filing of an application for involuntary hospitalization, the clerk shall docket the case and immediately notify a district court judge, district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. If the application is adequate as to form, the judge court may set a time and place for a hearing on the application, if feasible, but the hearing shall not be held less than forty-eight hours after notice to the respondent unless the respondent waives such minimum prior notice requirement. The judge court shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this chapter, to the sheriff or the sheriff's deputy for immediate service upon the respondent. If the respondent is taken into custody under section 229.11, service of the application, documentation and notice upon the respondent shall be made at the time the respondent is taken into custody.

Sec. 5. Section 229.13, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If, after placement and admission of a respondent in a hospital or other suitable facility, the respondent departs from the hospital or facility without prior proper authorization from the chief medical officer, upon receipt of notification of the respondent's departure by the chief medical officer, a peace officer of the state shall without further order of the court exercise all due diligence to take the respondent into protective custody and return the respondent to the hospital or facility.

Sec. 6. Section 229.21, Code 1991, is amended to read as follows:

229.21 JUDICIAL HOSPITALIZATION REFEREE.

1. The judges in each judicial district shall meet and determine, individually for each county in the district, whether one or more district judges or magistrates will be sufficiently accessible in that county to make it feasible for them to perform at all times the duties prescribed by sections 229.7 to 229.19 and section 229.22 and by sections 125.75 to 125.94. If the judges find that accessibility of district court judges or magistrates in any county is not sufficient for this purpose, the The chief judge of the each judicial district shall may appoint in that county a at least one judicial hospitalization referee for each county within the district. The judges in any district may at any time review their determination, previously made under this subsection with respect to any county in the district, and pursuant to that review may authorize appointment of a judicial hospitalization referee, or abolish the office, in that county.

2. The judicial hospitalization referee shall be an attorney, licensed to practice law in this state, who shall be chosen with consideration to any training, experience, interest, or combination of those factors, which are pertinent to the duties of the office. The referee shall hold office at the pleasure of the chief judge of the judicial district and receive compensation at a rate fixed by the chief judge of the district supreme court. If the referee expects to be absent from the county for any significant length of time, the referee shall inform the chief judge who may appoint a temporary substitute judicial hospitalization referee having the qualifications set forth in this subsection.

3 2. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of chronic 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, district associate judge, or magistrate who is admitted to the practice of law in this state 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 229.19 229.22 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.

4 3. Any respondent with respect to whom the judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the referee's finding to a judge of the district court by giving the clerk notice in writing, within seven days after the referee's finding is made, that an appeal therefrom is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian or attorney. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

5 4. If the appellant is in custody under the jurisdiction of the district court at the time of service of the notice of appeal, the appellant shall be discharged from custody unless an order that the appellant be taken into immediate custody has previously been issued under section 229.11 or section 125.81, in which case the appellant shall be detained as provided in that section until the hospitalization or commitment hearing before the district judge. If the appellant is in the custody of a hospital or facility at the time of service of the notice of appeal, the appellant shall be discharged from custody pending disposition of the appeal unless the chief medical officer, not later than the end of the next secular day on which the office of the clerk is open and which follows service of the notice of appeal, files with the clerk a certification that in the chief medical officer's opinion the appellant is seriously mentally ill or a substance abuser. In that case, the appellant shall remain in custody of the hospital or facility until the hospitalization or commitment hearing before the district court.

6 5. The hospitalization or commitment hearing before the district judge shall be held, and the judge's finding shall be made and an appropriate order entered, as prescribed by sections 229.12 and 229.13 or sections 125.82 and 125.83. If the judge orders the appellant hospitalized or committed for a complete psychiatric or substance abuse evaluation, jurisdiction of the matter shall revert to the judicial hospitalization referee.

Sec. 7. Section 602.6306, subsection 2, Code 1991, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed five thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 8. Section 602.6405, subsection 1, Code 1991, 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. Magistrates 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. Magistrates have jurisdiction over violations of section 123.47 involving persons eighteen years of age, and section 123.49, subsection 2, paragraph "h". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 1991

CHAPTER 109

CHILDREN, YOUTH, AND FAMILIES DIVISION — DEPARTMENTAL TRANSFER S.F. 479

AN ACT relating to the reassignment of duties from the division of children, youth, and families of the department of human rights to the division of child and family services within the department of human services.

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

Section 1. Section 15.108, subsection 9, paragraph a, Code 1991, is amended to read as follows:

a. Collect and assemble, or cause to have collected and assembled, all pertinent information available regarding the industrial, agricultural, and public and private recreation and tourism opportunities and possibilities of the state of Iowa, including raw materials and products that may be produced from them; power and water resources; transportation facilities; available markets; the availability of labor; the banking and financing facilities; the availability of industrial sites; the advantages of the state as a whole, and the particular sections of the state, as

industrial locations; the development of a grain alcohol motor fuel industry and its related products; and other fields of research and study as the board deems necessary. This information, as far as possible, shall consider both the encouragement of new industrial enterprises in the state and the expansion of industries now existing within the state, and allied fields to those industries. The information shall also consider the changing composition of the Iowa family, the level of poverty among different age groups and different family structures in Iowa society, and the changing composition of the Iowa work force and the impact of those changes on Iowa families. ~~The department shall work with the division of children, youth and families of the department of human rights in developing the information relating to the family.~~

Sec. 2. Section 217.11, subsection 4, Code 1991, is amended to read as follows:

4. The administrator of the division of ~~children, youth, and families~~ child and family services of the department of human ~~rights~~ services or the administrator's designee.

Sec. 3. NEW SECTION. 217.9A COMMISSION ON CHILDREN, YOUTH, AND FAMILIES.

1. POLICY. It is the policy of the state of Iowa to promote the best interests of children, youth, and families. In accordance with this policy, the division of child and family services shall do all of the following:

a. Promote coordination of federal, state, and local services by developing a plan to streamline delivery of services and making recommendations to the governor and general assembly by December 1 of each year.

b. Work with state agencies in an advisory capacity to help plan needed services for children, youth, and families.

c. Provide the director of human services, general assembly, and governor with recommendations and information to improve services for children, youth, and families by December 1 of each year.

d. Identify state and federal resources that can be used in local areas.

e. Provide information to parents to assist and support them in their parenting roles.

The commission shall examine the following issues related to the cycle of dependency which some families have on services, including, but not limited to, child care, chemical dependency, child welfare, youth employment, parent education, health, and education.

2. COMMISSION. The commission on children, youth, and families is established.

a. The following persons or the persons' designees are members of the commission:

(1) The director of the Iowa department of public health.

(2) The director of the department of education.

(3) The director of the department of corrections.

(4) The director of the department of human rights.

b. The following members of the commission shall be appointed by the governor:

(1) A member of a county board of supervisors.

(2) A member of the board of directors of a school corporation.

(3) One citizen, who shall be a professional family counselor.

(4) Seven citizens who have expertise in the areas of child care, child welfare, youth employment, maternal and child health, chemical dependency, education, or law.

(5) A person sixteen through eighteen years of age at the time of appointment.

c. The following shall be nonvoting members of the commission:

(1) Two members of the senate, not more than one from any political party, appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate.

(2) Two members of the house of representatives, not more than one from any political party, appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house.

(3) A district judge appointed by the governor.

(4) The administrator of the division of child and family services.

d. The members of the commission appointed by the governor shall be appointed to terms of four years beginning May 1. Legislative members shall be appointed to terms of two years beginning January 1 of odd-numbered years. However, members appointed under paragraphs "b" and "c" shall cease to be members if they no longer hold the office from which they were appointed. Not more than six of the members appointed under paragraph "b" shall belong to the same political party at the time of appointment. Of the members appointed under paragraph "b", at least two members shall be members of a minority race. For purposes of this section, Hispanics shall be considered a racial group. A person designated under paragraph "a" is appointed for a term of four years beginning May 1 and must be an assistant director, or head of a division, bureau, or section of that agency whose function relates to children, youth, or families while serving on the commission. Vacancies shall be filled in the same manner as the original appointment.

e. The members of the commission shall elect from the commission's voting membership a chairperson of the commission. The commission shall meet at regular intervals at least six times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the voting members.

f. The purpose of the commission is to promote coordination of state, local, and private programs, resources, and services to meet the needs of children, youth, and families. The commission shall work to identify unmet needs and to develop a plan to meet those needs and to improve coordination of efforts. The commission shall serve as an advocate for Iowa's children, youth, and families to decision-making bodies and to the public. The commission shall make an annual report to the general assembly and governor by December 1 of its activities and legislative recommendations. The commission shall adopt rules pursuant to chapter 17A for the commission.

g. Members of the commission, while engaged in their official duties, shall be reimbursed for their actual expenses. Members may also be eligible to receive compensation as provided in section 7E.6.

h. The commission may receive federal funds or any grants or gifts on behalf of the state for the purposes within its jurisdiction. All federal funds, grants, and gifts shall be deposited with the treasurer of state and used only for the purposes agreed upon as conditions for receipt of the funds, grants, or gifts.

i. The commission shall have the responsibility of budgetary decisions for the commission.

Sec. 4. Section 256.41, subsection 3, Code 1991, is amended to read as follows:

3. The administrator of the division of ~~children, youth and families~~ child and family services in the department of ~~human rights services~~, or the administrator's designee.

Sec. 5. Section 256A.2, subsection 1, Code 1991, is amended to read as follows:

1. The administrator of the division of ~~children, youth, and families~~ child and family services of the department of ~~human rights services~~ or the administrator's designee.

Sec. 6. Section 256A.2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Staff assistance for the council shall be provided ~~jointly~~ by the department of education ~~and the division of children, youth, and families of the department of human rights~~. Members of the council shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties and shall receive per diem compensation at the level authorized under section 7E.6, subsection 1, paragraph "a".

Sec. 7. Section 262.71, subsection 4, Code 1991, is amended to read as follows:

4. The division of ~~children, youth, and families~~ child and family services of the department of ~~human rights services~~.

Sec. 8. Section 601K.1, subsection 2, Code 1991, is amended by striking the subsection.

Sec. 9. Sections 601K.31 through 601K.39, Code 1991, are repealed.

CHAPTER 110**CIVIL SERVICE FOR DEPUTY SHERIFFS — EXEMPTION***S.F. 492*

AN ACT relating to the classified civil service status of two second deputy sheriffs in certain counties.

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

Section 1. Section 341A.7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the positions of two second deputy sheriffs of a county were exempt from classified civil service coverage under this chapter based on the 1980 decennial census, the two second deputy positions shall remain exempt from classified civil service coverage under this chapter.

Approved May 6, 1991

CHAPTER 111**SPECIAL DISTRICTS — TRUSTEES — DISSOLUTION***H.F. 197*

AN ACT relating to the operation and dissolution of certain special districts organized to provide a municipal service.

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

Section 1. Section 357.13, Code 1991, is amended to read as follows:

357.13 TRUSTEES — TERMS.

At the election provided for in section 357.12, the names of the trustees shall be written by the voter on blank ballots without formal nomination and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district, one to serve for one year, one for two years, and one for three years, which trustees and their successors shall give bond in the amount the board of supervisors may require, the premium of which shall be paid by the district said the trustees represent. Vacancies may thereafter be filled by election, or by appointment by the board of supervisors, at the option of the remaining trustees. The trustees must be residents of the district. The term of succeeding trustees shall be for three years.

Sec. 2. Section 357B.5, subsection 1, Code 1991, is amended to read as follows:

1. Upon petition of a number of registered voters residing in a district at least equal to thirty-five percent of the property taxpayers in the district, the board of supervisors may dissolve a benefited fire district and dispose of any remaining property, the proceeds of which shall first be applied against any outstanding obligation of the district. Any remaining balance shall be applied as a tax credit for the property owners of the district. However, except as provided in subsection 2, if all or a part of a district is annexed, the board of supervisors may transfer the remaining property and balance to the city which annexed the territory. The board of supervisors shall continue to levy an annual tax after the dissolution of a district, not to exceed forty and one-half cents per thousand dollars of assessed value of the taxable property of the district, until all outstanding obligations of the district are paid.

Sec. 3. Section 357C.8, Code 1991, is amended to read as follows:

357C.8 TRUSTEES.

At such the election, the names of candidates for trustee shall be written in by the voters on blank ballots without formal nomination, and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district; one to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount which the board of supervisors may require, the premium of which shall be paid by the district ~~said~~ the trustees represent. Vacancies may thereafter be filled by election, or by appointment by the board of supervisors. The term of succeeding trustees shall be for three years.

Sec. 4. Section 357C.11, Code 1991, is amended to read as follows:

357C.11 DISSOLUTION OF DISTRICT.

Upon petition of thirty-five percent of the resident eligible electors, the board of supervisors may dissolve a benefited street lighting district and dispose of any remaining property, proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credit of property owners of the district. However, if the district is annexed, the board of supervisors may transfer the remaining property and balance to the city which annexed the district. The board of supervisors shall continue to levy tax after dissolution of a district, of not to exceed fifty-four cents per thousand dollars of assessed value on all the taxable property of the district, until all outstanding obligations of the district are paid.

Sec. 5. Section 357D.9, Code 1991, is amended to read as follows:

357D.9 TRUSTEES.

At the election, the names of up to three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the board shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount required by the board, the premium of which shall be paid by the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board. The term of succeeding trustees shall be three years.

Sec. 6. Section 357D.12, Code 1991, is amended to read as follows:

357D.12 DISSOLUTION OF DISTRICT.

Upon petition of thirty-five percent of the resident eligible electors, the board may dissolve a district and dispose of any remaining property, the proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credit of property owners of the district. However, if the district is annexed, the board of supervisors may transfer the remaining property and balance to the city which annexed the territory. The board shall continue to levy a tax after dissolution of a district, of not to exceed twenty-seven cents per thousand dollars of assessed value on all the taxable property of the district, until all outstanding obligations of the district are paid.

Sec. 7. Section 357E.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

At the election, the names of at least three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees shall give bond in the amount required by the board, the premium of which shall be paid by the district. The trustees must be residents of the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board. The terms of the succeeding trustees are for three years.

Sec. 8. Section 357E.12, Code 1991, is amended to read as follows:

357E.12 DISSOLUTION OF DISTRICT.

Upon petition of thirty-five percent of the resident eligible electors, the board may dissolve a district and dispose of any remaining property, the proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credits for property owners of the district. However, if the district is annexed, the board of supervisors may transfer the remaining property and balance to the city which annexed the territory. The board shall continue to levy a tax after dissolution of a district, in an amount necessary to pay all outstanding obligations of the district as they become due, until all outstanding obligations of the district are paid.

Approved May 6, 1991

CHAPTER 112

UTILITIES BOARD — ENFORCEMENT AUTHORITY

H.F. 343

AN ACT relating to the enforcement authority of the Iowa utilities board regarding intrastate pipelines and electric transmission lines and providing civil penalties.

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

Section 1. Section 478.22, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

478.22 ACTION FOR VIOLATION.

When the board determines that a person is in violation of this chapter, the board may commence an action in the district court of the county in which the violation is alleged to have occurred, for injunctive relief or other appropriate remedy.

Sec. 2. Section 478.29, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

478.29 CIVIL PENALTIES.

A person who violates a provision of this chapter is subject to a civil penalty, which may be levied by the board, of not more than one hundred dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the Iowa energy center created in section 266.39C.

Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the board shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of a violation.

Sec. 3. Section 479.31, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Any person who violates any provision of this chapter or any regulation issued pursuant to this chapter shall be subject to a civil penalty of not to exceed ~~one~~ ten thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense. However, the maximum civil penalty shall not exceed ~~two~~ five hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to the Iowa energy center created in section 266.39C.

Approved May 6, 1991

CHAPTER 113**BALED SOLID WASTE AT SANITARY LANDFILLS***H.F. 375*

AN ACT relating to the prohibiting of the disposal of baled solid waste at a sanitary landfill.

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

Section 1. **NEW SECTION. 455D.9A DISPOSAL OF BALED SOLID WASTE AT A SANITARY LANDFILL — PROHIBITED.**

Beginning January 1, 1992, a person shall not dispose of baled solid waste at a sanitary landfill and a sanitary landfill shall not accept baled solid waste for final disposal. Solid waste which is baled on-site may be disposed of at the sanitary landfill. The department shall develop rules which define baled solid waste and provide for the safe and proper method of disposal of such waste.

Approved May 6, 1991

CHAPTER 114**ACQUISITION OF HIGHWAY RIGHTS-OF-WAY — PROCEDURES***H.F. 491*

AN ACT relating to acquisition of rights-of-way for highways.

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

Section 1. Section 306.19, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. The department may notify a city or county that a road under the jurisdiction or control of the department will be established, improved, relocated, or maintained and that the department may need to acquire additional right-of-way or property rights within an area described by the department. The notice shall include a depiction of the area on a map provided by the city, county, or the department. This notice shall be valid for a period of three years from the date of notification to the city or county and may be refiled by the department for an additional three-year period. Within seven days of filing the notice, the department shall publish in a newspaper of public record a description and map of the area and a description of the potential restrictions applied to the city or county with respect to the granting of building permits, approving of subdivision plats, or zoning changes within the area.

b. The city or county shall notify the department of an application for a building permit for construction valued at twenty-five thousand dollars or more, of the submission of a subdivision plat, or of a proposed zoning change within the area at least thirty days prior to granting the proposed building permit, approving the subdivision plat, or changing the zoning.

c. If the department, within the thirty-day period, notifies the city or county that the department is proceeding to acquire all or part of the property or property rights affecting the area, the city or county shall not issue the building permit, approve the subdivision plat, or change the zoning. The department may apply to the city or county for an extension of the thirty-day period. After a public hearing on the matter, the city or county may grant an additional sixty-day extension of the period.

d. The department shall begin the process of acquiring property or property rights from affected persons within ten days of the department's written notification of intent to the city or county.

Approved May 6, 1991

CHAPTER 115

ADVANCED PLACEMENT SUMMER PROGRAM

H.F. 518

AN ACT to establish an advanced placement summer program.

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

Section 1. NEW SECTION. 263.8C ADVANCED PLACEMENT SUMMER PROGRAM.

An advanced placement summer program is established at the state university of Iowa for purposes of training advanced placement instructors at the secondary level and of providing intensive course work for secondary students. The state university of Iowa shall be responsible for the development of appropriate curricula, course offerings, provision of qualified instructors, and the selection of participants for the program. If funds are appropriated for the program, those funds shall be used to pay for the cost of providing instructors, counselors, room and board for students and teachers attending the program, materials, and for the cost of the development of a summer advanced placement exam. If funds are appropriated and those funds are not sufficient to meet program participation demands, the university shall give priority to the needs of students or teachers from schools which do not have advanced placement programs.

Approved May 6, 1991

CHAPTER 116

COURT ADMINISTRATION AND RELATED PROVISIONS

H.F. 534

AN ACT relating to changes and corrections in the court administration system.

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

Section 1. Section 78.1, subsection 3, Code 1991, is amended to read as follows:

3. Clerks The clerk and deputy clerks of the supreme court and the clerks of the district courts court and their designees.

Sec. 2. Section 144.35, Code 1991, is amended to read as follows:

144.35 EXTENSIONS OF TIME BY RULES.

The department may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this chapter, provide for extension of the periods prescribed in sections 144.26, 144.28, 144.29, and 144.31, ~~and 144.32~~ for filing of death certificates, fetal death certificates, and medical certifications of cause of death ~~and for the obtaining of burial-transit permits~~ in cases in which compliance with the applicable prescribed period would result in undue hardship.

Regulation of the department may provide for the issuance of a burial-transit permit under section 144.32 prior to the filing of a complete certificate of death or fetal death upon conditions designed to assure compliance with the purposes of this chapter in cases in which compliance with the requirement that the complete certificate be filed prior to the issuance of the permit would result in undue hardship.

Sec. 3. Section 472.37, Code 1991, is amended to read as follows:
472.37 FORM OF RECORD – CERTIFICATE.

Said papers shall be securely fastened together, arranged in the order named above, and be accompanied by a certificate of the officer filing the same papers that said the papers are true and correct copies of the original files in the proceedings and that the statements accompanying the same papers are true.

Sec. 4. Section 472.38, Code 1991, is amended to read as follows:
472.38 RECORD OF PROCEEDINGS.

The county recorder shall record the papers, statements, and certificate in the record of deeds and properly index them. The recorder may return the original recorded instrument to the sender or dispose of that instrument if the sender does not wish to have the instrument returned. A document filed in the recorder's office before July 1, 1990, may be returned to the sender or disposed of if the sender does not wish to have the document returned and if there is an official copy of that document in the recorder's office.

Sec. 5. Section 595.4, unnumbered paragraph 2, Code 1991, is amended to read as follows:
After expiration of three days from the date of filing the application by the parties, the clerk shall issue the license if the clerk is satisfied as to the competency of the parties to contract a marriage. If the license has not been issued within one year six months from the date of the application, the application is void.

Sec. 6. Section 602.1401, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 5. The pay plan shall set the compensation of court employees within the funds appropriated by the general assembly.

Sec. 7. Section 602.1502, Code 1991, is amended to read as follows:
602.1502 STATE COURT ADMINISTRATION SALARIES.

1. The supreme court shall set the compensation of the state court administrator, deputy administrator, and research director within the funds appropriated by the general assembly. The salaries of other employees of the judicial department shall be set pursuant to the department's pay plan established under section 602.1401.

2. The state court administrator, with the approval of the supreme court, shall set the salaries of assistants and employees of the office of the state court administrator within the funds appropriated by the general assembly. Court reporters who are employed on an emergency basis in the district court shall be paid not more than their usual and customary fees, while employed by the court. Payments shall be made at least once each month.

3. Court reporters shall be paid compensation for transcribing their notes as provided in section 602.3202, but shall not work on outside depositions during the hours for which they are compensated as a court employee.

Sec. 8. Section 602.8102, subsections 45 and 100, Code 1991, are amended by striking the subsections.

Sec. 9. Section 602.8104, subsection 2, paragraph c, Code 1991, is amended to read as follows:
c. A fee book cash journal in which is listed in detail the costs and fees in each action or proceeding under the title of the action or proceeding. The fee book cash journal shall also have an index containing the information specified in paragraph "a".

Sec. 10. Section 602.8104, subsection 2, paragraph d, Code 1991, is amended by striking the paragraph.

Sec. 11. Section 602.8105, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. For filing and docketing a petition other than for modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of the modification, or an appeal or writ of error, forty-five dollars. ~~Four dollars of the~~ The fee shall be deposited in the court revenue distribution account established under section 602.8108, and forty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 12. Section 602.8105, subsection 1, paragraph c, Code 1991, is amended by striking the paragraph.

Sec. 13. Section 602.8105, subsection 1, paragraphs m and n, Code 1991, are amended to read as follows:

m. For filing an application for a license to marry, fifteen dollars. ~~The clerk of the district court shall remit to the treasurer of state five dollars for each marriage license application filed. The treasurer of state shall deposit the funds received in the general fund of the state.~~ For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars.

n. For entering a final decree of dissolution of marriage, fifteen dollars. ~~The fees shall be deposited in the general fund of the state.~~ It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

Sec. 14. Section 602.8106, subsections 4 and 5, Code 1991, are amended to read as follows:

4. ~~The clerk shall remit deposit all other fines and forfeited bail received from a magistrate to the treasurer of state to be credited to the general fund of the state in the court revenue distribution account established in section 602.8108,~~ except that annually the first two million five hundred thousand dollars in fines which are imposed through vehicle violation citations issued by motor vehicle division personnel at portable and fixed weigh stations in the state which shall be credited to the road use tax fund.

5. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

a. ~~Two fifths shall be remitted monthly by the clerk to the treasurer of state to be credited to the general fund of the state.~~

b. ~~Three tenths shall be deposited in the court revenue distribution account established under section 602.8108.~~

e. ~~Three Of the amount paid to the state treasurer, three-tenths shall be remitted monthly by the clerk to the treasurer of state to be credited to the judicial retirement fund established under section 602.9104.~~

Sec. 15. Section 602.8108, Code 1991, is amended to read as follows:

602.8108 COURT REVENUE DISTRIBUTION ACCOUNT.

1. The clerk of the district court shall establish and maintain a court revenue distribution account. The clerk shall deposit in this account all fees and other receipts that are specifically required by law to be deposited in the court revenue distribution account. ~~The account shall not be used for any other purpose.~~

2. ~~Revenue deposited in the court revenue distribution account shall be distributed as follows:~~

a. ~~Of the revenue received by the clerk during the fiscal year commencing July 1, 1983 and ending June 30, 1984, the clerk shall remit eighty percent to the county treasurer and twenty percent to the treasurer of state.~~

b. Of the revenue received by the clerk during the fiscal year commencing July 1, 1984 and ending June 30, 1985, the clerk shall remit sixty percent to the county treasurer and forty percent to the treasurer of state.

c. Of the revenue received by the clerk during the fiscal year commencing July 1, 1985 and ending June 30, 1986, the clerk shall remit forty percent to the county treasurer and sixty percent to the treasurer of state.

d. Of the revenue received by the clerk during the fiscal year commencing July 1, 1986 and ending June 30, 1987, the clerk shall remit twenty percent to the county treasurer and eighty percent to the treasurer of state.

e. The clerk shall remit all revenue received on or after July 1, 1987, to the treasurer of state.

3 2. The clerk of the district court shall account for and distribute revenue deposited in the court revenue distribution account on a monthly basis. Not later than the fifteenth day of each calendar month, the clerk shall distribute all revenues received during the preceding calendar month according to the applicable formula as stated in subsection 2. Each distribution shall be accompanied by a statement disclosing the total amount of revenue received during the accounting period, and any adjustments of gross revenue figures that are necessary to reflect changes in the balance of the court revenue distribution account, including but not limited to reductions resulting from the dishonor of checks previously accepted by the clerk, and the amount distributed to each recipient under subsection 2.

4 3. Except as otherwise provided, the clerk shall remit all revenue received to the treasurer of state. Revenue distributed to the treasurer of state under this section shall be deposited in the general fund of the state except as otherwise provided by applicable law. Revenue distributed to a county under this section shall be deposited in the county general fund.

Sec. 16. Section 602.9104, subsection 2, Code 1991, is amended to read as follows:

2. The amount designated in subsection 1 as the judge's contribution to the judicial retirement fund shall be paid by the department of revenue and finance from the general fund of the state to the court administrator for deposit with the treasurer of state to the credit of the judicial retirement fund. Moneys in the fund are appropriated for the payment of annuities, refunds, and allowances provided by this article, except that the amount of the appropriations affecting payment of annuities, refunds, and allowances to judges of the municipal and superior court is limited to that part of the fund accumulated for their benefit as provided in this article. The corpus and income of the fund shall be used only for the exclusive benefit of the judges covered under this article, or their survivors, or an alternate payee who is assigned benefits pursuant to a domestic relations order.

Sec. 17. Section 625.21, Code 1991, is amended to read as follows:

625.21 INTEREST.

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 to the costs.

Sec. 18. Section 631.6, Code 1991, is amended to read as follows:

631.6 FEES AND COSTS.

All fees and costs required to be paid in small claims actions shall be paid in advance, and shall be assessed as costs in the action.

1. The docket filing fee for a small claims action is fifteen twenty-five dollars. Five dollars of the docket fee shall be deposited in the court revenue distribution account established under section 602.8108 and ten dollars of the fee shall be paid into the state treasury. The fee shall be deposited in the court revenue distribution account as established in section 602.8108. Of the amount of the fee paid into the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state.

2. Postage charged for the mailing of original notices shall be the actual cost of the postage.

3. Fees for personal service by peace officers or other officials of the state are the amounts specified by law.

4. Fees for service of notice on nonresidents are as provided in section 617.3.

All fees and costs collected in small claims actions, ~~other than the ten dollars of the docket fee to be paid into the state treasury,~~ shall be deposited in the court revenue distribution account established under section 602.8108, except that the fee specified in subsection 4 shall be remitted to the secretary of state.

Sec. 19. Section 633.480, Code 1991, is amended to read as follows:

633.480 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITH ADMINISTRATION.

After discharge as provided in section 633.479, the clerk shall ~~issue a certificate~~ certify under chapter 558 relative to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative, and deliver the certificate to the county recorder of the county in which the real estate is situated. The county recorder shall deliver the certificate to the county auditor as provided in section 558.58.

Sec. 20. Section 692.17, Code 1991, is amended to read as follows:

692.17 EXCLUSIONS.

Criminal history data in a computer data storage system shall not include arrest or disposition data after the person has been acquitted or the charges dismissed.

For the purposes of this section, "criminal history data" includes information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data set forth in section 692.1.

Criminal history data may be collected for management or research purposes.

Sec. 21. Section 805.6, subsection 3, Code 1991, is amended to read as follows:

3. Supplies of the uniform citation and complaint for municipal corporations, and county agencies, and all other agencies shall be paid for out of the budget of the municipal corporation, or county, or other agency receiving the fine resulting from use of the citation and complaint. Supplies of the uniform citation and complaint form used by other agencies shall be paid for out of the budget of the agency concerned and not out of the budget of the judicial department.

Sec. 22. Section 910.9, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The clerk of court shall maintain a record of all receipts and disbursements of restitution payments and shall disburse all moneys received to the victims designated in the plan of restitution. If there is more than one victim, disbursements to the victims shall be on the basis of the victim's percentage of the total owed by the offender to all victims, except that the clerk of court may decide the allocation of payments of twenty dollars or less.

Sec. 23. Section 144.32, and sections 602.1503 through 602.1507, Code 1991, are repealed.

Approved May 6, 1991

CHAPTER 117**PERSONNEL OF SCHOOL DISTRICTS AND MERGED AREAS
UNDER SHARING OR OTHER AGREEMENTS***H.F. 593*

AN ACT relating to employment of personnel under sharing agreements and agreements to combine merged areas.

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

Section 1. Section 280.15, Code 1991, is amended to read as follows:

280.15 JOINT EMPLOYMENT AND SHARING.

1. 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. Sharing agreements ~~that provide for the sharing of personnel~~ shall provide that any person who is not an employee at the time an agreement is signed shall not be employed in any professional position, under the terms of the agreement, for which a current employee of any of the districts involved in the agreement holds an appropriate license, unless the professional position is an administrator position or the professional position is first offered to the current employee.

2. When a special education personnel pooling agreement, which has been entered into between an area education agency and a public school district pursuant to section 273.5, is terminated, the public school district shall assume the contractual obligations for any teachers assigned to the district under the agreement. Teachers, for whom the contractual obligations are assumed by a district, shall be given credit for completion of any probationary status under section 279.19, be placed on the salary schedule and retain all leaves, benefits, and seniority rights accumulated as if the teacher had been originally employed under the agreement which exists between the public school district and the district's collective bargaining unit, consistent with the teacher's education and experience.

A teacher who is employed under a pooling agreement and assigned to special education facilities that are separate from and not part of local school district facilities shall, if the teacher's employment terminates upon termination of the pooling agreement, be offered any teaching position that is similar to the position previously held by the teacher under the pooling agreement, which is vacant in any of the local school districts which participated in the pooling agreement, provided that the teacher possesses the appropriate license for the position. Teachers employed by a local school district under this paragraph shall have the same rights, privileges, and protection as teachers whose contractual obligations are assumed by a district to which the teacher previously had been assigned under a special education personnel pooling agreement.

Sec. 2. Section 280A.39, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The terms of employment of personnel, for the academic year following the effective date of the agreement to combine the merged areas shall not be affected by the combination of the merged areas, except in accordance with the procedures under sections 279.15 to 279.18 and section 279.24, to the extent those procedures are applicable, or under the terms of the base bargaining agreement. The authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to any applicable procedures under chapter 279, shall be transferred to the acting, and then to the new, board of the combined merged area upon certification of a favorable vote to each of the merged areas affected by the agreement. The collective bargaining agreement of the

merged area with the largest number of contact hours eligible for general aid, as defined under section 286A.2, shall serve as the base agreement for the combined merged area and the employees of the merged areas which combined to form the new combined merged area shall automatically be accreted to the bargaining unit from that former merged area for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the merged areas which are combining under this section, then that agreement shall serve as the base agreement, and the employees of the merged areas which are combining to form the new combined merged area shall automatically be accreted to the bargaining unit of that former merged area for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the combined merged area, using the base agreement as its existing contract, shall bargain with the combined employees of the merged areas that have agreed to combine for the academic year beginning with the effective date of the agreement to combine merged areas. The bargaining shall be completed by March 15 prior to the academic year in which the agreement to combine merged areas becomes effective or within one hundred eighty days after the organization of the acting board of the new combined merged area, whichever is later. If a bargaining agreement was already concluded in the former merged area which has the collective bargaining agreement that is serving as the base agreement for the new combined merged area, between the former merged area board and the employees of the former merged area, that agreement is void, unless the agreement contained multiyear provisions affecting academic years subsequent to the effective date of the agreement to form a combined merged area. If the base collective bargaining agreement contains multiyear provisions, the duration and effect of the agreement shall be controlled by the terms of the agreement. The provisions of the base agreement shall apply to the offering of new contracts, or the continuation, modification, or termination of existing contracts between the acting or new board of the combined merged area and the combined employees of the new combined merged area.

Approved May 6, 1991

CHAPTER 118

CONSUMER CREDIT — OPEN END CREDIT ACCOUNTS

H.F. 601

AN ACT relating to open end credit accounts by eliminating the requirement that the banking division compile and report a summary of the volume of consumer installment credit to the administrator of the Iowa consumer credit code and providing for a change in terms in the agreement.

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

Section 1. Section 524.227, subsection 4, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 2. Section 537.3205, subsection 1, Code 1991, is amended to read as follows:

1. Whether or not a change is authorized by prior agreement, a creditor may make a change in the terms of an open end credit account applying to any balance incurred after the effective date of the change only if either the consumer after receiving disclosure of the change agrees to it in writing or the creditor delivers or mails to the consumer two written disclosures disclosure of the change, the first at least three months sixty days before the effective date of the change and the second at a later time before the effective date of the change.

Sec. 3. Section 537.3205, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. Notwithstanding subsection 2, a creditor may make a change in the terms of an open end credit account with respect to a balance incurred before the effective date of the change if the creditor gives a written disclosure as provided in subsection 1 and if the credit card account is part of a portfolio of credit card accounts acquired in a bulk acquisition of the portfolio.

Sec. 4. Section 537.6104, subsection 5, Code 1991, is amended to read as follows:

5. The administrator shall report annually on or before January 1 to the general assembly on the operation of the consumer credit protection bureau and the other agencies of this state charged with administering this chapter, ~~on the use of consumer credit in the state,~~ and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit. For the purpose of making the report, the administrator may conduct research and make appropriate studies. The report shall include, for the consumer credit protection bureau and for other state agencies enforcing this chapter, a description of the examination and investigation procedures and policies, a statement of policies followed in deciding whether to investigate or examine the offices of credit suppliers subject to this chapter, a statement of the number and percentages of offices which are periodically investigated or examined, a statement of the types of consumer credit problems of both creditors and consumers which have come to the administrator's attention through the administrator's examinations and investigations and the disposition of them under existing law, and recommendations, if any, for legislation to deal with those problems within the administrator's general jurisdiction, a statement of the extent to which the rules of the administrator pursuant to this chapter are not in harmony with the rules of administrators in other jurisdictions which enact the uniform consumer credit code and the reasons for the variations, and a general statement of the activities of the administrator's office and of others to promote the purposes of this chapter. The report shall not identify the creditors against whom action is taken.

Approved May 6, 1991

CHAPTER 119

PROCEDURES FOR TRANSFER OF VEHICLE OF DECEDENT

H.F. 602

AN ACT relating to the transfer of ownership of a vehicle by operation of law.

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

Section 1. Section 321.47, unnumbered paragraph 1, Code 1991, is amended to read as follows:
In the event of the transfer of ownership of a vehicle by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, or a storage lien as provided in chapter 579, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title

to it. The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit, and upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. No requirement of chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of such liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in Uniform Commercial Code, chapter 554, Article 9, Part 5.

Approved May 6, 1991

CHAPTER 120

COMMUNITY CULTURAL GRANTS PROGRAM

H.F. 639

AN ACT relating to the Iowa community cultural grants program.

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

Section 1. Section 303.1, subsection 2, paragraph h, Code 1991, is amended by striking the paragraph.

Sec. 2. Section 303.3, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert but shall be available for expenditure for purposes of the contract until June 30 of the succeeding fiscal year.

Approved May 6, 1991

CHAPTER 121**GENERAL PERMITS FOR ACTIVITIES AFFECTING ENVIRONMENT***H.F. 661*

AN ACT relating to certain general permits for activities affecting the environment and providing an effective date.

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

Section 1. NEW SECTION. 455B.103A GENERAL PERMITS – STORMWATER DISCHARGE – ISSUED BY DIRECTOR.

1. If a permit is required pursuant to this chapter for stormwater discharge and a facility to be permitted is representative of a class of facilities which could be described and conditioned by a single permit, the director may issue, modify, deny, or revoke a general permit for all of the following conditions:

a. If adoption of a general permit is proposed, the terms, conditions, and limitations of the permit shall be drafted into a notice of intended action and adopted in accordance with the provisions of chapter 17A as a rule of the department. The same process of adoption shall be used for modification of a general permit.

b. Following the effective date of a general permit, a person proposing to conduct activities covered by the general permit shall provide a notice of intent to conduct a covered activity on a form provided by the department. A person shall also provide public notice of intent to conduct activities covered under the general permit by publishing notice in two newspapers with the largest circulation in the area in which the facility is located. Notice of the discontinuation of a permitted activity shall be provided in the same manner.

c. If the department finds that a proposed activity is not covered by a general permit, the department shall notify the affected person and shall provide the person with a permit application if the practice is one which could be authorized by individual permit.

d. A person holding an existing permit is subject to the terms of the existing permit until it expires. If the person holding an existing permit continues the activity beyond the expiration date of the existing permit, an applicable, approved general permit shall become effective.

e. A variance or alteration of the terms and conditions of a general permit shall not be granted. If a variance or modification of an operation authorized by a general permit is desired, the applicant shall apply for an individual permit.

f. The department shall perform on-site inspections and review monitoring data to assess the effectiveness of general permits. If a significant adverse environmental problem exists for an individual facility or class of facilities due to regulation under a general permit, the facility or class of facilities shall be required to obtain individual permits.

g. The department shall establish a procedure for the filing of complaints by persons believing themselves to be adversely affected by the environmental impact of the discharge of a facility operating under a general permit under this section.

2. General permits are not subject to the requirements applicable to individual permits.

3. Three years after the adoption of a general permit by rule, the department shall assess the activities which have been conducted under the general permit and determine whether any significant adverse environmental consequences have resulted.

4. An applicant to be covered under a general permit shall pay a permit fee, as established by rule of the commission, which is sufficient in the aggregate to defray the costs of the permit program. Moneys collected shall be remitted to the department.

Sec. 2. Section 455B.105, subsection 11, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Adopt, by rule, procedures and forms necessary to implement the provisions of this chapter relating to permits, or conditional permits, and general permits. The commission may also adopt, by rule, a schedule of fees for permit and conditional permit applications and a schedule of fees which may be periodically assessed for administration of permits and conditional permits. In determining the fee schedules, the commission shall consider:

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 1991

CHAPTER 122

OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE PROGRAM

S.F. 115

AN ACT relating to the obstetrical and newborn indigent patients care program by providing for the reversion of the unencumbered balance to the state general fund and by increasing the income eligibility level for the payment of indigent obstetrical and newborn care costs.

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

Section 1. Section 255A.5, Code 1991, is amended to read as follows:
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 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 eighty-five 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. 2. Section 255A.14, Code 1991, is repealed.

Approved May 7, 1991

CHAPTER 123

POSTSECONDARY ENROLLMENT OPTIONS

S.F. 138

AN ACT requiring the acceptance of any student's postsecondary options credits as high school academic or vocational-technical credits by a school district or accredited nonpublic school and providing an effective date.

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

Section 1. Section 261C.4, Code 1991, is amended to read as follows:

261C.4 AUTHORIZATION.

An eligible pupil may make application to an eligible institution to allow the eligible pupil to enroll for academic or vocational-technical credit in a nonsectarian course offered at that eligible institution. A comparable course, as defined in rules made by the board of directors of the public school district, must not be offered by the school district or accredited nonpublic school 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 or accredited nonpublic school, 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 or vocational-technical credit that the eligible pupil will receive from the eligible institution upon successful completion of the course.

Sec. 2. Section 261C.5, Code 1991, is amended to read as follows:

261C.5 HIGH SCHOOL CREDITS.

A school district or accredited nonpublic school may shall grant high school academic or vocational-technical 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. Eligible pupils, who have completed the eleventh grade but who have not yet completed the requirements for graduation, may take up to seven semester hours of credit during the summer months when school is not in session and receive credit for that attendance, if the pupil pays the cost of attendance of those summer credit hours. The board of directors of the school district or authorities in charge of an accredited nonpublic school 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 or accredited nonpublic school of the eligible pupil. Evidence of successful completion of each course and high school credits and postsecondary academic or vocational-technical credits received shall be included in the pupil's high school transcript.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 1991

CHAPTER 124**PESTICIDES – INGREDIENTS – INFORMATION***S.F. 297*

AN ACT relating to the confidentiality of information identifying inert ingredients in pesticides, and providing retroactive applicability and effective dates.

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

Section 1. Section 139.35, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The Iowa department of public health shall timely provide copies of all reports of pesticide poisonings or illnesses received pursuant to this section to the secretary of agriculture who shall timely forward these reports and any reports of pesticide poisonings or illnesses received pursuant to section 206.14 to the registrant of a pesticide which is the subject of any reports.

NEW SUBSECTION. 7. The Iowa department of public health shall adopt rules specifying the requirements for the operation of an emergency information system operated by a registrant pursuant to section 206.12, subsection 2, paragraph "c", which shall not exceed requirements adopted by a poison control center as defined in section 206.2. The rules shall specify the qualifications of individuals staffing an emergency information system and shall specify the maximum amount of time that a registrant may take to provide the information to a poison control center or an attending physician treating a patient exposed to the registrant's product.

Sec. 2. Section 206.2, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 30. "Poison control center" means an entity existing as part of a hospital licensed under chapter 135B which adheres to the standards of the American association of poison control centers.

NEW SUBSECTION. 31. "Toxic to humans" means not generally recognized as safe as provided by the United States food and drug administration pursuant to 21 C.F.R. pt. 182.

Sec. 3. Section 206.12, subsection 2, paragraph c, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The From on and after July 1, 1990, to December 31, 1991, the identity of a specific inert ingredient in a specific pesticide shall be treated as a confidential trade secret which is not subject to release under chapter 22.

On and after January 1, 1992, the identity of an inert ingredient in a specific pesticide shall be treated as a confidential trade secret if the following two conditions are met: the registrant states, at the time of registration, that the inert ingredient is a confidential trade secret; and three or fewer registrants are using a particular active ingredient in a registered pesticide the registrant certifies one of the following:

(1) The registrant has provided to any data base system used by a poison control center operating in this state the information required by an attending physician to treat a patient for exposure or adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans.

(2) The registrant operates an emergency information system as provided in section 139.35 that is available to poison control centers twenty-four hours a day every day of the year. The emergency information system must provide information to medical professionals required for the sole purpose of treating a specific patient for exposure or adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans, and toxicological and medical management information.

Poison control centers may share the information provided by the registrant with an attending physician for the purpose of treating a specific patient exposed to the registrant's product. The secretary, the director of the department of natural resources, and the director of the center

for health effects of environmental contamination shall treat the presence of any inert ingredient in a particular pesticide that meets the two conditions as a confidential trade secret which is not subject to release under chapter 22. This section does not prohibit research or monitoring of any aspect of any inert ingredient. This section does not prohibit the public disclosure of research, monitoring, published or summary data relative to any inert ingredient so long as such disclosure does not link an inert ingredient to a particular brand of pesticide registered in this state.

This section shall not be construed to prohibit the release of information independently obtained from a source other than registrations filed under this chapter which links an inert ingredient to a pesticide registered in this state.

Sec. 4. APPLICABILITY AND EFFECTIVE DATES.

1. Sections 206.2 and 206.12, Code 1991, as amended by this Act, are retroactively applicable to July 1, 1990, and are applicable to inert ingredient information received by state officials on and after that date.

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

Approved May 7, 1991

CHAPTER 125

REIMBURSEMENT FOR SPECIAL EDUCATION SERVICES

S.F. 314

AN ACT relating to federal reimbursements for certain special education services.

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

Section 1. Section 281.15, subsection 7, Code 1991, is amended to read as follows:

7. ~~All~~ Except as otherwise provided in this subsection, all reimbursements received by the area education agencies for eligible services shall be paid annually to the treasurer of state. The area education agencies shall, after determining the administrative costs associated with the implementation of medical assistance reimbursement for the eligible services, be permitted to retain up to twenty-five percent of the total amount reimbursed to pay for the administrative costs. Funds received under this subsection shall not be considered or included as part of the area education agencies' budgets when calculating funds that are to be received by area education agencies during a fiscal year. Except as otherwise provided in this subsection, the treasurer of state shall credit all receipts received under this subsection to the general fund of the state.

Sec. 2. Section 281.15, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The department of human services shall offer assistance to the area education agencies in the identification of children eligible for reimbursement for services under this section.

Approved May 7, 1991

* "Act" probably intended

CHAPTER 126**SCHOOL LAWS***S.F. 473*

AN ACT relating to accredited schools and school districts, making changes in the department of education's biennial report on the condition of schools, changing the requirements for certain pilot projects, providing exceptions to certain uses of funds received under an instructional support program, and changing the district in which shared-time pupils are counted under the postsecondary enrollment options Act and providing an effective date.

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

Section 1. Section 256.9, subsection 24, Code 1991, is amended to read as follows:

24. Report biennially to the governor, at the time provided by law, the condition of the schools under the department's supervision, including the number and kinds of school districts, the number of schools of each kind, the number and value of schoolhouses, the enrollment and attendance in each county district for the previous year, any measures proposed for the improvement of the public schools, financial and statistical information of public importance, and general information relating to educational affairs and conditions within the state or elsewhere. The report shall also review the programs and services of the department.

Sec. 2. Section 256.19, Code 1991, is amended to read as follows:

256.19 PILOT PROJECTS.

For fiscal years in which moneys are appropriated by the general assembly for the purpose of ~~section 256.18~~ conducting pilot projects as approved by the state board of education to improve school district instructional programs, 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 licensed instructional personnel pursuant to ~~section 256.18, subsection 4~~, for the in-service training pursuant to ~~section 256.18, subsection 5~~, and school districts for other costs related to the approved pilot projects.

Sec. 3. Section 257.19, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The additional funding for the instructional support program for a budget year is limited to an amount not exceeding ten percent of the total of regular program district cost for the budget year and moneys received under section 257.14 as a budget adjustment for the budget year. Moneys received by a district for the instructional support program are miscellaneous income and may be used for any general fund purpose. However, moneys received by a district for the instructional support program shall not be used as, or in a manner which has the effect of, supplanting funds authorized to be received under sections 257.41, 257.46, 298.2, and 298.4, or to cover any deficiencies in funding for special education instructional services resulting from the application of the special education weighting plan under section 281.9.

Sec. 4. Section 261C.3, subsection 2, Code 1991, is amended to read as follows:

2. "Eligible pupil" means a pupil classified by the board of directors of a school district or the authorities in charge of an accredited nonpublic school as an eleventh or twelfth grade pupil during the period the pupil is participating in the enrollment option provided under this chapter. A pupil attending an accredited nonpublic school shall be counted as a shared-time student in the pupil's school district of residence school district in which the nonpublic school of attendance is located for state foundation aid purposes.

Sec. 5. Section 256.18, Code 1991, is repealed.

Sec. 6. Section 3 of this Act does not apply to funds received by a district for the instructional support program as a result of a levy which was authorized prior to the effective date of this Act.

Sec. 7. Sections 3 and 6 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 7, 1991

CHAPTER 127

TRANSPORTATION OF HAZARDOUS MATERIALS

H.F. 252

AN ACT relating to exempting certain cargo tank motor vehicles from hazardous materials transportation regulations, and providing for the repeal of the Act.

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

Section 1. Section 321.450, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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, and 180~~. However, rules adopted under this section concerning tank specifications shall not apply to cargo tank motor vehicles with a capacity of four thousand gallons or less used to transport gasoline in intrastate commerce, which were manufactured between 1950 and ~~1979~~ 1989, were domiciled in Iowa prior to July 1, 1991, and are in compliance with the American society of mechanical engineers specifications in effect at the time of manufacture.

Sec. 2. Section 1 of this Act is repealed July 1, 1994. On that date the Code editor shall return the language in section 1 of this Act to the language appearing in the 1991 Code.

Approved May 7, 1991

CHAPTER 128

MINORS' DRIVER'S LICENSES

H.F. 297

AN ACT relating to minor's restricted licenses and driver's license reciprocity for minors.

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

Section 1. Section 321.178, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. Any person between sixteen and eighteen years of age who is not in attendance at school or who is in attendance in a public or private school where an approved driver's education course is not offered or available, may be issued a restricted license only for travel to and from work or to transport dependents to and from temporary care facilities, if necessary for the person to maintain the person's present employment without having completed an approved driver's education course. The restricted license shall be issued by the department only upon confirmation of the person's employment and need for a restricted license to travel to and from

work or to transport dependents of temporary care facilities if necessary to maintain the person's employment and upon receipt of a written statement from the public or private school that an approved course in driver's education was not offered or available to the person, if applicable. The employer shall notify the department if the employment of the person is terminated before the person attains the age of eighteen. The person shall not have a restricted license revoked or suspended upon re-entering school prior to age eighteen provided the student enrolls in and completes the classroom portion of an approved driver's education course as soon as a course is available.

Sec. 2. Section 321.178, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 3. DRIVER'S LICENSE RECIPROCITY.

a. The department may issue a class C or M driver's license to a person who is sixteen or seventeen years of age and who is a current resident of the state, but who has been driving as a resident of another state for at least one year prior to residency within the state.

b. The following criteria must be met prior to issuance of a driver's license pursuant to this subsection:

(1) The minor must reside with a parent or guardian.

(2) The minor must have driven under a valid driver's license for at least one year in the prior state of residence. Six months of the one year computation may include driving with an instruction permit.

(3) The minor must have had no moving traffic violations on the minor's driving record.

(4) The minor must pass the written and driving skills tests as required by the department, but is not required to have taken a driver's education class.

Approved May 7, 1991

CHAPTER 129

ELECTION LAWS

H.F. 420

AN ACT relating to corrective changes to Iowa's election laws, providing emergency powers to the state commissioner of elections, relating to election nomination papers and affidavits, the affidavit filing requirements for a single public office by primary election candidates and certain general election candidates, and relating to absentee voting.

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

Section 1. Section 43.14, unnumbered paragraph 2, Code 1991, is amended to read as follows:

"I, the undersigned, an eligible elector of county or legislative district, and state of Iowa, hereby nominate of county or legislative district, state of Iowa, who has affiliated registered with and is a member of the party, as a candidate for the office of to be voted for at the primary election to be held on"

Sec. 2. Section 43.18, unnumbered paragraph 2, Code 1991, is amended to read as follows:

I,, being duly sworn, say that I reside at street, city of, county of in the state of Iowa; that I am eligible to the office for which I am a candidate, and that the political party with which I affiliate is I am registered with the party; that I am a candidate for nomination to the office of to be made at the primary election to be held on, and hereby request that my name be printed upon the official primary ballot as provided by law, as a candidate of that party. I furthermore declare that if I am nominated and elected I will qualify as such officer.

Sec. 3. Section 43.18, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. I am aware that I shall not cause nomination papers for more than one public office to be voted for at the primary election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 43.20 will invalidate my candidacy for any office to be filled at the primary election.

I am further aware that section 43.20, subsection 4, unnumbered paragraph 3, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 4. Section 43.42, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

43.42 CHANGE OR DECLARATION OF PARTY AFFILIATION AT POLLS.

Any qualified elector may change or declare a party affiliation at the polls on election day and shall be entitled to vote at any primary election. Each elector doing so shall indicate the elector's change or declaration of party affiliation on the voter's declaration of eligibility affidavit.

Sec. 5. NEW SECTION. 43.43 VOTER'S DECLARATION OF ELIGIBILITY.

Each person voting at a primary election shall sign a declaration of eligibility which shall be in substantially the following form:

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 this election.

I am affiliated with the _____ party. If my current voter registration record indicates another party affiliation or no party affiliation, I swear or affirm that I have in good faith changed my previously declared party affiliation, or declared my party affiliation, and now desire to be a member of the party indicated above.

Signature of voter

Address
()

Telephone

Approved:

Election board member

Date

Sec. 6. Section 43.67, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. I am aware that I shall not cause nomination papers for more than one public office to be filled at the general election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 49.41 will invalidate my candidacy for any office to be filled at the general election.

I am further aware that section 49.41, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 7. Section 44.3, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. I am aware that I shall not cause nomination papers for more than one public office to be filled at the general election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 49.41 will invalidate my candidacy for any office to be filled at the general election.

I am further aware that section 49.41, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 8. Section 44.9, subsections 5 and 6, Code 1991, are amended to read as follows:

5. In the office of the proper commissioner, ~~or school board secretary or city clerk~~, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

6. In the office of the proper city clerk, at least forty-two days before the regularly scheduled or special city election.

Sec. 9. Section 45.3, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. I am aware that I shall not cause nomination papers for more than one public office to be filled at the general election, to remain filed in the office of the state commissioner or the commissioner unless I, not later than the final date for filing nomination papers, notify the state commissioner or the commissioner by affidavit of the office for which I elect to be a candidate. I am aware that violation of section 49.41 will invalidate my candidacy for any office to be filled at the general election.

I am further aware that section 49.41, does not apply to the offices of county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 10. Section 47.1, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural disaster or extremely inclement weather has occurred. The state commissioner of elections may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

NEW UNNUMBERED PARAGRAPH. The state commissioner shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.

Sec. 11. Section 48.31, subsection 6, Code 1991, is amended to read as follows:

6. When first-class mail, which is designated "not to be forwarded", was addressed to the elector at the address shown on the registration records and is returned by the postal service. However, if any first-class mail, other than a registration receipt mailed pursuant to section 48.3, was addressed to a qualified elector and is returned by the postal service less than sixty days before the date of a general election, the elector's registration shall not be canceled until after the general election is held.

Sec. 12. Section 49.31, subsection 6, Code 1991, is amended to read as follows:

6. For the ~~purposes~~ purpose of ballot rotation the absentee ballot and special voters precinct ~~shall~~ may be considered a separate precinct, ~~unless the office will appear on the ballot in only one precinct other than the absentee ballot and special voters precinct.~~

Sec. 13. Section 49.41, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

49.41 MORE THAN ONE OFFICE PROHIBITED.

A person shall not be a candidate for more than one office to be filled at the same election. A person who has been nominated for more than one office shall file a written notice declaring the office for which the person wishes to appear on the ballot.

If the nomination papers for all offices for which the candidate has been nominated are required to be filed with the same commissioner of elections, the candidate shall file a written notice with that commissioner no later than five p.m. on the final date upon which nomination papers may be filed for the election. The notice shall state the office for which the person wishes to appear on the ballot. If the required notice is not filed, the candidate's name shall not be certified by the state commissioner for any office for which nomination papers are filed with the state commissioner and the county commissioner of elections shall not include the candidate's name on the ballot for any office in any county.

If a person is a candidate for one or more offices for which nomination papers are required to be filed with the state commissioner and one or more offices for which nomination papers are required to be filed with the county commissioner, the candidate shall notify the state commissioner and the county commissioner in writing. The notice shall state the office for which the person chooses to remain a candidate. The notice shall be filed no later than the last day to file nomination papers with the commissioner. If the required notice is not filed, the candidate's name shall not appear on the ballot for any office in any county.

If necessary, the county commissioner shall certify to the state commissioner the name of any person who is a candidate for more than one office which will appear on the ballot for the election. The certification of dual candidacy shall be made no later than five p.m. on the day following the final day to file nomination papers in the office of the commissioner.

When the state commissioner receives notice from the county commissioner that a candidate for a state or federal office has also been nominated for a county or township office, the state commissioner shall amend the certificate issued pursuant to section 43.73 and notify the commissioners of any other counties to whom the candidate's name was originally certified and instruct them to remove the candidate's name from the ballot in those counties.

This section does not apply to the following public offices: county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 14. Section 50.13, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the ballots are to be shredded, the package may be opened, if necessary, but the ballots shall not be examined before shredding. Shredded ballots may be recycled.

Sec. 15. Section 50.30, Code 1991, is amended to read as follows:

50.30 ABSTRACTS FORWARDED TO STATE COMMISSIONER.

The commissioner shall, within ten days after the election, forward to the state commissioner in ~~separate, securely sealed envelopes~~, one of the said duplicate abstracts of votes for each of the following offices:

1. President and vice president of the United States.
2. Senator in Congress.
3. Representative in Congress.
4. Governor and lieutenant governor.
5. Senator or representative in the general assembly by districts.
6. A state officer not otherwise specified above.

The abstracts for all offices except governor and lieutenant governor shall be enclosed in a securely sealed envelope.

Sec. 16. Section 50.32, Code 1991, is amended to read as follows:

50.32 ENDORSEMENT ON OTHER ~~ENVELOPES~~ ENVELOPE.

~~Said remaining envelopes~~ The envelope for offices other than governor and lieutenant governor shall be endorsed substantially in the manner provided in section 50.31, with changes

necessary to indicate the particular office offices, and each shall be addressed, "To the State Commissioner of Elections".

Sec. 17. Section 53.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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, apply in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner, or 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.

Sec. 18. Section 53.7, Code 1991, is amended to read as follows:

53.7 SOLICITATION BY PUBLIC EMPLOYEES.

1. It shall be unlawful for any employee of the state or any employee of a political subdivision thereof to solicit any application or request for application for an absentee ballot, or to take an affidavit in connection with any absentee ballot while the employee is on the employer's premises or otherwise in the course of employment. However, any such employee may take such affidavit in connection with an absentee ballot which is cast by the qualified elector in person in the office where such employee is employed in accordance with section 53.11. This ~~section~~ subsection shall not apply to any elected official.

2. Any public officer or employee, or any person acting under color of a public officer or employee, who knowingly requires that a public employee solicit an application or request for an application for an absentee ballot, or knowingly requires that an employee take an affidavit or request for an affidavit in connection with an absentee ballot application commits a serious misdemeanor.

Sec. 19. Section 53.11, is amended to read as follows:

53.11 PERSONAL DELIVERY OF ABSENTEE BALLOT.

The commissioner shall deliver an absentee ballot to any qualified elector applying in person at the commissioner's office, or at any location designated by the commissioner, not more than forty days before the date of the general election ~~and or~~ the primary election, and for all other elections, as soon as the ballot is available. The qualified elector shall immediately mark the ballot, enclose and seal it in a ballot envelope, subscribe to the affidavit on the reverse side of the envelope, and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot envelope along with the name of the qualified elector. ~~The commissioner of any county in which there is located a city of five thousand or more population, which is not the county seat, may permit qualified electors to appear in person at some designated place within each such city and there cast an absentee ballot in the manner prescribed by this section.~~

Sec. 20. Section 53.18, Code 1991, is amended to read as follows:

53.18 MANNER OF PRESERVING BALLOT AND APPLICATION.

Upon receipt of the absentee ballot, the commissioner shall at once record the number appearing on the application and return carrier envelope and time of receipt of such ballot and ~~enclose the same, unopened, together with the application made by the qualified elector, in a large carrier envelope on which shall appear the words "This envelope contains an absent voter's ballot for the election", and securely seal the same attach the elector's application to the unopened envelope.~~ Absentee ballots shall be stored in a secure place until they are delivered to the absentee and special voters.

Sec. 21. Section 69.13, subsections 1 and 2, Code 1991, are amended to read as follows:

1. SENATOR IN CONGRESS AND ELECTIVE STATE OFFICERS. If a vacancy occurs in the office of senator in the Congress of the United States, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general ~~seventy-five~~ eighty-nine or more days ~~prior to~~ before a general election, and the unexpired term in

which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person has qualified.

2. COUNTY OFFICERS. If a vacancy occurs in the office of county supervisor or in any of the offices listed in section 39.17 ~~sixty seventy-four~~ or more days ~~prior to~~ before a general election, and the unexpired term in which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person has qualified.

Sec. 22. Section 176A.8, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

To and shall, at least ninety days prior to the date fixed for the election of council members, appoint a nominating committee consisting of four persons who are not council members and designate the chairperson. The membership of the nominating committee shall be gender balanced. The nominating committee shall consider the geographic distribution of potential nominees in nominating one or more resident qualified electors of the extension district as candidates for election to each office to be filled at the election. To qualify for the election ballot, each nominee shall file a nominating petition signed by at least twenty-five qualified eligible electors of the district with the county commissioner of elections at least sixty-nine days before the date of election.

Sec. 23. Section 230A.5, Code 1991, is amended to read as follows:

230A.5 ELECTION OF TRUSTEES.

The election of community mental health center trustees shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by eligible electors of the county or affiliated counties equal in number to one percent of the vote cast therein for president of the United States or governor, as the case may be, in the last previous general election, and shall be filed with the county commissioner of elections at least ~~fifty-five days prior to the date of the general election~~. A plurality shall be sufficient to elect community mental health center trustees, and no primary election for that office shall be held.

Sec. 24. Section 330.17, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The council of any city or county which owns or acquires an airport may, and upon the council's receipt of a valid petition as provided in section 362.4, or receipt of a petition by the board of supervisors as provided in section 331.306 shall, at a regular city election or a general election if one is to be held within ~~sixty seventy-four~~ days from the filing of the petition, or otherwise at a special election called for that purpose, submit to the voters the question as to whether the management and control of the airport shall be placed in an airport commission. If a majority of the voters favors placing the management and control of the airport in an airport commission, the commission shall be established as provided in this chapter.

Sec. 25. Section 331.237, subsection 1, Code 1991, is amended to read as follows:

1. If a proposed charter for county government is received not later than sixty five working days before the filing deadline for candidates for county offices specified in section 44.4 for the next general election, the board shall direct the county commissioner of elections to submit to the qualified electors of the county at the next general election the question of whether the proposed charter shall be adopted. If a majority of the votes cast on the question is in favor of the proposal, the proposal is adopted.

Sec. 26. Section 347.25, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The election of hospital trustees whose offices are established by this chapter or chapter 145A or 347A shall take place at the general election on ballots which shall not reflect a nominee's

political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by fifty eligible electors of the county, and shall be filed with the county commissioner of elections at least fifty-five days prior to the date of the general election. A plurality is sufficient to elect hospital trustees.

Sec. 27. Section 477B.6, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

“Shall the following public measure be adopted? YES NO

“Should enhanced Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed E911 service area)?”

Sec. 28. Section 477B.6, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible general election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area, provided the request is timely submitted to permit inclusion. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day, such as a primary, general, or school board election. The county commissioner of elections shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

Approved May 7, 1991

CHAPTER 130

SEXUAL EXPLOITATION BY COUNSELOR OR THERAPIST

S.F. 2

AN ACT relating to sexual exploitation by a counselor or therapist and providing penalties.

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

Section 1. Section 702.11, Code 1991, is amended to read as follows:

702.11 FORCIBLE FELONY.

A “forcible felony” is any felonious child endangerment, assault, murder, sexual abuse other than sexual abuse in the third degree committed between spouses or in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), kidnapping, robbery, arson in the first degree, or burglary in the first degree. However, sexual abuse in the third degree committed between spouses, sexual abuse in violation of section 709.4, subsection 2, paragraph “c”, subparagraph (4), or sexual exploitation by a counselor or therapist in violation of section 709.15, is not a “forcible felony”.

Sec. 2. NEW SECTION. 709.15 SEXUAL EXPLOITATION BY A COUNSELOR OR THERAPIST.

1. As used in this section:

a. “Counselor or therapist” means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

b. "Mental health service" means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

c. "Emotionally dependent" means that the nature of the patient's or client's or former patient's or client's emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in paragraph "f", by the counselor or therapist.

For the purposes of paragraph "f", a former patient or former client is presumed to be dependent for one year following the termination of the provision of mental health services.

d. "Former patient or client" means a person who received mental health services from the counselor or therapist.

e. "Patient or client" means a person who receives mental health services from the counselor or therapist.

f. "Sexual abuse by a counselor or therapist" occurs when either or both of the following are found:

(1) A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2) or (3).

(2) Any sexual conduct, with a patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or emotionally dependent former patient or client, which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

(3) Any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

"Sexual abuse by a counselor or therapist" does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

2. A counselor or therapist who commits sexual abuse in violation of subsection 1, paragraph "f", subparagraph (1), commits a class "D" felony.

3. A counselor or therapist who commits sexual abuse in violation of subsection 1, paragraph "f", subparagraph (2), commits an aggravated misdemeanor.

4. A counselor or therapist who commits sexual abuse in violation of subsection 1, paragraph "f", subparagraph (3), commits a serious misdemeanor. In lieu of the sentence provided for under section 903.1, subsection 1, paragraph "b", the offender may be required to attend a sexual abuser treatment program.

Sec. 3. Section 614.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 12. SEXUAL ABUSE BY A COUNSELOR OR THERAPIST. An action for damages for injury suffered as a result of sexual abuse by a counselor or therapist shall be brought within five years of the date the victim was last treated by the counselor or therapist.

Approved May 8, 1991

CHAPTER 131**TRAFFIC CONTROL DEVICES AND FLASHING LIGHTS***S.F. 97*

AN ACT increasing penalties for interfering with a traffic control device and relating to the use of flashing white lights.

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

Section 1. Section 321.260, Code 1991, is amended to read as follows:

321.260 INTERFERENCE WITH DEVICES, SIGNS, OR SIGNALS – UNLAWFUL POSSESSION.

1. a. A person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes an official traffic-control device, an authorized warning sign or signal or barricade, whether temporary or permanent, a railroad sign or signal, an inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be guilty of a serious misdemeanor and shall be required to make restitution to the affected jurisdiction.

b. A person who is convicted under paragraph "a" of an act relating to a stop sign or a yield sign may be required to complete community service in addition to making restitution to the affected jurisdiction.

2. It shall be unlawful for any person to have in the person's possession any official traffic-control device ~~except by reason of the person's employment by legal right or authority.~~ Any person convicted of unauthorized possession of any official traffic-control device shall upon conviction be ~~punished as provided in section 321.482~~ guilty of a serious misdemeanor.

Sec. 2. Section 321.423, subsection 1, paragraph d, Code 1991, is amended by striking the paragraph.

Sec. 3. Section 321.423, subsection 2, paragraph f, Code 1991, is amended to read as follows:

f. A flashing white light, ~~used in conjunction with hazard lights,~~ is permitted on a vehicle pursuant to subsection 7.

Sec. 4. Section 321.423, subsection 7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

7. Except as provided in section 321.373, subsection 7, and subsection 2, paragraph "c" of this section, a flashing white light shall only be used on a vehicle ~~when used in conjunction with hazard lights and a flashing white light shall not be used on a vehicle except in any of the following circumstances:~~

Approved May 8, 1991

CHAPTER 132**STATE FAIR FOUNDATION***S.F. 172*

AN ACT establishing a state fair foundation.

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

Section 1. Section 173.11, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Administer the funds of the Iowa state fair foundation as directed by the board and in accordance with procedures of the treasurer of state, and maintain a correct account of receipts and disbursements of assets of the foundation.

Sec. 2. Section 173.14, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 11. Administer the Iowa state fair foundation created in section 173.22. In administering the foundation the board shall authorize all payments from the foundation fund. The board on behalf of the foundation may contract, sue and be sued, and adopt rules necessary to carry out the provisions of this subsection, but the board shall not in any manner, directly or indirectly pledge the credit of the state.

Sec. 3. **NEW SECTION. 173.22 IOWA STATE FAIR FOUNDATION.**

An Iowa state fair foundation is established under the authority of the Iowa state fair board. A foundation fund is created within the state treasury composed of moneys available to and obtained or accepted by the foundation.

The foundation may solicit or accept gifts, including donations and bequests. A gift, to the greatest extent possible, shall be used according to the expressed desires of the person providing the gift. Assets of the foundation shall be used to support foundation activities, including foundation administration, or capital projects or major maintenance improvements at the Iowa state fairgrounds or to property under the control of the board. Foundation moneys may be expended on a matching basis with moneys appropriated from the general fund of the state or expended on a matching basis by the board from Iowa state fair authority receipts. All interest earned on moneys in the foundation fund or through other foundation assets shall be credited to and remain in the fund.

The auditor of state shall conduct regular audits of the foundation and shall make a certified report relating to the condition of the foundation and the foundation fund to the treasurer of the state, and to the treasurer and secretary of the state fair board.

Approved May 8, 1991

CHAPTER 133

VEHICLES OF EXCESSIVE SIZE AND WEIGHT

S.F. 338

AN ACT relating to movement of indivisible loads of excessive size and weight and increasing the fee for escort services.

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

Section 1. Section 321E.8, subsection 2, Code 1991, is amended to read as follows:

2. Vehicles with indivisible loads, including mobile homes and factory-built structures, having an overall width not to exceed sixteen feet zero inches and an overall length not to exceed ninety-five one hundred feet zero inches may be moved under an annual or all-systems permit and must have a route specified by the issuing authority prior to the movement. However, vehicles with indivisible loads, including mobile homes and factory-built structures, with an overall width not exceeding fourteen feet six inches may exceed fifty miles under an annual and all-systems permit when prior approval for trip routing is obtained from the issuing authority. The vehicle and load shall not exceed the height as prescribed in section 321.456 and the total gross weight as prescribed in section 321.463.

Sec. 2. Section 321E.9, subsection 1, Code 1991, is amended to read as follows:

1. Vehicles with indivisible loads having an overall width not to exceed forty feet, zero inches, an overall length not to exceed one hundred twenty feet, zero inches, or a total gross weight not to exceed one hundred thousand pounds may be moved, provided the gross weight on any one axle shall not exceed the maximum prescribed in section 321.463, pursuant to rules adopted

pursuant to chapter 17A. The height of the vehicles and loads shall be limited only to height limitations of underpasses, bridges, power lines and other established height restrictions on the specified route. ~~A mobile home shall not be moved under the provisions of this section if the actual mobile home width exceeds twelve feet, five inches or length exceeds sixty-seven feet, six inches, excluding hitch or any overhang. The vehicle with load shall be accompanied by an escort as required by rules adopted pursuant to chapter 17A.~~

Sec. 3. Section 321E.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department or local authorities issuing the permits shall charge a fee of twenty-five dollars for an annual permit and a fee of ten dollars for a single-trip permit and shall determine charges for special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed ~~one~~ two hundred fifty dollars per ~~ten-hour~~ day or a prorated fraction of that fee per person and car for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 17, operated pursuant to section 321E.7, subsection 2, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

Sec. 4. Section 321E.28, subsection 1, Code 1991, is amended by striking the subsection.

Approved May 8, 1991

CHAPTER 134

RURAL WATER DISTRICTS

S.F. 382

AN ACT relating to rural water districts.

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

Section 1. Section 357A.1, subsections 3, 5, and 6, Code 1991, are amended to read as follows:

3. "Member" means ~~any an~~ an owner of land real property which is located within a district, ~~or the occupant thereof tenant of the real property, or other another~~ person acting for the owner with the owner's written consent.

5. "Supervisors" means the board of supervisors of ~~any a~~ county, or the joint boards board of supervisors of ~~any two or more counties an adjacent county~~, in which a district has been incorporated and organized or is proposed to be incorporated and organized.

6. "Auditor" means the county auditor of ~~any a~~ county in which a district has been incorporated and organized or is proposed to be incorporated and organized ~~or, in the case of a district or proposed district lying in two or more counties, the auditor of the county having the largest district acreage.~~

Sec. 2. Section 357A.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A petition may at any time be filed with the auditor requesting the supervisors to incorporate and organize a district encompassing an area, not then included in any other district, in ~~any a county or any in~~ two or more adjacent counties for the purpose of providing an adequate supply of water for ~~domestic purposes~~ to residents of the area who are not served by the water mains of any city water system ~~and who cannot feasibly obtain adequate supplies of water from wells on their own premises.~~

Sec. 3. Section 357A.2, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The petition shall be signed by the owners of at least fifty percent of all ~~land real property~~ lying within the outside perimeter of the area designated for inclusion in the proposed district, and shall state:

1. The location of the area so ~~designated~~, describing such area ~~by section, or fraction thereof, and by township and range to be served or specifying the area by an attached map.~~
2. The reasons a district is needed.
3. A new water service plan describing the cost feasibility and estimated construction schedules.

Sec. 4. Section 357A.3, subsection 2, Code 1991, is amended to read as follows:

2. Be transmitted, together with a copy of the original petition, to the ~~council~~ supervisors.

Sec. 5. Section 357A.4, subsections 1 and 3, Code 1991, are amended to read as follows:

1. The location of the ~~land area~~ designated by the petitioners for incorporation in the proposed district, as described ~~or shown~~ by the original petition.
3. That all owners or ~~occupants~~ tenants of land real property within the boundaries described may appear and be heard.

Sec. 6. Section 357A.5, Code 1991, is amended to read as follows:

357A.5 WHO MAY BE HEARD.

At the hearing on the petition, any owner or ~~occupant~~ tenant of land real property within the boundaries of the area described in the petition may appear, in person or by a designated representative, and any representative of the department, a city, or an interested person may also appear, in favor of or in opposition to the incorporation and organization of the proposed district. The appearances may also be filed in writing prior to the time set for the hearing.

Sec. 7. Section 357A.6, unnumbered paragraph 2, Code 1991, is amended to read as follows:

If the supervisors find that required notice of the hearing has been given and that ~~such the~~ proposed district is reasonably necessary for the public health, convenience, ~~fire protection,~~ and comfort of the residents, or may be of benefit in providing fire protection, they shall make an order establishing the district as a ~~body politic~~ political subdivision, describing designating its boundary, and ~~designating~~ identifying it by name or number. The order shall be published in the same newspaper which published the notice of hearing. The supervisors shall prepare and preserve a complete record of the hearing on the petition and their findings and action ~~thereon.~~

Sec. 8. Section 357A.11, subsection 3, Code 1991, is amended to read as follows:

3. Employ, appoint, or retain attorneys, engineers, other professional and technical employees, and ~~such~~ other personnel as necessary, and require and approve bonds of district employees. The board may enter into agreements pursuant to chapter 28E to provide professional or technical services under this subsection to other water districts, nonprofit corporations, or related associations.

Sec. 9. Section 357A.11, subsection 8, Code 1991, is amended to read as follows:

8. Have power to finance all or part of the cost of the construction or purchase of any project necessary to carry out the purposes for which the district is incorporated, or to refinance all or part of the original cost of any such project, and to evidence that financing by issuance of revenue bonds or notes which shall mature in a period not to exceed forty years from date

of issuance, shall bear interest, or combined interest and insurance charges, at a rate not to exceed that permitted by chapter 74A, shall be payable only from revenue derived from sale of water by the district, and shall never become or be construed to be a debt against the state of Iowa or any of its political subdivisions other than the district issuing the bonds. ~~A statutory mortgage lien shall exist upon the water system and appurtenances and extensions so acquired in favor of the holders of the bonds and notes.~~

Sec. 10. Section 357A.11, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 10. Have power to join the Iowa association of rural water districts, and pay out of funds available to the board, reasonable dues to the association. The financial condition and transactions of the Iowa association of rural water districts must be audited in the same manner as rural water districts.

NEW SUBSECTION. 11. This chapter and chapter 384, as it applies to rural water districts, shall not be construed to mean that the real property of any rural water subscriber shall be used as security for any debts of a rural water district. However, the failure to pay water rates or charges by a subscriber may result in a lien being attached against the premises served upon certification to the county treasurer that the rate or charges are due.

Sec. 11. Section 357A.12, Code 1991, is amended to read as follows:

357A.12 PLANS, AND SPECIFICATIONS, AND PROCEDURES.

As soon as reasonably possible after incorporation of a district, the board shall file with the supervisors and the department copies of the plans and specifications for, and estimates of the cost of, any improvements authorized by this chapter which the board proposes to construct or acquire. The board shall determine a reasonable fee which each member shall pay for the privilege of utilizing the district's facilities, and which shall be known as a benefit unit. Benefit units may be classified. The board, by publication in a newspaper of general circulation in the district, shall generally describe the planned improvements, the area to be served and the fee members will be required to pay for each service connected to the water system.

The procedures for contract letting specified in sections 384.95 through 384.102 and as specified in section 384.103, subsection 2, shall apply to construction carried out pursuant to this chapter. References in those sections to a city shall be applicable to a rural water district operating under this chapter, and references to a city council shall be applicable to the board of directors of a rural water district.

Sec. 12. Section 357A.14, subsection 1, Code 1991, is amended to read as follows:

1. Owners of land real property outside any district which can economically be served by the facilities of the district may petition to be attached to the district. The petition ~~therefor~~ shall be filed with the auditor, and the auditor and supervisors shall ~~proceed thereon~~, in substantially the same manner as is provided by this chapter for filing of and proceeding on a petition for incorporation and organization of a district.

Sec. 13. Section 357A.14, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If there is a conflict between two or more districts concerning which district will serve an area, the supervisors of the county in which the disputed area is located shall, after a public hearing, determine which district can more adequately and economically provide service within the area.

Sec. 14. Section 357A.16, Code 1991, is amended to read as follows:

357A.16 DETACHING LAND REAL PROPERTY FROM DISTRICT.

If it becomes apparent that certain lands any real property included within a district cannot economically or adequately be served by the facilities of the district, the owners of ~~such lands~~ the real property may file with the auditor a petition to the supervisors requesting that ~~those lands~~ the real property be detached from the district. The petition shall:

1. Describe by section, or fraction thereof, and by township and range, the lands real prop-
erty which it is proposed to detach from the district.

2. State that ~~such lands~~ the real property cannot economically or adequately be served by the facilities of the district, and that it is not feasible for the district to enlarge or extend its facilities so as to economically and adequately serve ~~such lands~~ the real property.

3. Be signed by the owners of all the ~~lands~~ real property which it is desired to detach from the district.

Sec. 15. Section 357A.18, subsection 1, Code 1991, is amended to read as follows:

1. The petition meets all of the requirements prescribed by ~~this Act~~ section 357A.16 or section 357A.17 for either such petition.

Sec. 16. Section 357A.18, unnumbered paragraph 2, Code 1991, is amended to read as follows:

If the supervisors' finding on each of the foregoing points is positive, it shall declare the ~~lands~~ real property described in the petition detached from the district, or declare the district dissolved, as the case may be. The supervisors shall notify the secretary of the district of its action, and the secretary shall amend the records of the district to show that the ~~land~~ real property described in the petition has been detached from the district, or shall within thirty days deliver to the auditor all records, maps, plans, and files of the district dissolved, ~~as the case may be~~.

Sec. 17. Section 357A.20, Code 1991, is amended to read as follows:

357A.20 ALTERNATE OPERATION BY NONPROFIT CORPORATION.

A nonprofit corporation incorporated under ~~the laws of the state of Iowa~~ chapter 504A for the specific purpose of operating a rural water system may petition the supervisors for incorporation of a district, in the manner provided by section 357A.2. The signatures of the corporation's officers on the petition and a resolution adopted by the corporation's board of directors approving the petition shall suffice in lieu of signatures of owners of fifty percent of the ~~land~~ real property in the proposed district, ~~provided if~~ the corporation presents evidence satisfactory to the supervisors that a sufficient number of members of the proposed district will subscribe to benefit units to make its operation feasible. The procedure for hearing and determination of disposition of the petition shall be as provided by this chapter.

PARAGRAPH DIVIDED. In any district incorporated upon the petition of a nonprofit corporation, the following procedures shall apply:

1. After final approval of the petition by a board of supervisors, the secretary of the corporation shall file a notice with the secretary of state dissolving the nonprofit corporation in accordance with chapter 504A.

2. Upon filing of the notice, the nonprofit corporation shall cease to exist as a chapter 504A entity and all assets and liabilities of the nonprofit corporation become the assets and liabilities of the newly organized district without a need for any further meetings, voting, notice to creditors, or other actions by the members or board.

3. The officers and board of directors of the corporation shall be the officers and board of the district.

4. The applicable laws of the state and the articles of incorporation and bylaws of the corporation shall control the initial size and initial term of office of such officers and board, in lieu of sections 357A.7, 357A.9, and 357A.10. ~~At the first annual meeting of the participating members and board of directors, the~~

5. The district shall bring its operation and structure in compliance with sections 357A.7 to 357A.10 at the first annual meeting of the participating members and board of directors.

Approved May 8, 1991

CHAPTER 135

NONPROFIT CORPORATIONS AND AGENCIES — INFORMATION

S.F. 411

AN ACT relating to the availability of certain information concerning nonprofit agencies or corporations receiving public funds.

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

Section 1. **NEW SECTION. 504A.25A AVAILABILITY OF CERTAIN INFORMATION OF NONPROFIT CORPORATIONS AND AGENCIES.**

A corporation organized pursuant to this chapter, or any other nonprofit agency, which receives federal or state funding, shall provide to any person, upon request, a list of the names of the members of the corporation's or agency's board of directors, and the salary of each officer and director's fee of each director of the corporation or nonprofit agency.

Approved May 8, 1991

CHAPTER 136

LABOR LAWS AND CONTRACTOR REGISTRATION

S.F. 503

AN ACT relating to this state's labor laws administered by the labor commissioner by amending provisions of the Code concerning occupational safety and health penalties, boiler inspections, child labor laws, the definition of a contractor, and out-of-state contractor bonding requirements.

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

Section 1. Section 88.14, subsections 1 and 2, Code 1991, are amended to read as follows:

1. **WILLFUL VIOLATIONS.** Any employer who willfully or repeatedly violates the requirements of section 88.4, any standard, rule, or order ~~promulgated~~ adopted or issued pursuant to section 88.5, or regulations prescribed pursuant to this chapter, may be assessed a civil penalty of not less than five thousand dollars and not more than ten seventy thousand dollars for each violation.

2. **SERIOUS VIOLATIONS.** Any employer who has received a citation for a serious violation of the requirements of section 88.4, of any standard, rule, or order ~~promulgated~~ adopted or issued pursuant to section 88.5, or of any regulations prescribed pursuant to this chapter, shall be assessed a civil penalty of up to ~~one~~ seven thousand dollars for each such violation.

Sec. 2. Section 89.7, subsection 4, Code 1991, is amended to read as follows:

4. The special inspector shall notify the user and the commissioner of any equipment or appurtenance found to be unsafe or unfit for operation in writing, setting forth the nature and extent of such defects and condition. The commissioner shall indicate to the user whether or not the equipment may be used without making repair or replacement of defective parts, or whether or how the equipment may be used in a limited capacity before repairs or replacements are made, and the commissioner may permit the user a reasonable time to make such repairs or replacements. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 3. Section 91.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The commissioner, with the assistance of the office of the attorney general if requested by the commissioner, may commence a civil action in any court of competent jurisdiction to enforce the statutes under the commissioner's jurisdiction.

Sec. 4. Section 91C.1, subsection 1, Code 1991, is amended to read as follows:

1. As used in this chapter, unless the context otherwise requires, "contractor" means a person who engages in the business of construction, as the term "construction" is defined in section 345-3.82 (96), Iowa Administrative Code, for purposes of the Iowa employment security law. However, a person who earns less than one thousand dollars annually or who performs work or has work performed on the person's own property is not a contractor for purposes of this chapter. The state, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts, are not contractors for purposes of this chapter.

Sec. 5. Section 91C.7, Code 1991, is amended to read as follows:

91C.7 CONTRACTS – CONTRACTOR'S BOND.

1. A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

2. 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 division of labor services of the department of employment services. The surety bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than thirty days' written notice to the contractor and to the division of labor services of the department of employment services indicating the surety's desire to cancel the bond. The surety company shall not be liable under the bond for any contract commenced after the cancellation of the bond. The bond shall be in the sum of the greater of the following:

- a. One thousand dollars.
- b. Five percent of the contract price.

An out-of-state contractor may file a blanket bond in an amount at least equal to fifty thousand dollars for the registration period established under section 91C.4 in lieu of filing an individual bond for each contract. The division of labor services of the department of employment services may increase the bond amount after a hearing.

3. 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 ~~or the department of employment services~~ 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 labor commissioner~~ shall require the bond to be increased by an amount the ~~department labor commissioner~~ deems sufficient to cover the tax liabilities accrued and ~~to accrue under the contract accruing.~~

4. The department of revenue and finance and the division of job service of the department of employment services 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 or the division of job service of the department of employment services finds that the contractor has failed to pay the total of all taxes payable, the department of revenue and finance or the department of employment services shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond, whichever is less. For purposes of this section

"taxes payable" means all tax, penalties, interest, and fees that the department of revenue and finance 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.

5. If it is determined that this ~~subsection~~ section may cause denial of federal funds which would otherwise be available, or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

6. The bond required by this section may be attached by the commissioner for collection of fees and penalties due to the division.

Sec. 6. Section 92.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

92.2 OVER TEN AND UNDER SIXTEEN YEARS OF AGE.

A person over ten and under sixteen years of age cannot be employed, with or without compensation, in street occupations or migratory labor as defined in section 92.1, unless the person holds a work permit issued pursuant to this chapter and the school the person attends has certified that the person is regularly attending school and the potential employment will not interfere with the person's progress in school. A written agreement, as defined in section 92.11, subsection 1, shall not be required for the issuance of a work permit under this section.

1. Notwithstanding section 92.7, a person with a permit to engage in migratory labor shall only work between five a.m. and seven-thirty p.m. from Labor Day through June 1, and between five a.m. and nine p.m. for the remainder of the year.

2. Notwithstanding section 92.7, a person with a permit to engage in street occupations shall only work between four a.m. and seven-thirty p.m. when local public schools are in session and between four a.m. and eight-thirty p.m. for the remainder of the year.

The requirements of section 92.10 shall not apply to a person, firm, or corporation employing a person engaged in street occupations pursuant to this section.

Sec. 7. Section 92.7, Code 1991, is amended to read as follows:

92.7 UNDER SIXTEEN — HOURS PERMITTED.

~~No~~ A person under sixteen years of age shall not be employed with or without compensation, except as provided in section 92.2 and 92.3, before the hour of seven o'clock a.m. or after seven o'clock p.m., except during the period from June 1 through Labor Day when the hours may be extended to nine o'clock p.m. If such person is employed for a period of five hours or more each day, an intermission of not less than thirty minutes shall be given. ~~No such~~ Such a person shall not be employed for more than eight hours in one day, exclusive of intermission, ~~nor and shall such person not~~ be employed for more than forty hours in one week. The hours of work of persons under sixteen years of age employed outside school hours shall not exceed four in one day or twenty-eight in one week while school is in session.

Sec. 8. Section 92.10, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~No~~ Except as provided in section 92.2, a person under sixteen years of age shall not be employed or permitted to work with or without compensation unless the person, firm, or corporation employing such ~~persons~~ person receives and keeps on file accessible to any officer charged with the enforcement of this chapter, a work permit issued as ~~hereinafter~~ provided in this chapter, and keeps a complete list of the names and ages of all such persons under sixteen years of age employed.

Approved May 8, 1991

CHAPTER 137**BOXING AND WRESTLING***H.F. 152*

AN ACT relating to boxing and wrestling laws administered by the athletic commissioner.

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

Section 1. Section 90A.1, Code 1991, is amended to read as follows:

90A.1 DEFINITION.

As used in this chapter, "boxing or wrestling match" means a boxing, wrestling, or sparring contest or exhibition open to the public or a closed-circuit boxing or wrestling match for which admission for viewing in this state is charged, for which the principals or contestants are paid for their participation.

Sec. 2. Section 90A.4, Code 1991, is amended to read as follows:

90A.4 LICENSE.

No boxing or wrestling match shall be held within this state except as provided in this chapter. The commissioner may issue, suspend, or revoke a license to conduct boxing and wrestling matches except that a person shall not be issued a license unless the person has been a resident of this state for at least three years immediately preceding the date of application, and no group, club or association shall be issued a license unless it has at least ten members and all members shall have been residents of this state for at least one year immediately preceding the date of application, and no corporation shall be issued a license unless it has at least ten members or stockholders and all such members or stockholders shall have been residents of the state for at least one year immediately preceding the date of application. However, a license may be issued to residents of another state without complying with the residence requirements of this section if the other state extends the same privilege to residents of this state. Nothing in this chapter shall be construed to prohibit amateur boxing or wrestling exhibitions. Every license shall be subject to such rules as the commissioner may prescribe.

Sec. 3. Section 90A.6, Code 1991, is amended to read as follows:

90A.6 REQUIRED CONDITIONS.

A boxing match shall be not more than fifteen rounds in length; and the contestants shall wear gloves weighing at least six eight ounces during such contests. ~~No~~ A person may shall not take part in a boxing match unless they have the person has first passed a rigorous physical examination to determine their the person's fitness to engage in any such match. Said The examination shall be conducted by a regular practicing physician designated by the commissioner.

The commissioner may adopt the rules of a recognized national or world boxing organization which sanctions a boxing match in this state to regulate the match, if the organization's rules provide protection to the boxers participating in the match which is equal to or greater than the protections provided by this chapter or by rules otherwise adopted pursuant to this chapter. As used in this paragraph, "recognized national or world boxing organization" includes, but is not limited to, the international boxing federation, the world boxing association, and the world boxing council.

Sec. 4. Section 90A.7, subsection 1, Code 1991, is amended to read as follows:

1. Every person conducting a boxing or wrestling match or charging an admission fee for viewing of a closed-circuit boxing or wrestling match in this state shall, within twenty-four hours after such match, furnish to the commissioner a written report, duly verified, showing the number of tickets sold for such boxing or wrestling match, and the amount of gross proceeds of such boxing or wrestling match, and such other matters as the commissioner may prescribe; and shall also within the same time period pay to the treasurer of state a tax of five percent of its total gross receipts, after deducting state sales tax, from the sale of tickets of admission to such boxing or wrestling match.

Sec. 5. Section 90A.8, Code 1991, is amended to read as follows:

90A.8 BOND REQUIRED.

Before ~~any~~ a license shall be granted to ~~any~~ a person to conduct any boxing or wrestling match, ~~such~~ the applicant therefor shall execute and file with the treasurer of state athletic commissioner a bond in the sum of five thousand dollars, payable to the state of Iowa, to be approved as to form by the attorney general, and as to sufficiency of the sureties thereon, by the commissioner, which bond shall be conditioned upon the payment of the tax and penalties imposed by this chapter. Upon the filing and approval of such bond, the commissioner may issue to such the applicant a license as herein provided.

Approved May 8, 1991

CHAPTER 138

CRIMINAL AND CHILD ABUSE RECORD CHECKS

H.F. 296

AN ACT relating to record checks and evaluations concerning facilities providing care to children and state institutions controlled by the department of human services, and containing applicability provisions.

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

Section 1. Section 125.14A, subsections 1 and 3, Code 1991, are amended to read as follows:

1. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a program admitting juveniles subject to licensure under this chapter, or if a person will reside in a facility utilized by such a program, and if the person has been convicted of a crime ~~under a law of any state~~ or has a record of founded child abuse, the department of human services and the program for an employee of the program shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

3. In an evaluation, the department of human services and the program for an employee of the program shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a program, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this subsection.

Sec. 2. Section 135H.7, subsection 2, paragraphs a and c, Code 1991, are amended to read as follows:

a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensed psychiatric institution, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

c. In an evaluation, the department of human services and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

Sec. 3. NEW SECTION. 218.13 EMPLOYEE RECORD CHECKS.

1. For the purposes of this section, unless the context otherwise requires:

a. "Department" means the department of human services.

b. "Institution" means an institution controlled by the department as described in section 218.1.

c. "Resident" means a person committed or admitted to an institution.

2. If a person is being considered for employment involving direct responsibility for a resident or with access to a resident when the resident is alone, or if a person will reside in a facility utilized by an institution, and if the person has been convicted of a crime or has a record of founded child abuse, the department shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of employment or residence in the facility. The department shall conduct criminal and child abuse record checks of the person in this state and may conduct these checks in other states. The investigation and evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

3. If the department determines that a person, who is employed by an institution or resides in a facility utilized by an institution, has been convicted of a crime or has a record of founded child abuse, the department shall perform an evaluation to determine whether prohibition of the person's employment or residence is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

4. In an evaluation, the department shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be employed or reside or to continue employment or residence if the person complies with the department's conditions relating to employment or residence which may include completion of additional training.

5. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of employment or residence, the person shall not be employed by an institution or reside in a facility utilized by an institution.

Sec. 4. Section 232.142, subsection 4, Code 1991, is amended to read as follows:

4. The director shall adopt minimal rules and standards for the establishment, maintenance, and operation of such homes as shall be necessary to effect the purposes of this chapter. The rules shall apply the requirements of section 237.8, concerning employment and evaluation of persons with direct responsibility for a child or with access to a child when the child is alone and persons residing in a child foster care facility, to persons employed by or residing in a home approved under this section. The director shall, upon request, give guidance and consultation in the establishment and administration of ~~such~~ the homes and programs for ~~such~~ the homes.

Sec. 5. Section 235A.15, subsection 2, paragraph c, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) To an administrator of a community mental health center accredited under chapter 230A if the information concerns a person employed or being considered for employment by the center.

Sec. 6. Section 235A.15, subsection 2, paragraph e, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (11) To the department of human services for a record check relating to employment or residence pursuant to section 218.13.

Sec. 7. Section 237.8, subsection 2, paragraphs a and c, Code 1991, are amended to read as follows:

a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

c. In an evaluation, the department and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

Sec. 8. Section 237A.5, subsection 2, paragraphs a and c, Code 1991, are amended to read as follows:

a. If a person is being considered for licensure or registration under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a child day care facility subject to licensure or registration under this chapter,

or if a person will reside in a facility, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee or registrant for an employee of the licensee or registrant shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, registration, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

c. In an evaluation, the department and the licensee or registrant for an employee of the licensee or registrant shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be licensed, registered, employed, or to reside, or to continue to be licensed, registered, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, registration, employment, or residence, which may include completion of additional training. For an employee of a licensee or registrant, these conditional requirements shall be developed with the licensee or registrant. The department has final authority in determining whether prohibition of the person's licensure, registration, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

Sec. 9. Section 692.2, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. The department of human services for the purposes of section 218.13, section 232.71, subsection 16, section 232.142, section 237.8, subsection 2, section 237A.5, section 237A.20, and section 600.8, subsections 1 and 2.

Sec. 10. **APPLICABILITY.** The provisions of this Act are applicable on or after July 1, 1991, to persons who are initially licensed, employed, or reside in such facility, program, or institution employment or who commit an act, on or after July 1, 1991, requiring record checks or performance of an evaluation pursuant to this Act.

Approved May 8, 1991

CHAPTER 139

OFFICIAL IOWA MAP

H.F. 385

AN ACT requiring the state department of transportation to publish an official Iowa map.

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

Section 1. **NEW SECTION. 307.14 OFFICIAL IOWA MAP.**

The department shall publish a map of the state of Iowa. At the request of a citizen of a particular city or town, the department shall add the city or town to the existing map of Iowa and identify the main road leading into the city or town if the city or town meets two or more of the following criteria:

1. Has a zip coded post office in the city or town.
2. Has a population of twenty-five or more.
3. Has a building on the national register of historic places in the city or town.

4. Has an association with a public recreation area managed by the department of natural resources in the city or town.
5. Has a high school, grade school, private school, church, or cemetery in the city or town.
6. Has a retail business in the city or town.
7. Has an annual festival or celebration.

Sec. 2. Section 1 of this Act applies to the map of the state of Iowa published by the state department of transportation in 1993, and thereafter.

Approved May 8, 1991

CHAPTER 140

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

H.F. 501

AN ACT relating to establishing a durable power of attorney authorized to make health care decisions and providing an effective date.

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

Section 1. **NEW SECTION. 144B.1 DEFINITIONS.**

For purposes of this chapter, unless the context otherwise requires:

1. "Attorney in fact" means an individual who is designated by a durable power of attorney for health care as an agent to make health care decisions on behalf of a principal and has consented to act in that capacity.
2. "Durable power of attorney for health care" means a document authorizing an attorney in fact to make health care decisions for the principal if the principal is unable, in the judgment of the attending physician, to make health care decisions.
3. "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition. "Health care" does not include the provision of nutrition or hydration except when they are required to be provided parenterally or through intubation.
4. "Health care decision" means the consent, refusal of consent, or withdrawal of consent to health care.
5. "Health care provider" means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.
6. "Principal" means a person age eighteen or older who has executed a durable power of attorney for health care.

Sec. 2. **NEW SECTION. 144B.2 DURABLE POWER OF ATTORNEY FOR HEALTH CARE.**

A durable power of attorney for health care authorizes the attorney in fact to make health care decisions for the principal if the durable power of attorney for health care substantially complies with the requirements of this chapter. A document executed prior to the effective date of this Act purporting to create a durable power of attorney for health care shall be deemed valid if the document specifically authorizes the attorney in fact to make health care decisions and is signed by the principal.

Sec. 3. **NEW SECTION. 144B.3 REQUIREMENTS.**

1. An attorney in fact shall make health care decisions only if the following requirements are satisfied:

a. The durable power of attorney for health care explicitly authorizes the attorney in fact to make health care decisions.

b. The durable power of attorney for health care contains the date of its execution and is witnessed or acknowledged by one of the following methods:

(1) Is signed by at least two individuals who, in the presence of each other and the principal, witnessed the signing of the instrument by the principal or by another person acting on behalf of the principal at the principal's direction.

(2) Is acknowledged before a notarial officer within this state.

2. The following individuals shall not be witnesses for a durable power of attorney for health care:

a. A health care provider attending the principal on the date of execution.

b. An employee of a health care provider attending the principal on the date of execution.

c. The individual designated in the durable power of attorney for health care as the attorney in fact.

d. An individual who is less than eighteen years of age.

3. At least one of the witnesses for a durable power of attorney for health care shall be an individual who is not a relative of the principal by blood, marriage, or adoption within the third degree of consanguinity.

4. A durable power of attorney for health care or similar document executed in another state or jurisdiction in compliance with the law of that state or jurisdiction shall be deemed valid and enforceable in this state, to the extent the document is consistent with the laws of this state.

Sec. 4. NEW SECTION. 144B.4 INDIVIDUALS INELIGIBLE TO BE ATTORNEY IN FACT.

The following individuals shall not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care:

1. A health care provider attending the principal on the date of execution.

2. An employee of a health care provider attending the principal on the date of execution unless the individual to be designated is related to the principal by blood, marriage, or adoption within the third degree of consanguinity.

Sec. 5. NEW SECTION. 144B.5 DURABLE POWER OF ATTORNEY FOR HEALTH CARE — FORM.

1. A durable power of attorney for health care executed pursuant to this chapter may, but need not, be in the following form:

I hereby designate _____ as my attorney in fact (my agent) and give to my agent the power to make health care decisions for me. This power exists only when I am unable, in the judgment of my attending physician, to make those health care decisions. The attorney in fact must act consistently with my desires as stated in this document or otherwise made known.

Except as otherwise specified in this document, this document gives my agent the power, where otherwise consistent with the law of this state, to consent to my physician not giving health care or stopping health care which is necessary to keep me alive.

This document gives my agent power to make health care decisions on my behalf, including to consent, to refuse to consent, or to withdraw consent to the provision of any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. This power is subject to any statement of my desires and any limitations included in this document.

My agent has the right to examine my medical records and to consent to disclosure of such records.

2. In addition to the foregoing, the principal may provide specific instructions in the document conferring the durable power of attorney for health care, consistent with the provisions of this chapter.

3. The principal may include a statement indicating that the designated attorney in fact has been notified of and consented to the designation.

4. A durable power of attorney for health care may designate one or more alternative attorneys in fact.

Sec. 6. NEW SECTION. 144B.6 ATTORNEY IN FACT — PRIORITY TO MAKE DECISIONS.

1. Unless the district court sitting in equity specifically finds that the attorney in fact is acting in a manner contrary to the wishes of the principal or the durable power of attorney for health care provides otherwise, an attorney in fact who is known to the health care provider to be available and willing to make health care decisions has priority over any other person, including a guardian appointed pursuant to chapter 633, to act for the principal in all matters of health care decisions. The attorney in fact has authority to make a particular health care decision only if the principal is unable, in the judgment of the attending physician, to make the health care decision. If the principal objects to a decision to withhold or withdraw health care, the principal shall be presumed to be able to make a decision.

2. In exercising the authority under the durable power of attorney for health care, the attorney in fact has a duty to act in accordance with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known to the attorney in fact at any time. A declaration executed by the principal pursuant to the life-sustaining procedures Act, chapter 144A, shall not be interpreted as expressing an intent to prohibit the withdrawal of hydration or nutrition when required to be provided parenterally or through intubation and shall not otherwise restrict the authority of the attorney in fact unless either the declaration or the durable power of attorney for health care expressly provides otherwise. If the principal's desires are unknown, the attorney in fact has a duty to act in the best interests of the principal, taking into account the principal's overall medical condition and prognosis.

Sec. 7. NEW SECTION. 144B.7 AUTHORITY TO REVIEW MEDICAL RECORDS.

Except as limited by the durable power of attorney for health care, an attorney in fact has the same right as the principal to receive and review medical records of the principal, and to consent to the disclosure of medical records of the principal when acting pursuant to the durable power of attorney for health care.

Sec. 8. NEW SECTION. 144B.8 REVOCATION OF DURABLE POWER OF ATTORNEY.

1. A durable power of attorney for health care may be revoked at any time and in any manner by which the principal is able to communicate the intent to revoke, without regard to mental or physical condition. Revocation may be by notifying the attorney in fact orally or in writing. Revocation may also be made by notifying a health care provider orally or in writing while that provider is engaged in providing health care to the principal. A revocation is only effective as to a health care provider upon its communication to the provider by the principal or by another to whom the principal has communicated revocation. The health care provider shall document the revocation in the treatment records of the principal.

2. The principal is presumed to have the capacity to revoke a durable power of attorney for health care.

3. Unless it provides otherwise, a valid durable power of attorney for health care revokes any prior durable power of attorney for health care.

4. If authority granted by a durable power of attorney for health care is revoked under this section, an individual is not subject to criminal prosecution or civil liability for acting in good faith reliance upon the durable power of attorney for health care unless the individual has actual knowledge of the revocation.

5. The fact of execution and subsequent revocation of a durable power of attorney shall have no effect upon subsequent health care decisions made in accordance with accepted principles of law and standards of medical care governing those decisions.

Sec. 9. NEW SECTION. 144B.9 IMMUNITIES AND RESPONSIBILITIES.

1. A health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action if the health care provider relies on a health care decision and both of the following requirements are satisfied:

a. The decision is made by an attorney in fact who the health care provider believes in good faith is authorized to make the decision.

b. The health care provider believes in good faith that the decision is not inconsistent with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known to the health care provider, and, if the decision is to withhold or withdraw health care necessary to keep the principal alive, the health care provider has provided an opportunity for the principal to object to the decision.

2. Notwithstanding a contrary health care decision of the attorney in fact, the health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action for failing to withhold or withdraw health care necessary to keep the principal alive. However, the attorney in fact may make provisions to transfer the responsibility for the care of the principal to another health care provider.

3. An attorney in fact is not subject to criminal prosecution or civil liability for any health care decision made in good faith pursuant to a durable power of attorney for health care.

4. It shall be presumed that an attorney in fact, and a health care provider acting pursuant to the direction of an attorney in fact, are acting in good faith and in the best interests of the principal absent clear and convincing evidence to the contrary.

5. For purposes of this section, acting in "good faith" means acting consistent with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known to the attorney in fact, or where those desires are unknown, acting in the best interests of the principal, taking into account the principal's overall medical condition and prognosis.

6. A health care provider or attorney in fact may presume that a durable power of attorney for health care is valid absent actual knowledge to the contrary.

Sec. 10. NEW SECTION. 144B.10 EMERGENCY TREATMENT.

This chapter does not affect the law governing health care treatment in an emergency.

Sec. 11. NEW SECTION. 144B.11 PROHIBITED PRACTICES.

1. A health care provider, health care service plan, insurer, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not condition admission to a facility, or the providing of treatment, or insurance, on the requirement that an individual execute a durable power of attorney for health care.

2. A policy of life insurance shall not be legally impaired or invalidated in any manner by the withholding or withdrawing of health care pursuant to the direction of an attorney in fact appointed pursuant to this chapter.

Sec. 12. NEW SECTION. 144B.12 GENERAL PROVISIONS.

1. This chapter does not create a presumption concerning the intention of an individual who has not executed a durable power of attorney for health care and does not impair or supersede any right or responsibility of an individual to consent, refuse to consent, or withdraw consent to health care on behalf of another in the absence of a durable power of attorney for health care.

2. This chapter shall not be construed to condone, authorize, or approve any affirmative or deliberate act or omission which would constitute mercy killing or euthanasia.

3. If after executing a durable power of attorney for health care designating a spouse as attorney in fact, the marriage between the principal and the attorney in fact is dissolved, the power is thereby revoked. In the event of remarriage to each other, the power is reinstated unless otherwise revoked by the principal.

4. It is the responsibility of the principal to provide for notification of a health care provider of the terms of the principal's durable power of attorney for health care.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

CHAPTER 141**AUTOMATIC DIALING-ANNOUNCING DEVICE EQUIPMENT***H.F. 570*

AN ACT relating to limitations on the use of automatic dialing-announcing device equipment and providing a penalty.

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

Section 1. NEW SECTION. 476.57 LIMITATIONS ON USE OF ADAD EQUIPMENT — PENALTY.

1. DEFINITION. As used in this section, "ADAD equipment" means automatic dialing-announcing device equipment which is a device or system of devices used, either alone or in conjunction with other equipment, for the purpose of automatically selecting or dialing telephone numbers without the use of a live operator to disseminate prerecorded messages to the numbers selected or dialed.

2. PROHIBITION.

a. Except as provided in paragraph "b", a person shall not use, employ, or direct another person to use, or contract for the use of ADAD equipment.

b. Except for ADAD equipment which randomly or sequentially selects the telephone numbers for calling, the prohibition in paragraph "a" does not apply to any of the following:

(1) Calls made with ADAD equipment by a nonprofit organization or by an individual using the calls other than for commercial profit-making purposes or fundraising, if the calls do not involve the advertisement or offering for sale, lease, or rental of goods, services, or property.

(2) Calls made with ADAD equipment relating to payment for, service of, or warranty coverage of previously ordered or purchased goods or services or to persons or organizations with a prior business relationship with the persons or organizations using the calls.

(3) Calls made with ADAD equipment relating to the collection of lawful debts.

(4) Calls made with ADAD equipment to members or employees of the organization making the calls.

(5) Calls made with ADAD equipment which use an initial prerecorded message of a duration no greater than seven seconds prior to a live operator intercept, or calls which involve an initial message from a live operator.

3. TERMINATION. Calls made with ADAD equipment must terminate the connection with any call within ten seconds after the person receiving the call acts to disconnect the call.

4. PENALTY. A violation of this section is a serious misdemeanor.

Approved May 8, 1991

CHAPTER 142**JUNKED VEHICLES AND CERTIFICATES OF TITLE***H.F. 625*

AN ACT relating to issuance of junking certificates and certificates of title.

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

Section 1. Section 321.24, unnumbered paragraph 8, Code 1991, is amended to read as follows:

If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, or a junking certificate has been issued for the vehicle but a certificate of title will not be reissued under section 321.52, subsection

3, the county treasurer or department may register the vehicle but shall as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Sec. 2. Section 321.52, subsection 2, Code 1991, is amended to read as follows:

2. The purchaser or transferee of a motor vehicle for which a certificate of title is issued which is sold for scrap or junk shall surrender the certificate of title to the county treasurer of the county of residence of the transferee within fifteen days after assignment of the certificate of title. The county treasurer shall issue to such person without fee a junking certificate. A junking certificate shall authorize the holder to possess, transport or transfer by endorsement the ownership of the junked vehicle. A certificate of title shall not again be issued for the vehicle subsequent to the issuance of a junking certificate except as provided in subsection 3. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department. The junking certificate shall be of a form to allow for the assignment of ownership of the vehicle. The junking certificate shall provide a space for the notation of the transferee of the component parts of the vehicle transferred by the owner of the vehicle.

Sec. 3. Section 321.52, subsection 3, unnumbered paragraph 2, Code 1991, is amended to read as follows:

However, upon application the department upon a showing of good cause may issue a certificate of title after the fourteen-day period for a junked vehicle for which a junking certificate has been issued. For purposes of this subsection, "good cause" means that the junking certificate was obtained by mistake or inadvertence. If a person's application to the department is denied, the person may make application for a certificate of title under the bonding procedure as provided in section 321.24, or the person may seek judicial review as provided under sections 17A.19 and 17A.20.

Sec. 4. This Act is retroactively applicable to all junking certificates for which certificates of title have not been reissued.

Approved May 8, 1991

CHAPTER 143**EMERGENCY CARE PROVIDERS — EXPOSURE TO DISEASE***H.F. 655*

AN ACT relating to emergency care providers who are exposed to contagious or infectious diseases, and making penalties applicable.

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

Section 1. NEW SECTION. 139B.1 EMERGENCY CARE PROVIDER NOTIFICATION.

1. For purposes of this chapter, unless the context otherwise requires:

a. "Contagious or infectious disease" means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease with the exception of AIDS or HIV infection as defined in section 141.21, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control of the United States department of health and human services.

b. "Department" means the Iowa department of public health.

c. "Designated officer" means a person who is designated by a department, agency, division, or service organization to act as an infection control liaison officer.

d. "Emergency care provider" means a person who is trained and authorized by federal or state law to provide emergency medical assistance or treatment, for compensation or in a voluntary capacity, including but not limited to, all of the following:

(1) A basic emergency care provider as defined in section 147.1.

(2) An advanced emergency medical care provider as defined in section 147A.1.

(3) A health care provider as defined in this section.

(4) A fire fighter.

(5) A peace officer.

"Emergency care provider" also includes a person who renders direct emergency aid without compensation.

e. "Exposure" means the risk of contracting disease.

f. "Health care provider" means a person licensed or certified under chapter 148, 148C, 150, 150A, 152, or 153 to provide professional health care service to a person during the person's medical care, treatment, or confinement.

2. a. A hospital licensed under chapter 135B shall have written policies and procedures for notification of an emergency care provider who renders assistance or treatment to an individual when in the course of admission, care, or treatment of the individual the individual is diagnosed or is confirmed as having a contagious or infectious disease.

b. If an individual is diagnosed or confirmed as having a contagious or infectious disease, the hospital shall notify the designated officer of an emergency care provider service who shall notify persons involved in attending or transporting the individual. For blood borne contagious or infectious diseases, notification shall only take place upon filing of an exposure report form with the hospital. The exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first responder service or law enforcement agency.

c. A person who renders direct emergency aid without compensation and is exposed to an individual who has a contagious or infectious disease shall also receive notification from the hospital upon the filing with the hospital of an exposure report form developed by the department.

d. The notification shall advise the emergency care provider of possible exposure to a particular contagious or infectious disease and recommend that the provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the individual has a contagious or infectious disease.

e. This subsection does not require a hospital to administer a test for the express purpose of determining the presence of a contagious or infectious disease. The notification shall not include the name of the individual with the contagious or infectious disease unless the individual consents.

f. The department shall adopt rules pursuant to chapter 17A to implement this subsection.

3. A health care provider may provide the notification required of hospitals in this section to emergency care providers if an individual who has a contagious or infectious disease is delivered by an emergency care provider to the office or clinic of a health care provider for treatment. The notification shall not include the name of the individual who has the contagious or infectious disease unless the individual consents.

4. This section does not preclude a hospital from providing notification to an emergency care provider or health care provider under circumstances in which the hospital's policy provides for notification of the hospital's own employees of exposure to a contagious or infectious disease that is not life-threatening if the report does not reveal a patient's name unless the patient consents.

5. A hospital or health care provider or other person participating in good faith in making a report under the notification provisions of this section or in notifying its own employees under procedures consistent with this section or in failing to make a report under this section is immune from liability, civil or criminal, which may otherwise be incurred or imposed.

6. A hospital's or health care provider's duty of notification under this section is not continuing but is limited to a diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of emergency assistance or treatment to which notification under this section applies.

Sec. 2. Section 141.22A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

141.22A EMERGENCY CARE PROVIDER NOTIFICATION.

1. For the purposes of this section, unless the context otherwise requires:

a. "Emergency care provider" means a person who is trained and authorized by federal or state law to provide emergency medical assistance or treatment, for compensation or in a voluntary capacity, including but not limited to all of the following:

(1) A basic emergency medical care provider as defined in section 147.1.

(2) An advanced emergency medical care provider as defined in section 147A.1.

(3) A health care provider as defined in this section.

(4) A fire fighter.

(5) A peace officer.

"Emergency care provider" also includes a person who renders emergency aid without compensation.

b. "Health care provider" means a person licensed or certified under chapter 148, 148C, 150, 150A, 152, or 153 to provide professional health care service to a person during the person's medical care, treatment, or confinement.

c. "HIV infection" means HIV infection or AIDS as defined in section 141.21.

d. "Infectious bodily fluids" means bodily fluids capable of transmitting HIV infection as determined by the centers for disease control of the United States department of health and human services and adopted by rule of the department.

e. "Significant exposure" means the risk of contracting HIV infection by means of exposure to a person's infectious bodily fluids in a manner capable of transmitting HIV infection as determined by the centers for disease control of the United States department of health and human services and adopted by rule of the department.

2. A hospital licensed under chapter 135B shall provide notification to an emergency care provider who renders assistance or treatment to an individual, following submission of a significant exposure report by the emergency care provider to the hospital and a diagnosis or confirmation by the attending physician that the individual has HIV infection, and determination that the exposure reported was a significant exposure as defined pursuant to this section. The notification shall advise the emergency care provider of possible exposure to HIV infection. Notification shall be made in accordance with both of the following:

a. The hospital informs the individual when the individual's condition permits, of the submission of a significant exposure report.

b. The individual consents to serological testing by or voluntarily discloses the individual's HIV status to the hospital and consents to the provision of notification.

Notwithstanding paragraphs "a" and "b" notification shall be made when the individual denies consent for or consent is not reasonably obtainable for serological testing, and in the course of admission, care, and treatment of the individual, the individual is diagnosed or is confirmed as having HIV infection.

3. The hospital shall notify the designated officer of the emergency care provider service who in turn shall notify any of the persons involved in attending or transporting the individual who submitted a significant exposure report. The identity of the designated officer shall not be revealed to the individual. The designated officer shall inform the hospital of those parties who received the notification, and following receipt of this information and upon request of the individual, the hospital shall inform the individual of the parties to whom notification was provided.

4. A person who renders direct emergency aid without compensation who is exposed to an individual who has HIV infection shall receive notification directly from the hospital in accordance with the procedures established pursuant to subsection 2. The hospital, upon request of the individual, shall inform the individual of the persons to whom notification was made.

5. The process for notification under this section shall be initiated as soon as is reasonably possible consistent with the centers for disease control of the United States department of health and human services protocols for HIV prophylaxis.

6. The designated officer shall advise the person notified to seek immediate medical attention and shall advise the person of the provisions of confidentiality under this section. The department shall adopt rules to implement this subsection.

7. A health care provider, with consent of the individual, may provide the notification required of hospitals in this section to emergency care providers if an individual who has HIV infection is delivered by an emergency care provider to the office or clinic of the health care provider for treatment. The notification shall take place only upon submission of a significant exposure report form by the emergency care provider to the health care provider and the determination by the health care provider that a significant exposure has occurred.

8. This section does not require or permit a hospital or health care provider to administer a test for the express purpose of determining the presence of HIV infection except that testing may be performed if the individual consents and if the requirements of section 141.22 are satisfied.

9. A hospital or health care provider or other person participating in good faith in making a report under the notification provisions of this section, under procedures similar to this section for notification of its own employees upon filing of a significant exposure report, or in failing to make a report under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

10. Notifications made pursuant to this section shall not disclose the identity of the individual who is diagnosed or confirmed as having HIV infection unless the individual provides a specific written release as provided in section 141.23, subsection 1, paragraph "a".

11. If notification is made under this section, and discloses the identity of the individual who is diagnosed or confirmed as having HIV infection, or otherwise allows the emergency care provider to determine the identity of the individual, the identity of the individual shall be confidential information and shall not be disclosed by the emergency care provider to any other person unless a specific written release is obtained from the individual.

12. An emergency care provider who intentionally or recklessly makes an unauthorized disclosure under this section, is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this section. Proceedings maintained under this section shall provide for the anonymity of the individual and all documentation shall be maintained in a confidential manner.

13. A hospital's duty to notify under this section is not continuing but is limited to the diagnosis of HIV infection made in the course of admission, care, and treatment following the rendering of emergency assistance or treatment of the individual with the disease.

14. Notwithstanding subsection 13, if, following discharge or completion of care or treatment, an individual, for whom a significant exposure report was submitted but which report did not result in notification, wishes to provide information regarding the individual's HIV infection status to the emergency care provider who submitted the report, the hospital shall provide a procedure for notifying the emergency care provider.

15. The employer of an emergency care provider who submits a significant exposure report under this section shall pay the costs of HIV testing and counseling for the individual and the emergency care provider. However, the department shall pay the costs of HIV testing and counseling for an emergency care provider who is a person who renders direct emergency aid without compensation.

16. A significant exposure report is a confidential record and the remedies under section 141.24 are applicable to such records.

17. The department shall adopt rules pursuant to chapter 17A to implement this section.

Approved May 9, 1991

CHAPTER 144

WAGERING ON EXCURSION GAMBLING BOATS — MINIMUM AGE

S.F. 110

AN ACT relating to wagers by certain persons under the age of eighteen years on excursion gambling boats, and providing an effective date.

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

Section 1. Section 99F.9, subsection 6, Code 1991, is amended to read as follows:

6. A person under the age of ~~twenty-one~~ eighteen years shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted.

Sec. 2. Section 99F.15, subsection 2, Code 1991, is amended to read as follows:

2. A person knowingly permitting a person under the age of ~~twenty-one~~ eighteen years to make a wager is guilty of a simple misdemeanor.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 1991

CHAPTER 145
CITY AND COUNTY ORDINANCES
S.F. 221

AN ACT relating to amending or repealing city or county ordinances, and adopting by reference portions of the Code of Iowa.

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

Section 1. Section 331.302, subsection 4, Code 1991, is amended to read as follows:

4. An amendment to an ordinance or to a code of ordinances shall specifically repeal the ordinance or code, or the section, ~~or~~ subsection, paragraph, or subpart to be amended, and shall set forth ~~in full~~ the ordinance, code, section, ~~or~~ subsection, paragraph, or subpart as amended.

Sec. 2. Section 331.302, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 4A. a. A county may by ordinance adopt by reference any portion of the Code of Iowa in effect at the time of the adoption in the manner provided in section 380.8 for adoption of a proposed code of ordinances containing a proposed new ordinance or amendment, subject to the following limitations:

(1) The ordinance shall describe the subject matter and identify the portion of the Code of Iowa adopted by chapter, section, and subsection or other subpart, as applicable.

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment or a one hundred dollar fine.

(3) Amendments or other changes to those portions of the Code of Iowa which have been adopted by reference shall serve as an automatic modification of the applicable ordinance.

b. An ordinance which adopts by reference any portion of the Code of Iowa may provide that violations of the ordinance are county infractions and subject to the limitations of section 331.307.

Sec. 3. Section 380.2, Code 1991, is amended to read as follows:
380.2 AMENDMENT.

An amendment to an ordinance or to a code of ordinances must specifically repeal the ordinance or code, or the section, ~~or~~ subsection, paragraph, or subpart to be amended, and must set forth ~~in full~~ the ordinance, code, section, ~~or~~ subsection, paragraph, or subpart as amended.

Sec. 4. Section 380.10, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A city may by ordinance adopt by reference any portion of the Code of Iowa in effect at the time of the adoption in the manner provided in section 380.8 for adoption of a proposed code of ordinances containing a proposed new ordinance or amendment, subject to the following limitations:

1. The ordinance shall describe the subject matter and identify the portion of the Code of Iowa adopted by chapter, section, and subsection or other subpart, as applicable.

2. A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment or a one hundred dollar fine.

3. Amendments or other changes to those portions of the Code of Iowa which have been adopted by reference shall serve as an automatic modification of the applicable ordinance.

NEW UNNUMBERED PARAGRAPH. An ordinance which adopts by reference any portion of the Code of Iowa may provide that violations of the ordinance are municipal infractions and subject to the limitations of section 364.22.

Approved May 9, 1991

CHAPTER 146**RESOURCE ENHANCEMENT AND PROTECTION***S.F. 323*

AN ACT relating to the resource enhancement and protection program.

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

Section 1. Section 256.34, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A conservation education program board is created in the department. The board shall have three five members appointed as follows:

Sec. 2. Section 256.34, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. One member appointed by the president of the Iowa association of naturalists.

NEW PARAGRAPH. e. One member appointed by the president of the Iowa conservation education council.

Sec. 3. Section 256.34, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Section 69.16 does not apply to appointments made pursuant to this subsection.

Sec. 4. Section 455A.19, subsection 1, paragraph b, subparagraph (4), Code 1991, is amended to read as follows:

(4) Funds allocated to the counties under subparagraphs (1), (2), and (3) may be used for land easements or acquisitions, capital improvements, stabilization and protection of resources, repair and upgrading of facilities, environmental education, and equipment. However, expenditures are not allowed for single or multipurpose athletic fields, baseball or softball diamonds, tennis courts, golf courses, swimming pools, and other group or organized sport facilities. Funds may be used for county projects located within the boundaries of a city.

Sec. 5. Section 455A.19, subsection 1, paragraph b, subparagraph (5), Code 1991, is amended to read as follows:

(5) Funds allocated pursuant to subparagraphs (2) and (3) shall only be allocated to counties dedicating property tax revenue at least equal to twenty-two cents per thousand dollars of the assessed value of taxable property in the county to county conservation purposes. State funds received under this paragraph shall not reduce or replace county tax revenues appropriated for county conservation purposes. The county ~~treasurer~~ auditor shall submit documentation annually of the dedication of property tax revenue for county conservation purposes. The annual audit of the financial transactions and condition of a county shall certify compliance with requirements of this subparagraph. Funds not allocated to counties not qualifying for the allocations under subparagraph (2) as a result of this subparagraph shall be held in reserve for each county for two years. Counties qualifying within two years may receive the funds held in reserve. Funds not spent by a county within two years shall revert to the general pool of county funds for reallocation to other counties where needed.

Sec. 6. Section 455A.19, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. Fifteen percent shall be allocated to a cities' parks and open space account. The moneys allocated in this paragraph may be used to fund competitive grants to cities to acquire, establish, and maintain natural parks, preserves, and open spaces. The grants may include expenditures for multipurpose trails, restroom facilities, shelter houses, and picnic facilities, but expenditures for single or multipurpose athletic fields, baseball or softball diamonds, tennis courts, golf courses, swimming pools, and other group or organized sport facilities requiring specialized equipment are excluded. The grants may be used for city projects located outside of a

city's boundaries. The natural resource commission, by rule, shall establish procedures for application, review, and selection of city projects on a competitive basis. The rules shall provide for three categories of cities based on population within which the cities shall compete for grants. There is appropriated from the cities' parks and open space account to the department the amount in that account, or so much thereof as is necessary, to carry out the competitive grant program as provided in this paragraph.

Sec. 7. Section 455A.20, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. The chairperson titular head or the chairperson's head's designee of each recognized farm organization having a county organization in the county. The designee shall be a member of the organization represented. The recognized farm organizations are the following:

- (1) The Iowa farm bureau federation, the.
- (2) The Iowa farmers union, the.
- (3) The Iowa grange, the.
- (4) The national farmers organization, and the.
- (5) The Iowa farm unity coalition.
- (6) Any other recognized farm or farm commodity group.

Sec. 8. Section 455A.20, subsection 1, paragraph d, subparagraph (9), Code 1991, is amended to read as follows:

(9) Other recognized wildlife, conservation, environmental, recreation, or conservation education, or historical-cultural preservation groups, or a nonpartisan governmental research or study group limited to the league of women voters.

Sec. 9. Section 455A.20, subsection 1, paragraph e, Code 1991, is amended to read as follows:

e. If a question arises as to whether a recognized county organization exists under paragraph "c" or "d", the question shall be decided by a majority vote of the members selected under paragraphs "a" and "b" excluding the representative of the county conservation board. Sections 69.16 and 69.16A do not apply to appointments made pursuant to this subsection.

Approved May 9, 1991

CHAPTER 147

DEPARTMENT OF TRANSPORTATION — UTILITY ACCOMMODATION POLICY S.F. 329

AN ACT authorizing the state department of transportation to adopt rules requiring public utilities to comply with the utility accommodation policy for certain Iowa road systems.

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

Section 1. Section 306A.3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, and 479A. This paragraph shall

not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 2. Section 319.14, Code 1991, is amended to read as follows:

319.14 PERMIT REQUIRED.

A person shall not excavate, fill, or make ~~any~~ a physical change within the right of way of a public road or highway without obtaining a permit from the highway authority having jurisdiction of ~~such~~ the public road or highway. ~~Any work~~ Work performed under the permit shall be performed in conformity with the specifications prescribed by the highway authority. If the excavation, fill, or physical change within the right of way of a public road or highway does not conform to the specifications that accompany the permit the person shall be notified to make such conforming changes. If after twenty days the changes have not been made, the public road or highway authority may make the necessary changes and immediately send a statement of the cost to the responsible person ~~responsible for the work done not in conformance to the specifications~~. If within ~~ten~~ thirty days after sending the statement the cost is not paid, the highway authority may institute proceedings in the district court ~~system~~ to collect the cost of correction. ~~Utility~~ Except as provided in section 306A.3, utility companies are exempted from the provisions of this section.

Approved May 9, 1991

CHAPTER 148

PUBLIC IMPROVEMENT CONTRACTS

S.F. 346

AN ACT relating to payments made pursuant to public contracts.

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

Section 1. Section 573.12, subsection 2, Code 1991, is amended to read as follows:

2. Prompt payment.

a. (1) Interest shall be paid to the contractor on any progress payment that is approved as payable by the public corporation's project architect or engineer and remains unpaid for a period of fourteen days after receipt of the payment request at the place, or by the person, designated in the contract, or by the public corporation to first receive the request, or for a time period greater than fourteen days, unless a time period greater than fourteen days is specified in the contract documents, not to exceed thirty days, to afford the public corporation a reasonable opportunity to inspect the work and to determine the adequacy of the contractor's performance under the contract.

(2) Interest shall accrue during the period commencing the day after the expiration of the period defined in subparagraph (1) and ending on the date of payment. The rate of interest shall be determined as set forth in section 573.14.

b. A progress payment or final payment to a subcontractor for satisfactory performance of the subcontractor's work shall be made no later than one of the following, as applicable:

a.(1) Seven days after the contractor receives payment for that subcontractor's work.

b.(2) 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.

Sec. 2. Section 573.14, Code 1991, is amended to read as follows:

573.14 RETENTION OF UNPAID FUNDS.

Said The fund provided for in section 573.13 shall be retained by the public corporation for a period of thirty days after the completion and final acceptance of the improvement. If at the end of said the thirty-day period claims are on file as herein provided the public corporation shall continue to retain from said the unpaid funds a sum not less than equal to double the total amount of all claims on file. The remaining balance of the unpaid fund, or if no claims are on file, the entire unpaid fund, shall be released and paid to the contractor.

The public corporation shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Failure Except as provided in section 573.12 for progress payments, failure to make payment pursuant to this section, of any amount due the contractor, within seventy forty days, unless a greater time period not to exceed fifty days is specified in the contract documents, after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding public corporation by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this paragraph and ending on the date of payment. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 453.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. Nothing contained in this This paragraph shall does not abridge any of the rights set forth in section 573.16. Except as provided in section sections 573.12 and 573.16, interest shall not accrue on funds retained by the public corporation to satisfy the provisions of this section regarding claims on file. The provisions of this This chapter shall does not apply if the public corporation has entered into a contract with the federal government or accepted a federal grant which is governed by federal law or rules that are contrary to the provisions of this chapter.

Sec. 3. Section 573.16, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Provided that upon Upon written demand of the contractor served, in the manner prescribed for original notices, on the person or persons filing said claims a claim, requiring the claimant to commence action in court to enforce the claim in the manner as prescribed for original notices, such an action shall be commenced within thirty days thereafter, otherwise such the retained and unpaid funds due the contractor shall be released; and it is further provided that, after. Unpaid funds shall be paid to the contractor within twenty days of the receipt by the public corporation of the release as determined pursuant to this section. Failure to make payment by that date shall cause interest to accrue on the unpaid amount. Interest shall accrue during the period commencing the twenty-first day after the date of release and ending on the date of the payment. The rate of interest shall be determined pursuant to section 573.14. such After an action is commenced, upon the general contractor filing with the public corporation or person withholding such the funds, a surety bond in double the amount of the claim in controversy, conditioned to pay any final judgment rendered for such the claims so filed, said the public corporation or person shall pay to the contractor the amount of such funds so withheld.

Sec. 4. Section 573.18, Code 1991, is amended to read as follows:

573.18 ADJUDICATION – PAYMENT OF CLAIMS.

The court shall adjudicate all claims for which an action is filed under section 573.16. Payments from said the retained percentage, if still in the hands of the public corporation, shall be made in the following order:

1. Costs of the action.
2. Claims for labor.
3. Claims for materials.
4. Claims of the public corporation.

Upon settlement or adjudication of a claim and after judgment is entered, unpaid funds retained with respect to the claim which are not necessary to satisfy the judgment shall be released and paid to the contractor within twenty days of receipt by the public corporation of evidence of entry of judgment or settlement of the claim. Failure to make payment by that date shall cause interest to accrue on the unpaid amount. Interest shall accrue during the period commencing on the twenty-first day after receipt by the public corporation of evidence of entry of judgment and ending on the date of payment. The rate of interest shall be determined as set forth in section 573.14.

Approved May 9, 1991

CHAPTER 149

INCOME TAX CHECKOFF FOR OLYMPICS

S.F. 403

AN ACT relating to the state income tax refund checkoff for olympics.

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

Section 1. Section 422.12A, unnumbered paragraph 5, Code 1991, is amended to read as follows:

On or before March 1 of each year, the department of revenue and finance shall pay one-half of the moneys in the fund to the United States Olympic committee on the condition that the United States Olympic committee return and shall retain one-half of the funds to ~~in~~ this state ~~to~~. Fifty percent of the funds retained by the state shall be spent in that year for local amateur sports, for which there is Olympic competition, with advice of the governor's council on physical fitness, and the remaining fifty percent shall be paid to Iowa special Olympics, incorporated, for special Olympic programs.

Approved May 9, 1991

CHAPTER 150

DEREGULATION OF CERTAIN COMMUNICATIONS SERVICES

S.F. 504

AN ACT relating to the method of deregulation of communication services and facilities.

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

Section 1. Section 476.1, unnumbered paragraph 8, Code 1991, is amended by striking the paragraph.

Sec. 2. NEW SECTION. 476.1D REGULATION AND DEREGULATION OF COMMUNICATIONS SERVICES JURISDICTION.

1. Except as provided in this section, the jurisdiction of the board as to the regulation of communications services is not applicable to a service or facility that is provided or is proposed to be provided by a telephone utility that is or becomes subject to effective competition, as determined by the board. In determining whether a service or facility is or becomes subject to effective competition, the board shall consider, among other factors, whether a comparable service or facility is available from a supplier other than the telephone utility and whether market forces are sufficient to assure just and reasonable rates without regulation.

2. Deregulation of a service or facility for a utility is effective only after all of the following:

a. A finding of effective competition by the board.

b. Election by a utility providing the service or facility to file a deregulation accounting plan.

c. Approval of a utility's deregulation accounting plan by the board.

3. If the board determines a service or facility is subject to effective competition and approves the utility's deregulation accounting plan, the board shall deregulate the service or facility within a reasonable time.

4. Upon deregulation, all investment, revenues, and expenses associated with the service or facility shall be removed from the telephone utility's regulated operations and shall not be considered by the board in setting rates for the telephone utility unless they continue to affect the utility's regulated operations. If the board considers investment, revenues, and expenses associated with unregulated services or facilities in setting rates for the telephone utility, the board shall not use any profits or costs from such unregulated services or facilities to determine the rates for regulated services or facilities. This section does not preclude the board from considering the investment, revenues, and expenses associated with the sale of classified directory advertising by a telephone utility in determining rates for the telephone utility.

5. Notwithstanding the presence of effective competition, if the board determines a service or facility is an essential communications service or facility and the public interest warrants retention of service regulation, the board shall deregulate rates and may continue service regulation.

6. The board may reimpose rate and service regulation on a deregulated service or facility if it determines the service or facility is no longer subject to effective competition.

7. The board may reimpose service regulation only on a deregulated service or facility if the board determines the service or facility is an essential communications service or facility and the public interest warrants service regulation, notwithstanding the presence of effective competition.

8. If the board reimposes regulation pursuant to subsection 6 or 7, the reimposition of regulation shall apply to all providers of the service or facility.

9. The board may investigate and obtain information from providers of deregulated services or facilities to determine whether the services or facilities are subject to effective competition or whether the service or facility is an essential communications service or facility and the public interest warrants service regulation. However, the board shall not, for purposes of this subsection, request or obtain information related to the provider's costs or earnings.

Approved May 9, 1991

CHAPTER 151**CHILD DAY CARE***H F. 500*

AN ACT relating to requirements for child day care family homes, and facilities and programs including but not limited to those operated in a school building in which child day care is an adjunct to the primary purpose of the building and providing an effective date.

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

Section 1. Section 237A.1, subsection 7, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. A nonprofit program operated by volunteers for no charge for not more than two hours during any twenty-four hour period.

NEW PARAGRAPH. f. A program provided by the state or a political subdivision, which provides recreational classes for a period of less than two hours per day.

Sec. 2. Section 237A.3, subsection 1, Code 1991, is amended to read as follows:

1. A person who operates or establishes a family day care home may apply to the department for registration under this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family day care home that the home complies with rules adopted by the department. The registration certificate shall be posted in a conspicuous place in the family day care home, shall state the name of the registrant, the number of individuals who may be received for care at any one time, and the address of the home, and shall include a check list of registration compliances. No greater number of children than is authorized by the certificate shall be kept in the family day care home at any one time. However, a registered or unregistered family day care home may provide care for more than six but less than twelve children at any one time for a period of less than two hours, but shall not do so unless the home does not provide care at any one time for more than six children who are not attending school full-time on a regular basis. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending school full-time on a regular basis or is not receiving child day care full-time on a regular basis from another person, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home. The registration process may be repeated on an annual basis. A child day care provider or program which is not a family day care home by reason of the definition of child day care in section 237A.1, subsection 7, but which provides care, supervision or guidance to a child may be issued a certificate of registration under this chapter.

Sec. 3. Section 237A.12, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a school district or accredited nonpublic school building complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child day care facility caring for school age children. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

NEW UNNUMBERED PARAGRAPH. Standards and requirements set by a city or county for a school building used as a child day care facility as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for the primary purpose of the building.

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

Approved May 9, 1991

CHAPTER 152**FINANCIAL SERVICES DISCLOSURE***H.F. 502*

AN ACT relating to eliminating the requirement that a financial institution disclose certain information related to financial services offered by the financial institution.

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

Section 1. Section 12.27, Code 1991, is amended to read as follows:

12.27 CREDIT AND FINANCIAL SERVICES RULES.

The treasurer shall adopt rules to implement the filing of information relating to open-end credit accounts, and credit cards, and ~~financial services~~ pursuant to section 535.15.

Sec. 2. Section 535.15, subsection 1, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 3. Section 535.15, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 4. Section 535.15, subsection 5, Code 1991, is amended to read as follows:

5. A person who is obligated to disclose information under this section shall file a written report disclosing the information with the treasurer of state by January July 1 of each year. If a person filing under this section makes any changes subsequent to January July 1 but prior to July January 1 to any of the information for which disclosure is required relating to credit cards, the person shall file an amended written report with the treasurer of state by July January 1 following the change.

Approved May 9, 1991

CHAPTER 153**DEFECTIVE MOTOR VEHICLES***H.F. 566*

AN ACT relating to defective motor vehicles and providing statutory procedures under which a consumer may receive a replacement motor vehicle, or a full refund, for a motor vehicle which cannot be brought into conformity with the warranty, providing certain remedies, providing an administrative fine, making a penalty applicable, and providing an effective date.

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

Section 1. **NEW SECTION. 322G.1 LEGISLATIVE INTENT.**

The general assembly recognizes that a motor vehicle is a major consumer acquisition and that a defective motor vehicle undoubtedly creates a hardship for the consumer. The general assembly further recognizes that a duly franchised motor vehicle dealer is an authorized service agent of the manufacturer. It is the intent of the general assembly that a good faith motor vehicle warranty complaint by a consumer be resolved by the manufacturer within a specified period of time. It is further the intent of the general assembly to provide the statutory procedures whereby a consumer may receive a replacement motor vehicle, or a full refund, for a motor vehicle which cannot be brought into conformity with the warranty provided for in this chapter. However, this chapter does not limit the rights or remedies which are otherwise available to a consumer under any other law.

Sec. 2. NEW SECTION. 322G.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Collateral charges" means those additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle. For the purposes of this chapter, collateral charges include, but are not limited to, charges for manufacturer-installed or agent-installed items, earned finance charges, use taxes, and title charges.

2. "Condition" means a general problem that may be attributable to a defect in more than one part.

3. "Consumer" means the purchaser or lessee, other than for purposes of lease or resale, of a new or previously untitled motor vehicle, or any other person entitled by the terms of the warranty to enforce the obligations of the warranty during the duration of the lemon law rights period.

4. "Days" means calendar days.

5. "Department" means the attorney general.

6. "Incidental charges" means those reasonable costs incurred by the consumer, including, but not limited to, towing charges and the costs of obtaining alternative transportation, which are the direct result of the nonconformity or nonconformities which are the subject of the claim. Incidental charges do not include loss of use, loss of income, or personal injury claims.

7. "Lease price" means the aggregate of the following:

a. Lessor's actual purchase costs.

b. Collateral charges, if applicable.

c. Any fee paid to another to obtain the lease.

d. Any insurance or other costs expended by the lessor for the benefit of the lessee.

e. An amount equal to state and local use taxes, not otherwise included as collateral charges, paid by the lessor when the vehicle was initially purchased.

f. An amount equal to five percent of the lessor's actual purchase cost.

8. "Lemon law rights period" means the term of the manufacturer's written warranty, the period ending two years after the date of the original delivery of a motor vehicle to a consumer, or the first twenty-four thousand miles of operation attributable to a consumer, whichever expires first.

9. "Lessee" means any consumer who leases a motor vehicle for one year or more pursuant to a written lease agreement which provides that the lessee is responsible for repairs to the motor vehicle.

10. "Lessee cost" means the aggregate of the deposit and rental payments previously paid to the lessor for the leased vehicle.

11. "Lessor" means a person who holds the title to a motor vehicle leased to a lessee under a written lease agreement or who holds the lessor's rights under the agreement.

12. "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles or installing on previously assembled vehicle chassis special bodies or equipment which, when installed, form an integral part of the new motor vehicle, or a person engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing the new motor vehicles to new motor vehicle dealers.

13. "Motor vehicle" means a self-propelled vehicle purchased or leased in this state and primarily designed for the transportation of persons or property over public streets and highways, but does not include mopeds, motorcycles, motor homes, or vehicles over ten thousand pounds gross vehicle weight rating.

14. "Nonconformity" means a defect, malfunction, or condition in a motor vehicle such that the vehicle fails to conform to the warranty, but does not include a defect, malfunction, or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

15. "Person" means person as defined in section 714.16.

16. "Program" means an informal dispute settlement procedure established by a manufacturer which mediates and arbitrates motor vehicle warranty disputes arising in this state.

17. "Purchase price" means the cash price paid for the motor vehicle appearing in the sales agreement or contract, including any net allowance given for a trade-in vehicle.

18. "Reasonable offset for use" means the number of miles attributable to a consumer up to the date of the third attempt to repair the same nonconformity which is the subject of the claim, or the first attempt to repair a nonconformity that is likely to cause death or serious bodily injury, or the twentieth cumulative day when the vehicle is out of service by reason of repair of one or more nonconformities, whichever occurs first, multiplied by the purchase price of the vehicle, or in the event of a leased vehicle, the lessor's actual lease price plus an amount equal to two percent of the purchase price, and divided by one hundred twenty thousand.

19. "Replacement motor vehicle" means a motor vehicle which is identical or reasonably equivalent to the motor vehicle to be replaced, and as the motor vehicle to be replaced would have existed without the nonconformity at the time of original acquisition.

20. "Substantially impair" means to render the motor vehicle unfit, unreliable, or unsafe for warranted or ordinary use, or to significantly diminish the value of the motor vehicle.

21. "Warranty" means any written warranty issued by the manufacturer; or any affirmation of fact or promise made by the manufacturer, excluding statements made by the dealer, in connection with the sale or lease of a motor vehicle to a consumer, which relates to the nature of the material or workmanship and affirms or promises that the material or workmanship is free of defects or will meet a specified level of performance.

Sec. 3. NEW SECTION. 322G.3 DUTIES OF MANUFACTURER.

1. At the time of the consumer's purchase or lease of the vehicle, the manufacturer shall provide to the consumer a written statement that explains the consumer's rights and obligations under this chapter. The written statement shall be prepared by the attorney general and shall contain a telephone number that the consumer can use to obtain information from the attorney general regarding the rights and obligations provided under this chapter.

2. At the time of the consumer's purchase or lease of the vehicle, the manufacturer shall provide to the consumer the address and phone number for the zone, district, or regional office of the manufacturer for this state where a claim may be filed by the consumer. This information shall be provided to the consumer in a clear and conspicuous manner. Within thirty days of the introduction of a new model year for each make and model of motor vehicle sold in this state, the manufacturer shall notify the attorney general of such introduction. The manufacturer shall also inform the attorney general that a copy of the owner's manual and applicable written warranties shall be provided upon request and provide information as to where the request should be made. The manufacturer shall inform the attorney general where such a request should be directed and shall provide the copy of the owner's manual and applicable written warranties within five business days of a request by the attorney general.

3. A manufacturer or the authorized service agent of the manufacturer shall make repairs as necessary to conform the vehicle to the warranty if a motor vehicle does not conform to the warranty and the consumer reports the nonconformity to the manufacturer or authorized service agent during the lemon law rights period. Such repairs shall be made irrespective of whether they can be made prior to the expiration of the lemon law rights period.

4. A manufacturer or the authorized service agent of the manufacturer, shall provide to the consumer, each time the motor vehicle is returned after being examined or repaired under the warranty, a fully itemized, legible statement or repair order indicating any diagnosis made, and all work performed on the motor vehicle including, but not limited to, a general description of the problem reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the motor vehicle was submitted for examination or repair, and the date when the repair or examination was completed.

5. Upon request from the consumer, the manufacturer, or the authorized service agent of the manufacturer, shall provide a copy of either or both of the following:

a. Any report or printout of any diagnostic computer operation compiled by the manufacturer or authorized service agent regarding an inspection or diagnosis of the motor vehicle.

b. A copy of any technical service bulletin issued by the manufacturer regarding the year and model of the motor vehicle as it pertains to any material, feature, component, or the performance of the motor vehicle.

Sec. 4. NEW SECTION. 322G.4 NONCONFORMITY OF MOTOR VEHICLES.

1. After three attempts have been made to repair the same nonconformity that substantially impairs the motor vehicle, or after one attempt to repair a nonconformity that is likely to cause death or serious bodily injury, the consumer may give written notification, which shall be by certified or registered mail or by overnight service, to the manufacturer of the need to repair the nonconformity in order to allow the manufacturer a final attempt to cure the nonconformity. The manufacturer shall, within ten days after receipt of such notification, notify and provide the consumer with the opportunity to have the vehicle repaired at a reasonably accessible repair facility and after delivery of the vehicle to the designated repair facility by the consumer, the manufacturer shall, within ten days, conform the motor vehicle to the warranty. If the manufacturer fails to notify and provide the consumer with the opportunity to have the vehicle repaired at a reasonably accessible repair facility or perform the repairs within the time periods prescribed in this subsection, the requirement that the manufacturer be given a final attempt to cure the nonconformity does not apply.

After twenty or more cumulative days when the motor vehicle has been out of service by reason of repair of one or more nonconformities, the consumer may give written notification to the manufacturer which shall be by certified or registered mail or by overnight service. Commencing upon the date such notification is received, the manufacturer has ten cumulative days when the vehicle has been out of service by reason of repair of one or more nonconformities to conform the motor vehicle to the warranty.

2. If the manufacturer, or its authorized service agent, has not conformed the motor vehicle to the warranty by repairing or correcting one or more nonconformities that substantially impair the motor vehicle after a reasonable number of attempts, the manufacturer shall, within forty days of receipt of payment by the manufacturer of a reasonable offset for use by the consumer, replace the motor vehicle with a replacement motor vehicle acceptable to the consumer, or repurchase the motor vehicle from the consumer or lessor and refund to the consumer or lessor the full purchase or lease price, less a reasonable offset for use. The replacement or refund shall include payment of all collateral and reasonably incurred incidental charges. The consumer has an unconditional right to choose a refund rather than a replacement. If the consumer elects to receive a refund, and the refund exceeds the amount of the payment for a reasonable offset for use, the requirement that the consumer pay the reasonable offset for use in advance does not apply, and the manufacturer shall deduct that amount from the refund due to the consumer. If the consumer elects a replacement motor vehicle, the manufacturer shall provide the consumer a substitute motor vehicle to use until such time as the replacement vehicle is delivered to the consumer. At the time of the refund or replacement, the consumer, lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the original motor vehicle.

Refunds shall be made to the consumer and lienholder of record, if any, as their interests appear. If applicable, refunds shall be made to the lessor and lessee as follows: the lessee shall receive the lessee's cost less a reasonable offset for use, and the lessor shall receive the lease price less the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle. If it is determined that the lessee is entitled to a refund pursuant to this chapter, the consumer's lease agreement with the lessor is terminated upon payment of the refund and no penalty for early termination shall be assessed. The department of revenue and finance shall refund to the manufacturer any use tax which the manufacturer refunded to the consumer, lessee, or lessor under this section, if the manufacturer provides to the department of revenue and finance a written request for a refund and evidence that the use tax was paid when the vehicle was purchased and that the manufacturer refunded the use tax to the consumer, lessee, or lessor.

3. It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the warranty if, during the lemon law rights period, any of the following occur:

a. The same nonconformity that substantially impairs the motor vehicle has been subject to examination or repair at least three times by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer to repair the motor vehicle if undertaken as provided for in subsection 1, and such nonconformity continues to exist.

b. A nonconformity that is likely to cause death or serious bodily injury has been subject to examination or repair at least one time by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer to repair the motor vehicle if undertaken as provided for in section 322G.4, subsection 1, and such nonconformity continues to exist.

c. The motor vehicle has been out of service by reason of repair by the manufacturer, or its authorized service agent, of one or more nonconformities that substantially impair the motor vehicle for a cumulative total of thirty or more days, exclusive of down time for routine maintenance prescribed by the owner's manual. The thirty-day period may be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or natural disaster.

The terms of this subsection shall be extended for a period of up to two years after the date of the original delivery of a motor vehicle to a consumer, or the first twenty-four thousand miles of operation attributable to a consumer, whichever occurs first, if a nonconformity has been reported but has not been cured by the manufacturer, or its authorized service agent, before the expiration of the lemon law rights period.

4. A manufacturer, or its authorized service agent shall not refuse to examine or repair any nonconformity for the purpose of avoiding liability under this chapter.

Sec. 5. NEW SECTION. 322G.5 AFFIRMATIVE DEFENSES.

Any of the following is an affirmative defense to a claim under this chapter:

1. The alleged nonconformity or nonconformities do not substantially impair the motor vehicle.

2. A nonconformity is the result of an accident, abuse, neglect, or unauthorized modification or alteration of the motor vehicle by a person other than the manufacturer or its authorized service agent.

3. The claim by the consumer was not filed in good faith.

4. Any other defense allowed by law which may be raised against the claim.

Sec. 6. NEW SECTION. 322G.6 INFORMAL DISPUTE SETTLEMENT PROCEDURES – OPERATIONS AND CERTIFICATION.

1. At the time of the consumer's purchase or lease of the vehicle, a manufacturer who has established a program certified pursuant to this section shall, at a minimum, clearly and conspicuously disclose to the consumer in written materials accompanying the vehicle how and where to file a claim with the program.

2. A certified program shall be funded and competently staffed at a level sufficient to ensure fair and expeditious resolution of all disputes, and shall not charge consumers any fee for use of the program. The manufacturer shall take all steps necessary to ensure that a certified program and its staff and decision makers are sufficiently insulated from the manufacturer so that the performance of the staff and the decisions of the decision makers are not influenced by the manufacturer. Such steps, at a minimum, shall ensure that the manufacturer does not make decisions on whether a consumer's dispute proceeds to the decision maker. Staff and decision makers of a certified program shall be trained in the provisions of this chapter and rules adopted under this chapter.

3. A certified program shall allow an oral presentation by a party, or by a party's employee, agent, or representative.

Within five days following the consumer's notification to the certified program of the dispute, the program shall inform each party of their right to make an oral presentation.

Meetings of a certified program to hear and decide disputes shall be open to observers, including either party to the dispute, on reasonable and nondiscriminatory terms.

4. A certified program shall render a decision no later than sixty days from the day of the consumer's notification of the dispute, provided that a significant number of decisions are rendered within forty days. For the purposes of this section, notification is deemed to have occurred when a certified program has received the consumer's name and address; the current date and the date of the original delivery of the motor vehicle to a consumer; the year, make, model, and identification number of the motor vehicle; and a description of the nonconformity. If the consumer has not previously notified the manufacturer of the nonconformity, the sixty-day period is extended for an additional seven days.

5. A certified program shall, in rendering decisions, take into account the provisions of this chapter and all legal and equitable factors germane to a fair and just decision. The decision shall disclose to the consumer and the manufacturer the reasons for the decision, and the manufacturer's required actions, if applicable. If the decision is in favor of the consumer, the consumer shall have up to twenty-five days from the date of receipt of the certified program's decision to indicate acceptance of the decision. The decision shall prescribe a reasonable period of time, not to exceed thirty days from the date the consumer notifies the manufacturer of acceptance of the decision, within which the manufacturer must fulfill the terms of the decision. If the manufacturer has had a reasonable number of attempts to conform a motor vehicle to the warranty as set forth in section 322G.4, subsection 3, including a final attempt by the manufacturer to repair the motor vehicle, if undertaken as provided for in section 322G.4, subsection 1, and the consumer is entitled to a replacement vehicle or a refund under section 322G.4, subsection 2, the decision shall be limited to relief as allowed under section 322G.4, subsection 2. In an action brought by a consumer under this chapter, the decision of a certified program is admissible in evidence.

6. A certified program shall establish written procedures which explain operation of the certified program. Copies of the written procedures shall be made available to any person upon request and shall be sent to the consumer upon notification of the dispute.

7. A certified program shall retain all records for each dispute for at least four years after the final disposition of the dispute. A certified program shall have an independent audit conducted annually to determine whether the manufacturer and its performance and the program and its implementation are in compliance with this chapter. All records for each dispute shall be available for the audit. Such audit, upon completion, shall be forwarded to the attorney general.

8. Any manufacturer licensed to sell motor vehicles in this state may apply to the attorney general for certification of its program. A manufacturer seeking certification of its program in this state shall submit to the attorney general an application for certification on a form prescribed by the attorney general.

9. A program certified in this state or a program established by a manufacturer applying for certification in this state shall submit to the attorney general a copy of each settlement approved by the program or decision made by the decision maker within thirty days after the settlement is reached or the decision is rendered. The decision or settlement shall contain information prescribed by the attorney general.

10. The attorney general shall review the operations of any certified program at least once annually. The attorney general shall prepare annual and periodic reports evaluating the operation of certified programs serving consumers in this state or programs established by motor vehicle manufacturers applying for certification in this state. The reports shall indicate whether certification should be granted, renewed, denied, or revoked.

11. If a manufacturer has established a program which the attorney general has certified as substantially complying with the provisions of and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with the program pursuant to subsection 1, the provisions of section 322G.4, subsection 2, do not apply to any consumer who has not first resorted to the program.

Sec. 7. **NEW SECTION. 322G.7 INFORMAL DISPUTE SETTLEMENT PROCEDURE – CERTIFICATION UNIFORMITY.**

To facilitate uniform application, interpretation, and enforcement of this section and section 322G.6, and in implementing rules adopted pursuant to section 322G.14, the attorney general may cooperate with agencies that perform similar functions in any other states that enact these or similar sections. The cooperation authorized by this subsection may include any of the following:

1. Establishing a central depository for copies of all applications and accompanying materials submitted by manufacturers for certification, and all reports prepared, notices issued, and determinations made by the attorney general under section 322G.6.
2. Sharing and exchanging information, documents, and records pertaining to program operations.
3. Sharing personnel to perform joint reviews, surveys, and investigations of program operations.
4. Preparing joint reports evaluating program operations.
5. Granting joint certifications and certification renewals.
6. Issuing joint denials or revocations of certification.
7. Holding a joint administrative hearing.
8. Formulating, in accordance with chapter 17A, the administrative procedures Act, rules or proposed rules on matters such as guidelines, forms, statements of policy, interpretative opinions, and any other information necessary to implement section 322G.6.

Sec. 8. **NEW SECTION. 322G.8 CONSUMER REMEDIES.**

1. If a consumer resorts to a manufacturer's certified program and a decision is not rendered within the time periods allowed in this chapter, or a manufacturer has no certified program and the consumer has notified the manufacturer pursuant to section 322G.4, subsection 1, the consumer may file an action in district court under this chapter within one year from the expiration of the lemon law rights period or an extension of the period pursuant to section 322G.4, subsection 3.

2. If a consumer resorts to a manufacturer's certified program and is not satisfied with the performance of the manufacturer as ordered in the decision, or the manufacturer does not perform as directed by the decision within the time period specified in the decision, the consumer may file an action in district court under this chapter within six months after the date prescribed in the decision by which the manufacturer must fulfill the terms of the decision. If the consumer declines to accept the decision of the manufacturer's certified program, the consumer may appeal the decision pursuant to subsection 4. For purposes of this subsection, "not satisfied with the performance of the decision" means, following the consumer's acceptance of the decision, the consumer indicates that the manufacturer failed to comply with the terms of the decision within the time specified in the decision or failed to cure the nonconformity within the time specified in the decision if further repairs were ordered.

3. In an action under either subsection 1 or 2, the court shall award a consumer who prevails the amount of any pecuniary loss, including relief the consumer is entitled to under section 322G.4, subsection 2, reasonable attorney's fees, and costs. In addition, if the court affirms the decision of the certified program, the court may award any additional amounts allowed under section 322G.8, subsection 7.

4. A certified program's decision is final unless appealed by either party. A petition to the district court to appeal a decision must be made within fifty days after receipt of the decision or within twenty-five days from the date the consumer indicates acceptance of the decision to the manufacturer, whichever occurs first. Within seven days after the petition has been filed, the appealing party must send, by certified, registered, or express mail, a copy of the petition to the attorney general. If the attorney general receives no notice of the petition within sixty days after the manufacturer's receipt of a decision in favor of the consumer, and the consumer has indicated acceptance of the decision within the twenty-five days of receipt of the

decision, but the manufacturer has neither complied with, nor petitioned to appeal the decision, the attorney general may apply to the court to impose a fine up to one thousand dollars per day against the manufacturer until the amount stands at twice the purchase price of the motor vehicle, unless the manufacturer provides clear and convincing evidence that the delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the attorney general shall initiate proceedings against the manufacturer for failure to pay the fine. The proceeds from the fine imposed shall be placed in the attorney general's motor vehicle fraud and odometer law enforcement fund for implementation and enforcement of this chapter.

5. If the manufacturer fails to comply with a decision which has been timely accepted by the consumer or fails to file a timely petition for appeal, the court shall affirm the board's decision upon application by the consumer.

6. An appeal of a decision by a certified program to the court by a consumer or a manufacturer shall be tried de novo, and may be based upon stipulated facts. In a written petition to appeal a decision by the board, the appealing party must state the action requested and the grounds relied upon for appeal.

7. If a decision of the certified program in favor of the consumer is affirmed or upheld by the court, recovery by the consumer shall include the pecuniary value of the award, including relief the consumer is entitled to under section 322G.4, subsection 2, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in an amount of twenty-five dollars per day for all days beyond the twenty-five-day period following the manufacturer's receipt of the consumer's acceptance of the certified program's decision. If a court determines that a manufacturer filed a petition for appeal to be tried de novo in bad faith or brought such an appeal solely for the purpose of harassment, the court shall double, and may triple, the amount of the total award, after consideration of all circumstances.

8. Appellate review of a court decision in favor of the consumer may be conditioned upon payment by the manufacturer of the consumer's attorney's fees and giving security for costs and expenses resulting from the review period.

9. This chapter does not prohibit a consumer from pursuing other rights or remedies under any other law.

Sec. 9. NEW SECTION. 322G.9 COMPLIANCE AND DISCIPLINARY ACTION.

The attorney general may enforce and ensure compliance with the provisions of this chapter and rules adopted pursuant to section 322G.14, may issue subpoenas requiring the attendance of witnesses and the production of evidence, and may petition any court having jurisdiction to compel compliance with the subpoenas. The attorney general may levy and collect an administrative fine in an amount not to exceed one thousand dollars for each violation against any manufacturer found to be in violation of this chapter or rules adopted pursuant to section 322G.14. A manufacturer may request a hearing pursuant to chapter 17A, the administrative procedures Act, if the manufacturer contests the fine levied against it. The proceeds from any fine levied and collected pursuant to this section shall be placed in the attorney general's motor vehicle fraud and odometer law enforcement fund for implementation and enforcement of this chapter.

Sec. 10. NEW SECTION. 322G.10 UNFAIR OR DECEPTIVE TRADE PRACTICE.

A violation by a manufacturer of this chapter is an unfair or deceptive trade practice in violation of section 714.16, subsection 2, paragraph "a".

Sec. 11. NEW SECTION. 322G.11 DEALER LIABILITY.

This chapter does not impose any liability on a franchised motor vehicle dealer or create a cause of action by a consumer against a dealer. A dealer shall not be made a party defendant in any action involving or relating to this chapter, except as provided in this section. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including but not limited to any refunds or vehicle replacements, incurred by the manufacturer

pursuant to this chapter, in the absence of a finding by a court that the related repairs had been carried out by the dealer in a manner substantially inconsistent with the manufacturer's published instructions. A manufacturer who is found by a court to have improperly charged back a dealer because of a violation of this section is liable to the injured dealer for full reimbursement plus reasonable costs and any attorney's fees.

Sec. 12. NEW SECTION. 322G.12 RESALE OF RETURNED VEHICLES.

Subsequent to December 31, 1991, a manufacturer who accepts the return of a motor vehicle pursuant to a settlement, determination, or decision under this chapter shall notify the state department of transportation and report the vehicle identification number of that motor vehicle within ten days after the acceptance. The state department of transportation shall note the fact that the motor vehicle was returned pursuant to this chapter on the title for the motor vehicle. A person shall not knowingly lease; or sell, either at wholesale or retail; or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or a similar statute of any other state unless the nature of the non-conformity is clearly and conspicuously disclosed to the prospective transferee, lessee, or buyer. The attorney general shall prescribe by rule the form, content, and procedure pertaining to such a disclosure statement, recognizing the need of manufacturers to implement a uniform disclosure form. The manufacturer shall make a reasonable effort to ensure that such disclosure is made to the first subsequent retail buyer or lessee. For purposes of this subsection, "settlement" includes an agreement entered into between the manufacturer and the consumer that occurs after the dispute has been submitted to a manufacturer-established program, but does not include agreements reached in informal proceedings prior to the first written or oral presentation to the certified program by either party.

Sec. 13. NEW SECTION. 322G.13 CERTAIN AGREEMENTS VOID.

Any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth in this chapter is void as contrary to public policy.

Sec. 14. NEW SECTION. 322G.14 RULEMAKING AUTHORITY.

1. The attorney general shall adopt rules as necessary to implement this chapter.
2. In prescribing rules and forms under this chapter, the attorney general may cooperate with agencies that perform similar functions in other states with a view to effectuating the policy of this chapter to achieve maximum uniformity in the form and content of certification, regulation, and procedural evaluation of manufacturer-established programs, required record-keeping, required reporting wherever practicable, and required notices to consumers.

Sec. 15. NEW SECTION. 322G.15 EFFECTIVE DATES.

This Act applies to motor vehicles originally purchased or leased in this state by consumers on or after July 1, 1991. Section 14, which concerns rulemaking, shall take effect upon enactment.

Sec. 16. Chapter 322E, Code 1991, is repealed.

Approved May 9, 1991

CHAPTER 154**REPORTING ON STATE PARKS AND PRESERVES***H.F. 577*

AN ACT relating to required reporting on state parks and preserves.

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

Section 1. Section 455A.4, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Submit a report to the natural resource commission before January 15, 1992, and every five years thereafter, which shall include but not be limited to information on the following topics:

(1) The classification of the state's parks, recreation areas, and preserves and recommendations for their reclassification based upon present and future use.

(2) Methods for maintaining the diversity of animal and plant life in state parks, recreation areas, and preserves.

(3) Options to achieve controlled deer hunting in order to prevent overpopulation of deer.

(4) Prevention of economic damage to private property which is located adjacent to state parks, recreation areas, and preserves.

The portion of the report dealing with preserves shall be prepared in conjunction with the state advisory board for preserves. A copy of the report shall be made available to members of the general assembly by sending a copy of the report to the chief clerk of the house of representatives, the secretary of the senate, and the director of each of the caucus or research staffs of the general assembly.

Approved May 9, 1991

CHAPTER 155**HAZARDOUS WASTE AND HAZARDOUS SUBSTANCE DISPOSAL SITES***H.F. 649*

AN ACT relating to hazardous waste and hazardous substance disposal sites.

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

Section 1. Section 455B.381, subsection 2, Code 1991, is amended to read as follows:

2. "Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. For purposes of this division, a site which is ~~an abandoned or uncontrolled~~ a hazardous waste or hazardous substance disposal site as defined in section 455B.411, subsection 1, is a hazardous condition.

Sec. 2. Section 455B.411, subsection 1, Code 1991, is amended to read as follows:

1. "~~Abandoned or uncontrolled~~ Hazardous waste or hazardous substance disposal site" means real property which has been used for the disposal of hazardous waste or hazardous substances either illegally or prior to regulation as a hazardous waste or a hazardous substance under this chapter part and any adjoining real property and groundwater affected by the disposal activities.

Sec. 3. Section 455B.423, subsection 2, paragraphs a, b, and e, Code 1991, are amended to read as follows:

a. Administrative services for the identification, assessment and cleanup of ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites.~~

b. Payments to other state agencies for services consistent with the management of ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites.~~

e. Financing the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs of ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites~~ that do not qualify for federal cost-sharing pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.

Sec. 4. Section 455B.423, subsection 3, Code 1991, is amended to read as follows:

3. Neither the state nor its officers, employees, or agents are liable for an injury caused by a dangerous condition at an ~~abandoned or uncontrolled a hazardous waste or hazardous substance disposal site~~ unless the condition is the result of gross negligence on the part of the state, its officers, employees, or agents.

Sec. 5. Section 455B.423, subsection 5, Code 1991, is amended to read as follows:

5. Moneys shall not be used from the fund for ~~abandoned hazardous waste or hazardous substance disposal site~~ cleanup unless the director has made all reasonable efforts to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators of ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites~~ or other responsible persons.

Sec. 6. Section 455B.424, subsection 4, paragraph c, Code 1991, is amended to read as follows:

c. Hazardous wastes created or retrieved as a result of remedial actions at an ~~abandoned or uncontrolled a hazardous waste or hazardous substance disposal site.~~

Sec. 7. Section 455B.426, Code 1991, is amended to read as follows:

455B.426 REGISTRY OF ABANDONED HAZARDOUS WASTE OR UNCONTROLLED HAZARDOUS SUBSTANCE DISPOSAL SITES.

1. The director shall maintain and make available for public inspection a registry of confirmed ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites~~ in the state. The director shall take all necessary action to ensure that the registry provides a complete listing of all sites. The registry shall contain the exact location of each site and identify the types of waste found at each site.

2. The director shall investigate all known or suspected ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites~~ and determine whether each site should be included in the registry. In the evaluation of known or suspected ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites~~, the director may enter private property and perform tests and analyses in the manner provided in section 455B.416.

Sec. 8. Section 455B.427, subsections 1, 4, and 5, Code 1991, are amended to read as follows:

1. The director shall annually on January 1 transmit a report to the general assembly and the governor identifying all ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites~~ in the state listed on the registry. A copy of the report shall also be sent to the board of supervisors of every county containing a site.

4. A site classified as properly closed under subsection 3, paragraph "e", shall be removed from all subsequent annual reports and the register of ~~abandoned or uncontrolled hazardous waste or hazardous substance disposal sites.~~

5. The director shall work with the Iowa department of public health when assessing the effects of an ~~abandoned or uncontrolled a hazardous waste or hazardous substance disposal site~~ on human health.

Sec. 9. Section 455B.428, subsections 1 and 2, Code 1991, are amended to read as follows:

1. The director shall investigate each abandoned or uncontrolled hazardous waste or hazardous substance disposal site listed in the registry to determine its relative priority.

2. The director shall identify each abandoned or uncontrolled hazardous waste or hazardous substance disposal site by providing all of the following:

- a. The address and site boundaries.
- b. The time period of use for disposal of hazardous waste or hazardous substances.
- c. The name of the current owner and operator and names of reported owners and operators during the time period of use for disposal of hazardous waste or hazardous substances.
- d. The names of persons responsible for the generation and transportation of the hazardous waste or hazardous substances disposed of at the site.
- e. The type, quantity and manner of hazardous waste or hazardous substances disposal.

Sec. 10. Section 455B.430, subsections 1, 2, 3, and 5, Code 1991, are amended to read as follows:

1. A person shall not substantially change the manner in which an abandoned or uncontrolled a hazardous waste or hazardous substance disposal site on the registry pursuant to section 455B.426 is used without the written approval of the director.

2. A person shall not sell, convey, or transfer title to an abandoned or uncontrolled a hazardous waste or hazardous substance disposal site which is on the registry pursuant to section 455B.426 without the written approval of the director. The director shall respond to a request for a change of ownership within thirty days of its receipt.

3. Decisions of the director concerning the use or transfer of an abandoned or uncontrolled a hazardous waste or hazardous substance disposal site may be appealed in the manner provided in section 455B.429.

5. Immediately upon the listing of real property in the registry of abandoned or uncontrolled hazardous waste or hazardous substance disposal sites, a person liable for cleanup costs shall submit to the director a report consisting of documentation of the responsible person's liabilities and assets, including if filed, a copy of the annual report submitted to the secretary of state pursuant to chapter 490. A subsequent report pursuant to this section shall be submitted annually on April 15 for the period the site remains on the registry.

Sec. 11. Section 455B.467, subsection 2, Code 1991, is amended to read as follows:

2. When the materials sought to be disposed of resulted from remediation or cleanup of abandoned or uncontrolled hazardous waste or hazardous substance disposal sites.

Approved May 9, 1991

CHAPTER 156

COUNTY AGRICULTURAL EXTENSION EDUCATION TAX

H.F. 691

AN ACT relating to the county agricultural extension education tax by adjusting the maximum levy and increasing the maximum dollar amount of property tax revenue which may be raised, and providing effective and applicability dates.

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

Section 1. Section 176A.10, Code 1991, is amended to read as follows:

176A.10 COUNTY AGRICULTURAL EXTENSION EDUCATION TAX.

The extension council of each extension district shall, at a regular or special meeting held in January in each year, estimate the amount of money required to be raised by taxation for financing the county agricultural extension education program authorized in this chapter. The

annual tax levy and the amount of money to be raised from such the levy for the county agricultural extension education fund shall not exceed the following:

1. a. ~~For Except as provided in paragraph "b", for an extension district having a population of less than thirty thousand, an annual levy not to exceed of twenty and one-fourth cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of fifty-five thousand dollars for the fiscal year commencing July 1, 1982, sixty thousand dollars for the fiscal year commencing July 1, 1983, sixty-five thousand dollars for the fiscal year commencing July 1, 1984, seventy thousand dollars for the fiscal year commencing July 1, 1985, and seventy-five thousand dollars for each subsequent fiscal year.~~

b. For an extension district having a population of less than thirty thousand and as provided in subsection 6, an annual levy of thirty cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of eighty-seven thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of six thousand dollars in the amount payable during each subsequent fiscal year.

2. a. ~~For Except as provided in paragraph "b", for an extension district having a population of thirty thousand or more but less than fifty thousand population, an annual levy not to exceed of twenty and one-fourth cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of sixty-six thousand dollars for the fiscal year commencing July 1, 1982, seventy-two thousand dollars for the fiscal year commencing July 1, 1983, seventy-eight thousand dollars for the fiscal year commencing July 1, 1984, eighty-four thousand dollars for the fiscal year commencing July 1, 1985, and ninety thousand dollars for each subsequent fiscal year.~~

b. For an extension district having a population of thirty thousand or more but less than fifty thousand and as provided in subsection 6, an annual levy of twenty and one-fourth cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred four thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of seven thousand dollars in the amount payable during each subsequent fiscal year.

3. a. ~~For Except as provided in paragraph "b", for an extension district having a population of fifty thousand or more but less than one hundred ninety-five thousand population, an annual levy not to exceed of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of eighty-two thousand five hundred dollars for the fiscal year commencing July 1, 1982, ninety thousand dollars for the fiscal year commencing July 1, 1983, ninety-seven thousand five hundred dollars for the fiscal year commencing July 1, 1984, one hundred five thousand dollars for the fiscal year commencing July 1, 1985, and one hundred twelve thousand five hundred dollars for each subsequent fiscal year.~~

b. For an extension district having a population of fifty thousand or more but less than ninety thousand and as provided in subsection 6, an annual levy of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred thirty thousand five hundred dollars payable during the fiscal year commencing July 1, 1992, and an increase of nine thousand dollars in the amount payable during each subsequent fiscal year.

4. a. ~~For Except as provided in paragraph "b", for an extension district having a population of one hundred ninety-five thousand or more, an annual levy not to exceed of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred ten thousand dollars for the fiscal year commencing July 1, 1982, one hundred twenty thousand dollars for the fiscal year commencing July 1, 1983, one hundred thirty thousand dollars for the fiscal year commencing July 1, 1984, one hundred forty thousand dollars for the fiscal year commencing July 1, 1985, and one hundred fifty thousand dollars for each subsequent fiscal year.~~

b. For an extension district having a population of ninety thousand or more but less than two hundred thousand and as provided in subsection 6, an annual levy of thirteen and one-half

cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred eighty thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of fifteen thousand dollars in the amount payable during each subsequent fiscal year.

5. For an extension district having a population of two hundred thousand or more and as provided in subsection 6, an annual levy of five cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of two hundred thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of twenty-five thousand dollars in the amount payable during each subsequent fiscal year.

6. An extension council of an extension district may choose to be subject to the levy and revenue limits specified in paragraphs "b" of subsections 1, 2, 3, and 4 and subsection 5 for the purpose of the annual levy for the fiscal year commencing July 1, 1991. Before an extension district may be subject to the levy and revenue limits specified in paragraphs "b" of subsections 1, 2, 3, and 4 and subsection 5, for fiscal years beginning on or after July 1, 1992, the question of whether the district shall be subject to the levy and revenue limits as specified in such subsections must be submitted to the registered voters of the district. The question shall be submitted at the time of a state general election. If the question is approved by a majority of those voting on the question the levy and revenue limits specified in paragraphs "b" of subsections 1, 2, 3, and 4 and subsection 5, shall thereafter apply to the extension district. The question need only be approved at one state general election. If a majority of those voting on the question vote against the question, the district may continue to submit the question at subsequent state general elections until approved.

The extension council in each extension district shall comply with the provisions of chapter 24.

Sec. 2. Section 1 of this Act applies to property taxes levied for the fiscal year beginning July 1, 1991, which are payable in the fiscal year beginning July 1, 1992, and applies to property taxes levied for each subsequent fiscal year.

Approved May 9, 1991

CHAPTER 157

ARTS AND CULTURAL ENHANCEMENT AND ENDOWMENT PROGRAM

S.F. 268

AN ACT establishing the arts and cultural enhancement and endowment program.

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

Section 1. INTENT. The general assembly finds the following:

1. The purpose of the programs supported by the department of cultural affairs and the state's arts and cultural organizations is to encourage and broaden public appreciation of and education and involvement in cultural activities.

2. The mechanisms to provide state funding for cultural activities in Iowa already exist; what is needed is increased financial support of arts and cultural programs.

3. The arts division of the department of cultural affairs utilizes public input in the formulation and review of state arts policies and programs.

4. The number and variety of private and public sector efforts now committed to further strengthening the artistic and cultural life of Iowa both attest to the health of the state's artistic and cultural life and at the same time increase the responsibility of the department of cultural affairs to ensure that the efforts are coordinated, cost-efficient, and not duplicative.

SUBCHAPTER I
DEFINITIONS AND FINANCING

Sec. 2. NEW SECTION. 303C.1 DEFINITIONS.

For the purposes of this chapter, the following definitions apply:

1. "Arts" means music, dance, theater, opera and music theater, visual arts, literature, design arts, media arts, and folk and traditional arts.
2. "Culture" or "cultural" means programs and activities which explore past and present human experience.
3. "Department" means the department of cultural affairs.
4. "Endowment account" means the arts and cultural endowment account established in section 303C.2, which consists of funds received from private sources, and which may include funds appropriated by the general assembly.
5. "Endowment program" means the arts and cultural endowment program established in section 303C.7.
6. "Enhancement account" means the arts and cultural enhancement account established in section 303C.2, which consists, upon the making of an appropriation by the general assembly, of public funds.
7. "Enhancement program" means the arts and cultural enhancement program created in section 303C.3.
8. "Foundation" means the arts and cultural endowment foundation established in section 303C.7.

Sec. 3. NEW SECTION. 303C.2 IOWA ARTS AND CULTURAL ENHANCEMENT AND ENDOWMENT ACCOUNTS ESTABLISHED.

The Iowa arts and cultural enhancement account and the Iowa arts and cultural endowment account are established in the office of the treasurer of state. The moneys deposited in each account shall be invested by the treasurer of state in investments authorized for the Iowa public employees' retirement fund in section 97B.7. Interest earned on each account shall be transferred to the credit of that account. The provisions of section 8.33 do not apply to the accounts.

1. ENHANCEMENT ACCOUNT. The enhancement account shall be administered by the arts division of the department for purposes of the enhancement program described in section 303C.3.

Upon the making of an appropriation by the general assembly for deposit in the enhancement account, funds in the enhancement account shall be used as follows: eighty percent shall be available for distribution on a matching basis to nonprofit organizations pursuant to section 303C.4; fifteen percent shall be available for distribution as block grants to qualified organizations pursuant to section 303C.5; and five percent shall be available to the arts division for the administration of the regional conferences and the statewide caucus on arts and cultural enhancement pursuant to section 303C.6 and for the administration of the enhancement program.

2. ENDOWMENT ACCOUNT. The endowment account shall be administered by the endowment foundation established in section 303C.7, subsection 2, for purposes of the endowment program established in section 303C.7, subsection 1.

Beginning in 1993, the endowment foundation shall, annually, on July 1, certify to the department of management and the legislative fiscal bureau, the amount of funds received from private sources for use in the endowment program. The general assembly may appropriate funds to the endowment account. However, the use of funds in the endowment account described in this subsection is not contingent upon the making of an appropriation by the general assembly.

Only the interest on the funds in the endowment account is available for use for the endowment program, and shall be allocated as follows: ninety-five percent for distribution for grants, fellowships, and scholarships to nonprofessional, professional, and student artists pursuant to section 303C.7, subsection 1; and five percent to the endowment foundation established in section 303C.7, subsection 2, for the administration of the endowment program.

SUBCHAPTER II
ENHANCEMENT PROGRAM

Sec. 4. NEW SECTION. 303C.3 ARTS AND CULTURAL ENHANCEMENT PROGRAM CREATED.

The arts and cultural enhancement program is created within the department and administered by the arts division. Upon the making of an appropriation by the general assembly, funds in the enhancement account established in section 303C.2, subsection 1, are available for the purposes of this subchapter. The enhancement program consists of the following:

1. Matching funds provided to nonprofit organizations.
2. Block grants provided to qualified organizations.
3. Regional conferences and statewide caucus held on arts and cultural enhancement.

Sec. 5. NEW SECTION. 303C.4 MATCHING FUNDS PROVIDED TO NONPROFIT ORGANIZATIONS.

Enhancement account funds shall be available, upon certification by the department of the availability of matching funds from private sources, to nonprofit organizations for the purposes of education, outreach, and enhancement. An organization proposing a program must have available funds from private sources in order to receive an equal amount of public funds contained in the enhancement account. The department shall consider the recommendations of the caucus on arts and cultural enhancement made pursuant to section 303C.6, and the recommendations of the advisory council created in section 303C.5, and shall adopt rules pursuant to chapter 17A governing the distribution of funds to organizations. Proposed programs shall do at least one of the following:

1. **EDUCATION.** Provide for the development or expansion of essential nonrevenue producing arts or cultural educational programs which would supplement an existing curriculum.
2. **OUTREACH.** Provide for one or more of the following:
 - a. **RURAL ACCESS.** Allow cultural resources to be available to small communities which lack arts and cultural resources.
 - b. **SOCIAL AWARENESS.** Assist in programs enabling arts organizations to participate in and encourage a healthy community environment.
 - c. **CULTURAL DIVERSITY.** Increase the awareness and acceptance of cultural diversity through arts and culture.
 - d. **SERVING SPECIAL POPULATIONS.** Provide programs and innovative projects for the following, including but not limited to: at-risk youth, talented and gifted persons, underserved persons, disabled persons, senior citizens, or other special needs persons.
3. **ENHANCEMENT.** Provide for one or more of the following:
 - a. **PROGRAM ENHANCEMENT.** Allow arts and cultural organizations to improve or enhance the quality of programs currently offered.
 - b. **ARTIST AND ARTS EDUCATORS ENHANCEMENT.** Fund projects which would increase and support professional and student artists, and arts educators.

Sec. 6. NEW SECTION. 303C.5 BLOCK GRANTS PROVIDED TO QUALIFIED ORGANIZATIONS.

1. Enhancement account funds shall be available for distribution to qualified organizations for the purposes of enhancing the quality of local arts and cultural programs. In order to qualify for a block grant, an organization must represent at least seventy percent of its defined membership. The department shall adopt rules pursuant to chapter 17A governing the distribution of block grants.

2. An advisory council consisting of organizations funded by the department pursuant to this section, and representatives of the Iowa assembly for local arts agencies, Iowa alliance for arts education, Iowa arts coalition, the Iowa museum association, the chairperson of the statewide caucus, the department of education, and the Iowa humanities board is established. The advisory council shall review and advise the department regarding the awarding of funds pursuant to section 303C.4.

Sec. 7. NEW SECTION. 303C.6 REGIONAL CONFERENCES AND STATEWIDE CAUCUS ON ARTS AND CULTURAL ENHANCEMENT.

1. The department shall administer the regional conferences and statewide caucus on arts and cultural enhancement. The purpose of the conferences and caucus is to guide the development of the arts and cultural enhancement program by identifying opportunities for programs regarding education, outreach, and enhancement, by reviewing any recommended changes in enhancement program policies, programs, and funding, and by making recommendations to the department regarding distribution of matching funds to nonprofit organizations pursuant to section 303C.4.

2. Biennially, during odd-numbered years, the department shall convene a statewide caucus on arts and cultural enhancement. The caucus shall be held for one day during the month of June in the capitol complex, Des Moines.

a. Prior to a caucus, the department shall make arrangements to hold a conference in each of six regions of the state as defined by the Iowa arts council. The department shall promote attendance of interested persons at each conference. A designee of the department shall call each conference to order and serve as temporary chairperson until persons attending elect a chairperson. The department shall provide persons attending with current information regarding cultural enhancement programs and expenditures. Persons attending shall identify opportunities for programs in the areas of education, outreach, and enhancement and review recommended changes in enhancement account policies, programs, and funding, and make recommendations in the form of a resolution. The persons attending each conference shall elect six persons to serve as delegates to the caucus, and one person to serve as chairperson of the region. The selection of persons at each conference to serve as delegates to the caucus shall conform to the gender balance requirements of section 69.16A.

b. A designee of the department shall call the caucus to order and serve as temporary chairperson until persons attending the caucus elect a chairperson. Persons attending the caucus shall discuss the recommendations of the regional conferences and decide upon recommendations to be made to the department. Elected chairpersons of the regional conferences shall meet with representatives of the department and present the recommendations of the caucus.

3. The expenses of the department in making the arrangements for and the conducting of the conferences and the caucus, and the expenses of the delegates at the caucus shall be paid from funds in the enhancement account designated for purposes of the regional conferences and caucus.

**SUBCHAPTER III
ENDOWMENT PROGRAM**

Sec. 8. NEW SECTION. 303C.7 ARTS AND CULTURAL ENDOWMENT PROGRAM ESTABLISHED, ARTS AND CULTURAL ENDOWMENT FOUNDATION ESTABLISHED.

1. The arts and cultural endowment program is established. The arts and cultural endowment foundation established in this section shall administer the endowment program and shall adopt rules pursuant to chapter 17A to fulfill the purposes of this section. Interest on the funds in the endowment account established in section 303C.2, subsection 2, is available for the purposes of this section. The endowment foundation shall establish criteria for the awarding of grants, fellowships, and scholarships to nonprofessional, professional, and student artists to develop, encourage, and enhance the arts and cultural programs in the state, upon submission of a proposal by the artist. The artist shall request no more than twenty-five thousand dollars in the proposal.

2. The arts and cultural endowment foundation is established. The exercise of the powers granted to the endowment foundation in this chapter is an essential governmental function. The administrative functions of the endowment foundation shall be performed by persons appointed in equal number by the department and the Iowa humanities board. The persons appointed shall elect the officers of the endowment foundation. The endowment foundation shall be located in the department's offices. The endowment foundation may solicit and accept gifts, grants,

donations, bequests, and in-kind contributions for deposit in the endowment account. The endowment foundation shall, to the extent possible, use gifts, donations, and bequests in accordance with the expressed desires of the person making the gift, donation, or bequest.

Sec. 9. Section 303.1, subsection 2, paragraph i, Code 1991, is amended by striking the paragraph.

Sec. 10. Section 303.2, subsection 4, paragraph d, Code 1991, is amended by striking the paragraph.

Sec. 11. Section 303.87, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 12. TRANSFER OF FUNDS. Notwithstanding the nonreversion provision in section 99E.32, subsection 7, and the reversion provision in 1990 Iowa Acts, chapter 1255, section 37, subsection 2, moneys appropriated to the department of cultural affairs and allocated for the artists endowment program which are not used by or on the effective date of this Act shall be deposited by the department in equal amounts in the enhancement account and the endowment account created in this Act.

Sec. 13. Sections 303.89 and 303.90, Code 1991, are repealed.

Approved May 10, 1991

CHAPTER 158

MEDICAL ASSISTANCE PROGRAM

S.F. 343

AN ACT relating to the medical assistance program.

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

Section 1. Section 249A.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. "Group health plan cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, a deductible amount, or any other cost sharing obligation for a group health plan as required by Title XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. § 1396e.

Sec. 2. Section 249A.2, subsection 7, Code 1991, is amended to read as follows:

7. "~~Medicare cost sharing~~ cost sharing" means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal medicare as ~~required~~ provided by Title XIX of the federal Social Security Act, section 1905(p)(3), as codified in 42 U.S.C. § 1396d(p)(3).

Sec. 3. Section 249A.3, subsection 8, Code 1991, is amended to read as follows:

8. Medicare cost sharing shall be provided to or on behalf of an individual who is a resident of the state or a resident who is temporarily absent from the state and who is either a qualified medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1905(p)(1), as codified in 42 U.S.C. § 1396d(p)(1) or a qualified disabled and working person as defined under Title XIX of the federal Social Security Act, section 1905(s), as codified in 42 U.S.C. § 1396d(s).

Sec. 4. Section 249A.3, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Group health plan cost sharing shall be provided as required by Title XIX of the federal Social Security Act, section 1906, as codified in 42 U.S.C. § 1396e.

Sec. 5. Section 249A.4, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION. 14.** In implementing subsection 9, relating to reimbursement for medical and health services under this chapter, when a selected out-of-state acute care hospital facility is involved, a contractual arrangement may be developed with the out-of-state facility that is in accordance with the requirements of Titles XVIII and XIX of the federal Social Security Act. The contractual arrangement is not subject to other reimbursement standards, policies, and rate setting procedures required under this chapter.

Sec. 6. **NEW SECTION. 249A.20 ENHANCED MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES PLAN OVERSIGHT COMMITTEE.**

1. For purposes of this section and section 249A.21, "oversight committee" means the enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee and "candidate service" means day treatment, partial hospitalization, and case management. Case management is limited to persons with mental retardation, a developmental disability, or chronic mental illness.

2. An enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is created in the department to assure that the services plan is implemented within identified, budgeted, and appropriated funds.

3. The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and are subject to approval by the governor. The director of human services and the administrator of the division of mental health, mental retardation, and developmental disabilities or their designees shall be members. Three members shall be designated by the Iowa state association of counties. One member shall be designated by the state mental health and mental retardation commission. One member shall be designated by the governor's planning council on developmental disabilities. Members shall serve staggered three-year terms and vacancies shall be filled in the same manner as the initial appointment. Members are entitled to actual and necessary expenses.

4. The oversight committee shall do all of the following:

a. Take action on whether to include behavior management as a candidate service in the state medical assistance plan amendment, to develop a federal waiver request for behavior management as a candidate service, or to take no action to include behavior management as a covered service. Decisions shall be based upon a determination of the availability of funds for the nonfederal share of the cost of the service.

b. Explore and make recommendations regarding the submission to the federal government of a state medical assistance plan waiver for any candidate services which are not accepted by the federal government as a state medical assistance plan amendment.

c. Explore and make recommendations regarding the submission to the federal government of a state medical assistance plan waiver for any services provided to persons with mental retardation, a developmental disability, or chronic mental illness.

d. Review and make recommendations regarding the county case management implementation plan and budget to the state mental health and mental retardation commission.

e. Track the expenditures for, and utilization of, candidate services. Report a variance in an approved plan to the governor, the legislative fiscal bureau, and each county.

f. Recommend action regarding variations from the budgeted, appropriated, and identified expenditures and projected expenditure offsets to the council on human services and the state mental health and mental retardation commission.

g. Submit a report regarding the results of the implementation of the provisions of this section, including the impact upon the institutional populations, to the governor and the general assembly. The report shall contain recommendations regarding continuing the provisions of this section in subsequent fiscal years.

h. Recommend rules, or amendments to existing rules, which implement the provisions of this section, to the council on human services and the state mental health and mental retardation commission.

i. Develop a methodology to determine the base year expenditure for a county maintenance of effort established pursuant to section 249A.21 which includes an amount for each of the candidate services.

j. Issue a final advisory decision regarding any issue of disagreement between a county and the department relating to expenditures for candidate services or the county's maintenance of effort.

Sec. 7. NEW SECTION. 249A.21 CANDIDATE SERVICES FUND.

1. A state candidate services fund is created in the office of the treasurer of state under the authority of the department. The fund shall consist of moneys appropriated to the fund and moneys received from counties pursuant to this section. Notwithstanding section 8.33, moneys in the candidate services fund which are unobligated or unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain in the candidate services fund and be used for the purposes of this section. Any interest or other earnings on the moneys in the candidate services fund shall remain in the candidate services fund and shall be used for the purposes of this section.

2. The county of legal settlement shall be billed for fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, chronic mental illness does not include organic mental disorders.

3. If a county's expenditures for candidate services provided to persons with mental retardation, a developmental disability, or chronic mental illness exceeds the county's base year expenditure amount for these services established under 1988 Iowa Acts, chapter 1276, section 14, the county shall receive from the candidate services fund the least amount of the following:

a. The difference between the county's total expenditures for the candidate services in the fiscal year and the base year expenditure amount.

b. The amount expended by the county under subsection 2.

c. The amount by which the total expenditures for persons with mental retardation, a developmental disability, or chronic mental illness for a fiscal year, exceeds the maintenance of effort expenditures established under 1988 Iowa Acts, chapter 1276, section 14.

Sec. 8. NEW SECTION. 249A.22 INDEMNITY FOR CASE MANAGEMENT AND DISALLOWED COSTS.

1. If the department contracts with a county or consortium of counties to provide case management services funded under medical assistance, the state shall appear and defend the department's employees and agents acting in an official capacity on the department's behalf and the state shall indemnify the employees and agents for acts within the scope of their employment. The state's duties to defend and indemnify shall not apply if the conduct upon which any claim is based constitutes a willful and wanton act or omission or malfeasance in office.

2. If the department is the case management contractor, the state shall be responsible for any costs included within the unit rate for case management services which are disallowed for medical assistance reimbursement by the federal health care financing administration. The contracting county shall be credited for the county's share of any amounts overpaid due to the disallowed costs. However, if certain costs are disallowed due to requirements or preferences of a particular county in the provision of case management services, the county shall not receive credit for the amount of the costs.

Sec. 9. Section 249B.1, subsection 6, Code 1991, is amended to read as follows:

6. "Medical assistance" means "medical assistance", "additional medical assistance", "discretionary medical assistance" or "~~medicare cost-sharing~~ cost sharing" as defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Title XIX of the federal Social Security Act.

Sec. 10. Section 421.38, subsection 1, Code 1991, is amended to read as follows:

1. **THREE MONTHS LIMIT.** A claim shall not be allowed by the department of revenue and finance if the claim is presented after the lapse of three months from its accrual. However, claims this time limit is subject to the following exceptions:

a. Claims by state employees for benefits pursuant to chapters 85, 85A, and 86 are subject to limitations provided in those chapters.

b. Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department.

Sec. 11. **LEGISLATIVE INTENT.** 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.

Approved May 10, 1991

CHAPTER 159

TAX ADMINISTRATION — DEPARTMENT OF REVENUE AND FINANCE

S.F. 356

AN ACT relating to the procedures, confidentiality, penalties, refunds, and nonsubstantive changes for taxes administered by the department of revenue and finance, relating to refunds of the environmental protection charge, and providing effective dates.

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

Section 1. Section 257.21, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the ~~tax~~ taxes computed under section 422.5, less the ~~deductions~~ credits allowed in sections ~~422.10 through 422.11A, 422.11B, 422.11C, 422.12, and 422.12B.~~

Sec. 2. Section 324.65, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~The appropriate state agency shall not remit any part of a penalty for delinquent payment if the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn.~~ A report required of licensees or persons operating under division III, upon which no tax is due, is subject to a penalty of ten dollars if the report is not timely filed with the state department of transportation.

Sec. 3. Section 421.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 32. To ensure that persons employed under contract, other than officers or employees of the state, who provide assistance in administration of tax laws and who are directly under contract or who are involved in any way with work under the contract and who have access to confidential information are subject to applicable requirements and penalties of tax information confidentiality laws of the state regarding all tax return, return information, or investigative or audit information that may be required to be divulged in order to carry out the duties specified under the contract.

Sec. 4. Section 421.27, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The penalties imposed under this ~~section~~ subsection are not subject to waiver.

Sec. 5. Section 421.27, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If a person fails to remit at least ninety percent of the tax required to be shown due by the time an extension for further time to file a return is made, there shall be added to the tax shown due or required to be shown due a penalty of ten percent of the tax due.

Sec. 6. Section 421.27, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If a person fails to remit payment of taxes in the form required by the rules of the director, there shall be added to the amount of the tax a penalty of five percent of the amount of tax shown due or required to be shown due. The penalty imposed by this subsection shall be waived if the taxpayer did not receive notification of the requirement to remit tax payments electronically or if the electronic transmission of the payment was not in a format or by means specified by the director and the payment was made before the taxpayer was notified of the requirement to remit tax payments electronically.

Sec. 7. Section 422.5, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is seven thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses or five thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than seven thousand five hundred dollars or five thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of seven thousand five hundred dollars or five thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds seven thousand five hundred 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 seven thousand five hundred 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 seven thousand five hundred dollars or five thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable.

Sec. 8. Section 422.6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The tax imposed by section 422.5 less the ~~credit~~ credits allowed under ~~section~~ sections 422.10, 422.11A, 422.11B, and 422.11C, and the personal exemption credit allowed under section 422.12 apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries.

Sec. 9. Section 422.9, subsection 2, paragraph f, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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 federal Civil Rights Act of 1964 and chapter 601A. As used in this lettered 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 net income, as properly computed for federal state 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 net income of the taxpayer and spouse is forty-five thousand dollars or more.

Sec. 10. Section 422.10, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Any credit in excess of the tax liability imposed by section 422.5 less personal exemption and child care the credits provided in section allowed under sections 422.11A, 422.11C, 422.12, and 422.12B for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

Sec. 11. Section 422.11A, Code 1991, is amended to read as follows:

422.11A NEW JOBS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.10 and 422.12 and 422.12B, shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 280B and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 20, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. An individual may claim the new jobs tax credit allowed a partnership, subchapter S corporation, or estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, or estate or trust. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted, whichever is the earlier. For purposes of this section, "agreement", "industry", "new job" and "project" mean the same as defined in section 280B.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 280B on the date of that agreement.

Sec. 12. Section 422.11C, subsection 1, Code 1991, is amended to read as follows:

1. The taxes imposed under this division less the credits allowed under sections 422.10, 422.11A, 422.11B, 422.12, and 422.12B, shall be reduced by a seed capital credit. An individual

may claim the seed capital credit allowed a partnership, subchapter S corporation, or estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust.

Sec. 13. Section 422.12, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

For those who do not itemize their ~~deduction~~ deductions, 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 federal Civil Rights Act of 1964 and chapter 601A. As used in this subsection, "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 sections 422.12 and 422.12B~~ shall be deducted before the tuition credit under this subsection. The credit in this subsection does not apply to a taxpayer whose adjusted gross net income, as properly computed for federal state 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 net income of the taxpayer and spouse is forty-five thousand dollars or more.

Sec. 14. Section 422.12B, subsection 1, Code 1991, is amended to read as follows:

1. The taxes imposed under this division, less the credits allowed under ~~sections 422.10 through section 422.12~~, shall be reduced by an earned income credit equal to six and one-half percent of the federal earned income credit received by the taxpayer under section 32(b) of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable.

Sec. 15. Section 422.12C, subsections 1 and 3, Code 1991, are amended to read as follows:

1. The taxes imposed under this division, less the credits allowed under ~~sections 422.10 through 422.11A, 422.11B, 422.11C, 422.12, and 422.12B~~ shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

- a. For a taxpayer with an adjusted gross net income of less than ten thousand dollars, seventy-five percent.
- b. For a taxpayer with an adjusted gross net income of ten thousand dollars or more but less than twenty thousand dollars, sixty-five percent.
- c. For a taxpayer with an adjusted gross net income of twenty thousand dollars or more but less than twenty-five thousand dollars, fifty-five percent.
- d. For a taxpayer with an adjusted gross net income of twenty-five thousand dollars or more but less than thirty-five thousand dollars, fifty percent.
- e. For a taxpayer with an adjusted gross net income of thirty-five thousand dollars or more but less than forty thousand dollars, forty percent.
- f. For a taxpayer with an adjusted gross net income of forty thousand dollars or more but less than forty-five thousand dollars, thirty percent.
- g. For a taxpayer with an adjusted gross net income of forty-five thousand dollars or more but less than fifty thousand dollars, twenty percent.
- h. For a taxpayer with an adjusted gross net income of fifty thousand dollars or more, ten percent.

3. Married taxpayers who have filed joint federal returns electing to file separate returns or to file separately on a combined return form must determine the child and dependent care credit under subsection 1 based upon their combined adjusted gross net income and allocate the total credit amount to each spouse in the proportion that each spouse's respective adjusted gross net income bears to the total combined adjusted gross net income. Nonresidents or part-year residents of Iowa must determine their Iowa child and dependent care credit in the ratio of their Iowa source net income to their all source net income. Nonresidents or part-year residents who are married and elect to file separate returns or to file separately on a combined return form must allocate the Iowa child and dependent care credit between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers.

Sec. 16. Section 422.20, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 23, 25, and 29, and 32, 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.

Sec. 17. Section 422.21, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Returns shall be in the form the director 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~~. However, co-operative associations as defined in section 6072(d) of the Internal Revenue Code shall file their returns on or before the fifteenth day of the ninth month following the close of the taxable year and nonprofit corporations subject to the unrelated business income tax imposed by section 422.33, subsection 1A, shall file their returns on or before the fifteenth day of the fifth month following the close of the taxable year. If, under the Internal Revenue Code, 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 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 shall show the county of the residence of the taxpayer.

Sec. 18. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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; 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, 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 or animals; 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; pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 19. Section 422.45, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 46. The gross receipts from the sale of property which the seller transfers to a carrier for shipment to a point outside of Iowa, places in the United States mail or parcel post directed to a point outside of Iowa, or transports to a point outside of Iowa by means of the seller's own vehicles, and which is not thereafter returned to a point within Iowa, except solely in the course of interstate commerce or transportation. This exemption shall not apply if the purchaser, consumer, or their agent, other than a carrier, takes physical possession of the property in Iowa.

Sec. 20. Section 422.72, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 23, 25, and 29, and 32, 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.

Sec. 21. NEW SECTION. 423.27 PENALTY FOR WILLFUL FAILURE TO PAY TAX.

A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 with the intent to evade the payment of tax shall be assessed a penalty of seventy-five percent of the amount of tax unpaid and required to be paid on the actual purchase price less trade-in allowance.

Sec. 22. Section 442.15, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The school district income surtax is imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year or the first half of the succeeding calendar year, and is imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the ~~tax~~ taxes computed under section 422.5, less the deductions credits allowed in sections ~~422.10 and 422.11A, 422.11B, 422.11C, 422.12, and 422.12B.~~

Sec. 23. Section 450.9, subsection 1, Code 1991, is amended to read as follows:

1. Surviving spouse, ~~one hundred twenty thousand dollars~~ the entire amount of property, interest in property, and income.

Sec. 24. Section 450.9, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 25. Section 450.10, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When ~~such~~ the property, interest, or income passes to the ~~wife or the husband of the deceased, grantor, donor, or vendor, or to the father or mother, or to any a child or lineal descendant of such the decedent, grantor, donor, or vendor,~~ including a legally adopted child or illegitimate child entitled to inherit under the laws of this state, the tax imposed shall be on the

individual share so passing in excess of the exemptions herein allowed and shall be as follows:

Sec. 26. Section 450.10, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When the property or any interest therein in property or income therefrom from property, taxable under the provisions of this chapter, passes to any a person not included in subsections 1, and 2, hereof and 7, the rate of tax imposed on the individual share so passing shall be as follows:

Sec. 27. Section 450.10, subsection 7, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

7. Property, interest in property, or income passing to the surviving spouse is not taxable under this section.

Sec. 28. Section 450.94, subsection 3, Code 1991, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment. Interest shall be computed at the rate in effect under section 421.7, under the rules prescribed by the director counting each fraction of a month as an entire month and the interest shall begin to accrue on the first day of the second calendar month following the date of payment or on the date the return was due to be filed or was filed, whichever is the latest. However, the director shall not allow a claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is later. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within thirty days from the postmark date of the notice of determination of tax, penalty, and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

Sec. 29. Section 455G.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. For purposes of payment of refunds of the environmental protection charge under section 424.15 by the department of revenue and finance, the treasurer of state shall allocate to the department of revenue and finance the total amount budgeted by the fund's board for environmental protection charge refunds. Any unused funds shall be remitted to the treasurer of state.

Sec. 30. Sections 1 and 22 of this Act are retroactive to January 1, 1990, for tax years beginning on or after that date.

Sec. 31. Sections 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, and 17 of this Act are retroactive to January 1, 1991, for tax years beginning on or after that date.

Sec. 32. Section 6 of this Act is effective July 1, 1991, for tax payments due on or after that date.

Sec. 33. Section 7 of this Act is retroactive to January 1, 1989, for tax years beginning on or after that date.

Sec. 34. Section 28 of this Act is effective July 1, 1991, for estates of decedents dying on or after that date.

Sec. 35. Sections 23, 24, 25, 26, and 27 of this Act are retroactive to January 1, 1988, for estates of decedents dying on or after that date.

Approved May 10, 1991

CHAPTER 160**WORKERS' COMPENSATION SELF-INSURANCE AND OTHER PROVISIONS***S.F. 441*

AN ACT relating to workers' compensation self-insurance, imposing civil and criminal penalties, and providing an appropriation.

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

Section 1. The commissioner of insurance shall adopt by rule pursuant to chapter 17A amendments to the insurance division's existing rules governing relief of employers from mandatory workers' compensation insurance pursuant to section 87.11. The amendments shall generally provide for the following:

1. The commissioner of insurance shall require more timely and higher quality financial information as the basis for risk assessment and determination of minimum security requirements, including, but not limited to:

a. Required annual, quarterly, and material change in circumstances financial filings. Federal securities and exchange commission forms may be accepted for publicly held companies by the commissioner in lieu of the division's forms to avoid unnecessary duplication.

b. Financial statements filed with the division shall be certified by a certified public accountant. Loss reserves and claims history of an employer's self-insurance program shall be certified by an independent actuary.

2. Reasonable protection for confidential proprietary information in financial filings.

3. Eligibility for relief from insurance shall be conditioned upon an employer receiving a minimum score of one on the point system established in 191 IAC 57.3. A self-insurer with an accredited safety program shall receive at least one point. The commissioner of insurance may determine by rule, order, or other agency action what will be accepted by the commissioner of insurance as an accredited safety program.

4. The required security shall be increased to reflect inflation since 1984, and may be increased in the future as necessary to reflect inflation or other changes generally affecting the adequacy of posted security.

5. Terms of acceptable surety bond or alternative forms of financial security shall provide for payment of the division's administrative expenses, up to a maximum of ten percent of the bond or other security.

6. A financial security mechanism other than a surety bond may be accepted by the commissioner if the alternative mechanism provides security of timely payment upon the commissioner's demand equal to a surety bond and is otherwise satisfactory to the commissioner.

Sec. 2. Section 25A.14, subsection 11, Code 1991, is amended to read as follows:

11. Any claim for financial loss based upon an act or omission in financial regulation, including but not limited to examinations, inspections, audits, or other financial oversight responsibilities, pursuant to Titles XIX through XXIII, and chapter 87 of Title V.

Subsection 11 applies to all cases filed on or after July 1, 1986, and does not expand any existing cause of action or create any new cause of action against the state.

Sec. 3. Section 87.11, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A fee of fifty dollars, to be submitted with each filing required by the commissioner of insurance, including but not limited to the annual and quarterly financial statements, and material change statements.

Sec. 4. Section 87.11, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If an employer becomes insolvent and a debtor under 11 U.S.C., on or after January 1, 1990, this paragraph applies. The commissioner of insurance may request of the industrial commissioner that all future payments of workers' compensation weekly benefits, medical expenses, or other payments pursuant to chapter 85, 85A, 85B,

86, or 87 be commuted to a present lump sum. The industrial commissioner shall fix the lump sum of probable future medical expenses and weekly compensation benefits, or other benefits payable pursuant to chapter 85, 85A, 85B, 86, or 87, capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees. The commissioner of insurance shall be discharged from all further liability for the commuted workers' compensation claim upon payment of the present lump sum to either the claimant, or a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant.

NEW UNNUMBERED PARAGRAPH. The commissioner of insurance shall not be required to pay more for all claims of an insolvent self-insured employer than is available for payment of such claims from the security given under this section.

NEW UNNUMBERED PARAGRAPH. Notwithstanding contrary provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payments by the commissioner of insurance from the security given under this section, pursuant to chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection 2.

NEW UNNUMBERED PARAGRAPH. Financial statements provided to the commissioner pursuant to this section may be held as confidential, proprietary trade secrets, pursuant to section 22.7, subsection 3, upon the request of the employer, subject to rules adopted by the commissioner, and are not subject to disclosure or examination under chapter 22.

Sec. 5. NEW SECTION. 87.11A EXAMINATION REQUIRED.

The commissioner may at any time examine or inquire into the affairs of any self-insured employer. A domestic self-insured employer, or a self-insured employer not subject to periodic examination in its state of origin, shall be examined at least once during each three-year period.

Sec. 6. NEW SECTION. 87.11B OBLIGATION TO ASSIST AN EXAMINATION — OATHS.

If a self-insured employer is being examined, the officers, employees, or agents of the employer, shall produce for inspection all books, documents, papers, and other information concerning the affairs of the employer and shall otherwise assist in such examination to the extent possible. The commissioner, or the commissioner's legally authorized representative in charge of the examination, may administer oaths and take testimony bearing upon the affairs of any employer under examination.

Sec. 7. NEW SECTION. 87.11C SELF-INSURANCE EXAMINERS.

The commissioner of insurance shall appoint one or more self-insurance examiners. An examiner while conducting an examination, possesses all the powers conferred upon the commissioner for such purposes. A self-insurance examiner is subject to the same powers and conditions as imposed under sections 507.4 through 507.7.

Sec. 8. NEW SECTION. 87.11D PAYMENT OF EXAMINATION EXPENSES BY THE SELF-INSURED EMPLOYER.

The commissioner of insurance, upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, shall prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the self-insured employer examined, and upon failure or refusal of any self-insured employer to pay such a charge, the amount of the charge may be recovered in an action brought in the name of the state, and the commissioner may also revoke the employer's exemption under section 87.11. All fees collected in connection with an examination shall be paid into the insurance division revolving fund.

Sec. 9. NEW SECTION. 87.11E PENALTIES FOR FILING FALSE FINANCIAL STATEMENTS.

1. It is unlawful for any person to make or cause to be made, in any document filed with the commissioner of insurance under this chapter, any statement of material fact which is,

at the time and in the light of circumstances under which it is made, false or misleading, or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

2. The following persons shall not commit any of the acts or omissions prohibited by subsection 3:

- a. An employer.
- b. A person administering a self-insurance program, in whole or in part, on behalf of an employer.
- c. A partner of the employer or administrator.
- d. An officer of the employer or administrator.
- e. A director of the employer or administrator.
- f. A person occupying a similar status or performing similar functions as persons described in paragraphs "a" through "e".
- g. A person directly or indirectly controlling the employer or administrator.

3. A person listed under subsection 2 shall not do any of the following:

- a. File an application for relief under section 87.11 which as of its effective date, or as of any date after filing in the case of an order denying relief, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.
- b. Willfully violate or willfully fail to comply with any provision of sections 87.11 through 87.11B, or any rule or order adopted or issued pursuant to such sections.

4. The commissioner of insurance may deny, suspend or revoke a certificate of relief issued pursuant to section 87.11, or may impose a civil penalty for a violation of this section.

5. A civil penalty levied under subsection 4 shall not exceed one thousand dollars per violation per person, and shall not exceed ten thousand dollars in a single proceeding against any one person. All civil penalties shall be deposited in the general fund of the state pursuant to section 505.7.

6. A person who willfully and knowingly violates this section, or a rule or order adopted or issued pursuant to this section, is guilty of a class "D" felony. The commissioner of insurance may refer such evidence as is available concerning violations of this section to the attorney general or the proper county attorney who may, with or without such reference, institute appropriate criminal proceedings under this section. This section does not limit the power of the state to punish a person for conduct which constitutes a crime under any other statute.

Sec. 10. There is appropriated from the general fund of the state from examination assessment revenues of the insurance division of the department of commerce collected pursuant to section 87.11D, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	50,000
.....	FTEs	1.0

Of the amount appropriated in this section, the insurance division shall expended* a sufficient amount to employ one full-time self-insurance examiner.

Sec. 11. Section 347.14, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. Certify levies for a tax in excess of any tax levy limit to meet its obligations to pay the premium costs on tort liability insurance, property insurance, workers' compensation insurance, and any other insurance that may be necessary for the prudent management and operation of the county public hospital, the costs of a self-insurance program, the costs of a local government risk pool, and amounts payable under any insurance agreements to provide or procure such insurance, self-insurance program, or local government risk pool.

Approved May 10, 1991

*"Expend" probably intended

CHAPTER 161

FORFEITURE OF REAL ESTATE CONTRACTS

S.F. 445

AN ACT relating to the forfeiture of the rights of junior lienholders with respect to real estate contracts and providing an effective date.

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

Section 1. Section 656.2, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

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; on all the vendee's mortgagees of record; and on a person who asserts a claim against the vendee's interest, except a government or governmental subdivision or agency holding a lien for real estate taxes or assessments, if the person has done both of the following:

a. Requested, on a form which substantially complies with the following form, that notice of forfeiture be served on the person at an address specified in the request.

**"REQUEST FOR NOTICE PURSUANT TO
IOWA CODE SECTION 656.2, SUBSECTION 2**

The undersigned requests service of notice under Iowa Code sections 656.2 and 656.3 to forfeit the contract recorded on the _____ day of _____, 19 _____, in book or roll _____, image or page _____, office of the _____ county recorder, _____ county, Iowa, wherein _____ is/are seller(s) and _____ is/are buyer(s), for sale of real estate legally described as: [insert complete legal description]

NAME

ADDRESS

CAUTION: Your name and address must be correct. If not correct, you will not receive notice requested because notice need only be served on you at the above address. If your address changes, a new request for notice must be filed.

The request for notice shall be indexed pursuant to section 558.50."

b. Filed the request form for record in the office of the county recorder after acquisition of the vendee's interest but prior to the date of recording of the proof and record of service of notice of forfeiture required by section 656.5 and paid a fee of five dollars.

The request for notice is valid for a period of five years from the date of filing with the county recorder. The request for notice may be renewed for additional periods of five years by the procedure specified in this subsection. The request for notice may be amended at any time by the procedure specified in this subsection.

The vendee's mortgagees of record include all assignees of record for collateral purposes.

Sec. 2. NEW SECTION. 656.9 DEFECT IN FORFEITURE PROCEEDINGS.

An action shall not be commenced after July 1, 1992, which asserts a claim against real estate previously subject to a forfeiture proceeding, based upon a defect in the forfeiture proceeding, in which the proof and record of service of notice of forfeiture required by section 656.5 has been filed for record in the office of the county recorder prior to July 1, 1991.

Sec. 3. EFFECTIVE DATE. Section 656.2, as amended by this Act, applies only to forfeiture proceedings for which the proof and record of service of notice required by section 656.5 are filed after July 1, 1991.

Approved May 10, 1991

CHAPTER 162**WORKERS' COMPENSATION SECOND INJURY FUND***S.F. 502*

AN ACT relating to workers' health, safety, and welfare, by providing funding for the second injury fund and providing applicability and effective dates.

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

Section 1. **SECOND INJURY FUND TASK FORCE ESTABLISHED.**

1. The second injury fund task force is established. The following persons shall serve as voting members of the task force:

- a. The attorney general or the attorney general's designee.
- b. The industrial commissioner or the commissioner's designee.
- c. An employer insured under a workers' compensation insurance policy, from the business sector.
- d. The director of the department of employment services, or the director's designee.
- e. Two attorneys from the Iowa workers' compensation advisory committee, one of whom represents claimants in workers' compensation cases, and one of whom represents defendants in workers' compensation cases.
- f. The commissioner of insurance, or the commissioner's designee.
- g. A representative of a labor union, organization, or association.
- h. A representative of a workers' compensation liability insurance carrier.

The voting members listed in paragraphs "c", "e", "g", and "h" shall be appointed by the treasurer of state.

The task force shall also consist of four ex officio, nonvoting legislative members, one appointed by the president of the senate, in consultation with the majority leader of the senate, one appointed by the minority leader of the senate, one appointed by the speaker of the house of representatives, in consultation with the majority leader of the house of representatives, and one appointed by the minority leader of the house of representatives.

2. The treasurer of state shall organize the task force and perform administrative functions for the task force.

3. The task force shall study the following issues related to the workers' compensation second injury fund:

- a. The long-term needs and goals of the fund.
- b. Whether current funding mechanisms are sufficient to adequately finance the fund, and if not, what types of additional funding mechanisms would be appropriate.
- c. Recommendations for payment of administrative costs associated with the fund.
- d. Changes in the administrative structure concerning the fund or a replacement payment mechanism.
- e. The role and purpose served by the second injury fund within the workers' compensation system.
- f. Any other related issues concerning the operation, administration, purposes, and funding of the second injury fund.

4. The task force may contract for professional services necessary for completion of the charge of the task force.

5. Actual and necessary expenses of the task force shall be paid from the second injury fund.

6. In addition to organizing and administering the task force, the treasurer of state, in consultation with the legislative fiscal bureau, shall examine the financial condition of the fund, including, but not limited to, any trends concerning the fund. The treasurer, in consultation with the legislative fiscal bureau, shall prepare a report of the findings of the examination and transmit the report to the task force.

7. The task force shall submit a report of its findings and recommendations to the committee on business and labor relations of the senate and the committee on labor and industrial relations of the house of representatives by January 15, 1992.

Sec. 2. SURCHARGE FOR 1991 AND 1992 FISCAL YEARS.

1. For the fiscal year commencing July 1, 1990, the treasurer of state may assess a surcharge on workers' compensation weekly benefits paid in the state during the immediately preceding fiscal year. The surcharge is payable by all self-insured employers making weekly benefit payments and all insurers making weekly benefit payments on behalf of insured employers. The surcharge applies to all workers' compensation insurance policies and self-insurance coverages of employers approved for self-insurance by the commissioner of insurance pursuant to section 87.4 or 87.11, and to the state of Iowa, its departments, divisions, agencies, commissions, and boards, or any political subdivision coverages whether insured or self-insured. The surcharge shall not apply to any reinsurance or retrocessional transaction under section 520.4 or 520.9. The treasurer of state shall base the surcharge for each payor upon the payor's pro rata share of weekly benefits paid in the state during the immediately preceding fiscal year. The treasurer may use reports of weekly benefits paid derived from the last completed policy or reporting year, or other consistent allocation methodology. The surcharge is collectable by an insurer or from its policyholders if the insured employer fails to pay the insurer. An insurance carrier, its agent, or a third-party administrator shall not be entitled to any portion of the surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes, licenses, or fees. The surcharge is not deemed to be an assessment or tax, but shall be deemed an additional benefit paid for injuries compensable under the second injury fund. However, the treasurer of state shall not collect over four hundred thousand dollars in assessing the surcharge.

2. For the fiscal year commencing July 1, 1991, the treasurer of state may assess a surcharge as provided in subsection 1, except that the treasurer of state shall not collect over eight hundred seventy thousand dollars in assessing the surcharge, unless the general assembly authorizes a greater amount to be assessed.

3. The surcharges collected pursuant to this section shall be deposited in the second injury fund, and may be used for the payment of claims, settlements, and administrative costs. The expenses incurred by the treasurer of state, the attorney general, the second injury fund, the task force, or the department of revenue and finance, in connection with the second injury fund, may be paid from the fund. However, the payment of administrative costs and expenses incurred by the treasurer of state, the attorney general, the second injury fund, the task force, and the department of revenue and finance, as authorized in this subsection, shall only be permitted for administrative costs and expenses incurred in the fiscal year commencing July 1, 1991, and shall not exceed one hundred seventy thousand dollars, unless further action is taken by the general assembly.

4. An insurer or self-insurer shall pay a surcharge imposed by this section no later than thirty days following the assessment.

5. a. If an insurer, policyholder, or self-insurer withdraws from doing business in this state before the surcharges authorized by this section become due, or fails or neglects to pay the surcharge imposed, the treasurer of state shall at once proceed to collect the surcharge, and may employ such legal process as may be necessary for that purpose, and when so collected shall deposit the surcharge into the second injury fund. The treasurer may bring the suit in any court of this state having jurisdiction, and reasonable attorney's fees may be taxed as costs in the suit.

b. If the surcharges imposed by this section are not paid or transferred when due, the insurer, policyholder, or self-insurer responsible for the failure shall be required to pay, as part of the surcharge, interest on the surcharge at the rate of one and one-half percent per month for each month or fraction of a month delinquent. If the treasurer of state prevails in any dispute concerning the assessment of a surcharge which has not been paid or transferred, interest

shall be paid upon the amount found due to the state at the rate of one and one-half percent per month for each month or fraction of a month delinquent.

c. An insurer is not liable for a surcharge which is not paid to the insurer by the policyholder or employer provided the insurer has made good faith efforts to collect the surcharge from the policyholder or employer. An insurance carrier shall report a policyholder or employer who fails to pay a surcharge within thirty days of its due date to the treasurer of state.

d. In any action concerning the amount of a surcharge imposed by this section, any other surcharge shall continue to be made based upon the amount assessed by the treasurer of state. In the event of an overpayment, the excess amount paid may be credited against future payments otherwise due.

e. An employer who fails to pay the surcharges imposed under this section shall not be allowed to purchase workers' compensation insurance coverage or to renew a self-insurance authorization unless and until the surcharge has been paid.

6. For the purposes of this section, "insurer" includes a self-insurance group approved by the commissioner of insurance pursuant to section 87.4.

Sec. 3. EFFECTIVE DATE AND RETROACTIVITY PROVISIONS.

Subsections 1 and 3 through 6 of section 2 of this Act, being deemed of immediate importance, take effect upon enactment, and apply retroactively to the fiscal year beginning July 1, 1990.

Approved May 10, 1991

CHAPTER 163

HEALTH DATA COMMISSION

H.F. 575

AN ACT relating to the collection and use of patient information by the health data commission, and providing penalties.

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

Section 1. Section 145.3, subsection 4, paragraph d, Code 1991, is amended to read as follows:

d. Additional or alternative information related to the intent and purpose of this chapter as outlined in section 145.1 be submitted to the commission, except that in no event shall hospitals with fewer than one hundred licensed acute care beds be required to install computerized severity of illness systems before July 1, ~~1991~~ 1993.

Sec. 2. Section 145.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A hospital, physician, third-party payer, or other person required to provide information to the commission pursuant to this section, is subject to a civil penalty for failure to comply with this chapter or the rules adopted pursuant to this chapter. The commission may impose a civil penalty not to exceed five hundred dollars. Each day of noncompliance constitutes a separate offense. However, a penalty shall not be imposed for a technical, nonsubstantive violation or if the person required to provide information makes a good faith effort to comply with the commission's requirements.

The commission shall notify the noncomplying party of the commission's intent to impose a civil penalty. The notice shall be sent by certified mail to the party's last known address and shall state the nature of the party's actions leading to the charge of noncompliance, the specific statute or rule involved, and the amount of the proposed penalty. The notice shall advise the party that upon failure to pay the civil penalty, the penalty may be collected by

civil action. The party shall be given the opportunity to respond to the imposition of the penalty in writing, within a reasonable time as established by rule of the commission.

The commission may reduce or void a civil penalty imposed under this section. A party upon whom a civil penalty is imposed may appeal the action pursuant to chapter 17A. Moneys collected from the civil penalties shall be deposited in the general fund of the state.

Sec. 3. Section 145.4, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The commission shall determine the form in which information will be made available and to whom, when, and under what circumstances the information shall be made available. The commission may enter into agreements with private parties for the release of the information. Consistent with the purpose and intent to protect patient confidentiality expressed in section 145.1, the agreements, the terms of which shall be dictated by the commission, may prohibit parties from rereleasing some or all of the information provided. The commission may assess civil penalties against those parties who violate the terms of the agreements.

Approved May 10, 1991

CHAPTER 164

NOTICE OF COUNTY BUDGET HEARINGS

H.F. 612

AN ACT relating to the publication of notice for a public hearing on a county budget.

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

Section 1. Section 331.434, subsections 3 and 6, Code 1991, is amended to read as follows:

3. The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers which meet the requirements of section 618.14 the county newspapers selected under chapter 349. A summary of the proposed budget, in the form prescribed by the director of the department of management, shall be included in the notice. Proof of publication shall be filed with and preserved by the auditor. A levy is not valid unless and until the notice is published and filed.

6. The board shall appropriate, by resolution, the amounts deemed necessary for each of the different county officers and departments during the ensuing fiscal year. Increases or decreases in these appropriations do not require a budget amendment, but may be provided by resolution at a regular meeting of the board, as long as each class of proposed expenditures contained in the budget summary published under subsection 3 of this section is not increased. However, decreases in appropriations for a county officer or department of more than ten percent or five thousand dollars, whichever is greater, shall not be effective unless the board sets a time and place for a public hearing on the proposed decrease and publishes notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers which meet the requirements of section 618.14 the county newspapers selected under chapter 349.

Approved May 10, 1991

CHAPTER 165**CAMPAIGN FINANCE DISCLOSURE — PERMANENT ORGANIZATIONS***H.F. 644*

AN ACT relating to communication by permanent nonprofit organizations with their dues-paying members under the campaign finance disclosure law.

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

Section 1. Section 56.6, subsection 6, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A communication regarding any subject by a permanent organization, which is a nonprofit organization, to its dues-paying members is not political activity requiring the organization of a political committee, reporting, or disclosure pursuant to this chapter.

NEW UNNUMBERED PARAGRAPH. As used in this subsection, "permanent organization" means an organization which is continuing, stable, and enduring, and which was originally organized for purposes other than engaging in election activities.

Approved May 10, 1991

CHAPTER 166**GAMBLING — RACETRACKS — EXCURSION BOATS***H.F. 651*

AN ACT relating to gambling and the operation of pari-mutuel racetracks and excursion gambling boats, and providing an effective date.

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

Section 1. Section 99D.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 19A. Notwithstanding any contrary provision in this chapter, to provide for interstate combined wagering pools related to simulcasting horse or dog races and all related interstate pari-mutuel wagering activities.

Sec. 2. Section 99D.11, subsection 5, Code 1991, is amended to read as follows:

5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners. The licensee may pay a larger amount if approved by the commission. The licensee shall likewise receive other wagers on horses or dogs in places or combinations the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first. However, the commission may authorize the licensee to deduct a higher percent of the total sum wagered not to exceed twenty percent on multiple or exotic wagering involving not more than one horse two horses or dog dogs. For exotic wagering involving three or more horses or dogs, the commission may authorize a licensee to deduct an additional two percent from the total sum wagered on the exotic wagers. One percent of the exotic wagers on three or more horses or dogs shall be distributed as provided in section 99D.12.

Sec. 3. Section 99D.11, subsection 6, paragraph b, Code 1991, is amended to read as follows:

b. The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure for purpose of pari-mutuel wagering a horse or dog race licensed by the racing authority of another state. It is the responsibility of each licensee to obtain the consent of appropriate racing officials in other states as required by the federal Interstate Horseracing Act of 1978, 15 U.S.C. § 3001-3007, to televise races for the purpose of conducting pari-mutuel wagering. A licensee may also obtain the permission of a person licensed by the commission to conduct horse or dog races in this state to televise races conducted by that person for the purpose of conducting pari-mutuel racing. However, arrangements made by a licensee to televise any race for the purpose of conducting pari-mutuel wagering are subject to the approval of the commission, and the commission shall select the races to be televised. The races selected by the commission shall be the same for all licensees approved by the commission to televise races for the purpose of conducting pari-mutuel wagering. The commission shall not authorize the simultaneous telecast or televising of and a licensee shall not simultaneously telecast or televise any horse or dog race for the purpose of conducting pari-mutuel wagering unless the simultaneous telecast or televising is done at the racetrack of the a licensee on a day when there are horse or dog races being held at the racetrack that schedules no less than one hundred five performances of eight live races each day of the season. For purposes of the taxes imposed under this chapter, races televised by a licensee for purposes of pari-mutuel wagering shall be treated as if the races were held at the racetrack of the licensee.

Sec. 4. Section 99D.12, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. Twenty-five percent shall be retained by the licensee and shall be put into a stake race for Iowa-whelped dogs. An amount equal to twelve percent of the winner's share shall be set aside and distributed to the breeder of the winning greyhound in accordance with section 99D.22 and the remainder shall be apportioned as purse moneys for the stake race. All dogs racing in the stake race must have run in at least twelve races during the current racing season at the track sponsoring the stake race to qualify to participate.

Sec. 5. Section 99D.13, subsection 2, Code 1991, is amended to read as follows:

2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer section 99D.22. The remainder shall be paid over to the commission to pay all or part of the cost of drug testing at the tracks. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness racing meets, the remainder shall be used as provided in subsection 3. To the extent the remainder paid to the commission, less the cost of drug testing, is from unclaimed winnings from licensed dog tracks, the commission shall remit annually five thousand dollars, or an equal portion of that amount, to each licensed dog track to carry out the racing dog adoption program pursuant to section 99D.27. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, on an annual basis, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.

Sec. 6. Section 99D.15, subsection 3, paragraph c, Code 1991, is amended to read as follows:

c. If the rate of tax imposed under paragraph "a" is six percent, five percent, or four percent, a track shall set aside for retiring the debt of the racetrack facilities or for capital improvement to the racetrack facilities the following amount:

(1) If the rate of tax paid by the track is six percent, one-sixth of the tax liability by the track during the racing season shall be set aside.

(1)(2) If the rate of tax paid by the track is five percent, one percent of the gross sum wagered in the racing season shall be set aside.

(2)(3) If the rate of tax paid by the track is four percent, two percent of the gross sum wagered in the racing season shall be set aside.

Sec. 7. Section 99F.13, Code 1991, is amended to read as follows:

99F.13 AUDIT OF LICENSEE OPERATIONS.

Within ninety days after the end of each month, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered or licensed in the state of Iowa under chapter 116.

Sec. 8. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment. However, section 99D.15, subsection 3, paragraph "c", subparagraph (1), enacted in this Act, takes effect January 1, 1993.

Approved May 10, 1991

CHAPTER 167

FORFEITURE OF EXCURSION BOATS AND RELATED PROPERTY

H.F. 679

AN ACT relating to forfeiture of excursion boats and related property and providing an effective date.

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

Section 1. Section 99F.16, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Upon receipt of forfeited property, the county attorney or attorney general shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty days the option is terminated, unless the time for exercising the option is extended by the county attorney or attorney general.

NEW SUBSECTION. 5. A person having a valid, recorded lien or property interest in forfeited property, which has not been purchased pursuant to subsection 4, shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

NEW SUBSECTION. 6. This section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by criminal use, caused the property to become forfeited to the state.

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

Approved May 10, 1991

CHAPTER 168**JOINT WATER UTILITIES***H.F. 689*

AN ACT relating to the establishment of joint water utilities and their tax status.

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

Section 1. Section 28F.1, unnumbered paragraph 1, Code 1991, 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 or chapter 388A. 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. 2. NEW SECTION. 388A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Joint water utility" means a water utility established by two or more cities which owns or operates or proposes to finance the purchase or construction of all or part of a water supply system or the capacity or use of a water supply system pursuant to this chapter. A water supply system includes all land, easements, rights-of-way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the system.
2. "Joint water utility board" means the board of trustees established to operate a joint water utility.
3. "Project" means any works or facilities useful or necessary for the operation of a joint water utility.

Sec. 3. NEW SECTION. 388A.2 SUBMISSION TO VOTERS.

A joint water utility may be established by two or more cities. A proposal to establish a joint water utility or to join an existing joint water utility may be submitted to the voters of a city by the city council upon its own motion, or upon receipt of a valid petition pursuant to section 362.4. If the proposal is to establish a joint water utility, the proposal shall be submitted to the voters of each city proposing to establish the joint water utility. If a majority of the electorate in each of at least two cities approves the proposal, the cities approving the proposal may establish a joint water utility.

If the proposal is to join an existing joint water utility, the proposal must first be submitted to the joint water utility board for its approval. If the proposal is approved by the board, the proposal shall be submitted to the electorate of the city wishing to join. The proposal must receive a majority affirmative vote for passage.

Sec. 4. NEW SECTION. 388A.3 POWERS AND DUTIES.

Upon adoption of a proposal to establish a joint water utility, the member cities shall establish a joint water utility board, consisting of at least five members. The mayors of the participating cities shall appoint the members, subject to the approval of the city councils, and

at least one member shall be appointed from each participating city. The board shall be responsible for the planning and operation of a joint water utility, subject to the provisions of this chapter.

A joint water utility is a political subdivision and an instrumentality of municipal government. The statutory powers, duties, and limitations conferred upon a city utility apply to a joint water utility, except that title to property of a joint water utility may be held in the name of the joint water utility. The joint water utility board shall have all powers and authority of a city with respect to property which is held by the joint water utility. A joint water utility shall have the power of eminent domain, including the powers conferred upon a city in chapters 471 and 472, for the purposes of constructing and operating a joint water utility.

The joint water utility board may purchase or construct all or part of any water supply system, and may finance the purchase or construction. The board may also contract to sell all or part of the joint water utility's water supply, including any surplus, to a public or private agency, or an entity created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1. The board may contract for the purchase, from any source, of all or a portion of the water supply requirements of the joint water facility. A contract may include provisions for the payment for capacity or output of a facility whether the facility is completed or operating, and for establishing the rights and obligations of the parties to the contract in the event of a default by any of the parties.

Payments made by a joint water utility pursuant to a contract shall constitute operating expenses of the joint water utility and shall be payable from the revenues derived from the operation of the joint water utility.

Sec. 5. NEW SECTION. 388A.4 FINANCING.

A joint water utility may finance projects pursuant to chapter 28F. A city may finance its share of the cost of a project by the use of any method of financing available for city utilities, including but not limited to sections 384.23 through 384.36 and sections 384.80 through 384.94.

If a project is financed by a joint water utility, revenues derived from the project shall be deemed to be revenues of the joint water utility for all purposes including the issuance and payment of bonds secured by or payable from the revenues of the joint water utility. If a project is financed by member cities of a joint water utility, the revenues derived from the project shall be deemed to be revenues of the city or city utility for all purposes including the issuance and payment of bonds secured by or payable from the revenues of the city or city utility.

Sec. 6. NEW SECTION. 388A.5 CONSTRUCTION.

This chapter being necessary for the public health, public safety, and general welfare, shall be liberally construed to effectuate its purposes. This chapter shall be construed as providing a separate and independent method for accomplishing its purposes, and shall take precedence over any contrary provision of the law.

Sec. 7. Section 422.43, subsection 1, Code 1991, is amended to read as follows:

1. There is imposed a tax of four percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation or joint water utility furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

Sec. 8. Section 427.1, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 42. JOINT WATER UTILITIES. The property of a joint water utility established under chapter 388A, when devoted to public use and not held for pecuniary profit.

Sec. 9. Section 476.1, unnumbered paragraph 5, Code 1991, is amended to read as follows:
This chapter does not apply to waterworks having less than two thousand customers, municipally owned waterworks, joint water utilities established pursuant to chapter 388A, rural water districts incorporated and organized pursuant to chapters 357A and 504A, cooperative water associations incorporated and organized pursuant to chapter 499, or to a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person's own use.

Approved May 10, 1991

CHAPTER 169

PREVENTION OF DISABILITIES

S.F. 342

AN ACT relating to the prevention of disabling conditions by establishing a prevention of disabilities policy council and a technical assistance committee of the council, by making an appropriation, and providing for a repeal.

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

Section 1. **NEW SECTION. 225D.1 FINDINGS AND INTENT.**

1. The general assembly finds that:

a. Thousands of Iowans are affected by a developmental disability which is a disability that arises before age twenty-two and is of sufficient severity to affect an individual's ability to participate as an independent, productive member of the community. Many other Iowans experience less severe mental or physical disabilities or disabilities which occur in their adult years which require specialized services. Many disabilities are due to conditions that are preventable or could be minimized if recognized or treated early. Preventing disabilities would result in a substantial savings to the state both in terms of human potential and public funds.

b. There is a need for a coordinated and comprehensive prevention of disabilities effort in the state. Many state departments and private organizations are involved in prevention activities but there is no unified prevention strategy or ongoing coordination in the planning, implementation, and evaluation of prevention of disabilities activities in the state.

2. It is the intent of the general assembly to establish a system to coordinate prevention of disability activities among the state departments and to assist the governor and the general assembly in determining priorities and establishing policies for the prevention of disabilities.

Sec. 2. **NEW SECTION. 225D.2 DEFINITIONS.**

As used in this chapter unless the context otherwise requires:

1. "Council" means the prevention of disabilities policy council.

2. "Committee" means the technical assistance committee to the council.

3. "Disability" means a mental or physical impairment that results in significant functional limitation in one or more areas of major life activity and in the need for specialized care, treatment, or training services of extended duration.

4. "Prevention activities" means activities that attempt to eliminate the occurrence of the disability, reduce the prevalence of the disability in the community, identify a problem early and use intervention at the outset to eliminate the potential for abnormality, or minimize the long-term disability or mitigate the effects of the disability.

Sec. 3. NEW SECTION. 225D.3 PREVENTION OF DISABILITIES POLICY COUNCIL ESTABLISHED — MEMBERSHIP — DUTIES.

1. A prevention of disabilities policy council is established to provide oversight in the development and operation of a coordinated prevention of disabilities system. The council shall consist of the following members:

a. Two members of the senate appointed by the senate majority leader and minority leader and two members of the house of representatives appointed by the speaker of the house and the house minority leader.

b. Three providers of disability prevention services, recommended by the Iowa governor's planning council for developmental disabilities, appointed by the governor, and confirmed by the senate.

c. Three persons with expertise in priority prevention areas, recommended by the Iowa governor's planning council for developmental disabilities, appointed by the governor, and confirmed by the senate.

d. Three persons with disabilities or family members of a person with disabilities, recommended by the Iowa governor's planning council for developmental disabilities, appointed by the governor and confirmed by the senate.

2. Members of the council appointed by the governor shall serve three-year staggered terms. Members of the general assembly appointed to the council shall serve two-year terms and shall serve as ex officio, nonvoting members. Vacancies on the council shall be filled in the same manner as original appointments. Members are entitled to reimbursement of actual expenses incurred in performance of their official duties.

3. The council shall do all of the following:

a. Oversee the planning, implementation, and evaluation of a coordinated strategy for the prevention of disabilities among state departments which is based upon the Iowa state plan for the prevention of developmental disabilities of 1988.

b. Promote cooperative and complementary planning among the public, private, and volunteer sectors involved in prevention activities and research regarding disabilities.

c. Develop and implement a system to measure the outcome and assess the overall impact of the prevention efforts of the state.

d. Encourage research into the causes and prevention of disabling conditions.

e. Promote professional and provider training in state-of-the-art prevention of disabilities measures.

f. Recommend policy and priorities for the prevention of disabilities.

g. Adopt rules to implement this chapter.

h. Seek and apply for federal grants and private foundation funding to support the responsibilities of the council. The council shall also seek in-kind and other private contributions to fulfill the federal matching funds requirements for the purpose of section 225D.7.

i. Submit to the governor and the general assembly by November 1, 1992, and annually on November 1 thereafter, a report that includes all of the following:

(1) A continuum of cost-effective prevention of disability activities.

(2) A listing of existing activities and the state agency responsible for the activities.

(3) Recommendations to coordinate the planning, delivery, and evaluation of existing activities.

(4) Recommendations to address the lack of prevention of disability activities.

(5) Recommendations to measure the outcomes and assess the overall impacts of the state's prevention of disability efforts.

(6) Recommendations to promote cooperative planning among the public, private, and volunteer sectors and to increase public-private partnership involvement in prevention of disability activities.

- (7) A review of existing research and personnel training programs.
- (8) Priorities for disability prevention activities in the state.
- (9) Recommendations for legislative, administrative, or budgetary changes.

4. The council shall meet at least six times during the year. A majority of the members of the council constitutes a quorum, and a majority of the council is necessary to act on matters within the purview of the council.

Sec. 4. NEW SECTION. 225D.4 TECHNICAL ASSISTANCE COMMITTEE TO THE PREVENTION POLICY COUNCIL ESTABLISHED – MEMBERSHIP – DUTIES.

1. A technical assistance committee of the prevention of disabilities policy council is established and shall consist of the following members:

- a. The director of the department of human services, or the director's designee.
- b. The director of the Iowa department of public health, or the director's designee.
- c. The director of the department of education, or the director's designee.
- d. The director of the department of natural resources, or the director's designee.
- e. The director of the state department of transportation, or the director's designee.
- f. The commissioner of the department of public safety, or the commissioner's designee.
- g. The director of the department of human rights, or the director's designee.
- h. The president of Iowa state university of science and technology, or the president's designee.
- i. The president of the university of Iowa, or the president's designee.
- j. The president of the university of northern Iowa, or the president's designee.

2. The technical assistance committee shall do all of the following:

- a. Provide technical assistance to the council in developing a prevention of disabilities coordination system.
 - b. Establish policies to facilitate the development, implementation, and evaluation of the prevention of disabilities coordination system.
 - c. Recommend prevention of disability priorities to the council.
3. The committee shall meet as needed to assist the council.
4. Members are entitled to reimbursement of actual expenses incurred in performance of their official duties.

Sec. 5. NEW SECTION. 225D.5 STATE AGENCIES – COOPERATIVE EFFORTS.

The departments represented by the committee shall cooperate with the council in collecting and sharing pertinent data, and in developing, implementing, and evaluating the prevention of disabilities coordination system.

Sec. 6. NEW SECTION. 225D.6 EVALUATION.

The prevention coordination system and the council are subject to review and evaluation by the governor and the general assembly.

Sec. 7. NEW SECTION. 225D.7 IMPLEMENTATION.

1. The prevention coordination system and the activities of the council shall be implemented as resources are made available.

2. The council shall, during the fiscal year beginning July 1, 1991, request grants from the Iowa governor's planning council for developmental disabilities and from private foundations to defray a minimum of seventy-five percent of the costs of implementation of this chapter. The funds shall be used to carry out the purposes of this chapter, including but not limited to, any of the following purposes:

- a. Establishing the structure for implementation of the prevention coordination system.
- b. Coordinating the activities of the council, state agencies, and state board of regents' institutions to develop the prevention coordination system and prepare the council's annual report.

Sec. 8. APPROPRIATION. There is appropriated from the general fund of the state to the prevention of disabilities policy council, upon establishment of the council, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For fulfillment of the federal matching funds requirement for use of the Iowa governor's planning council for developmental disabilities funds, for the purpose of section 225D.7:
\$ 28,000

Sec. 9. This Act is repealed effective June 30, 1996.

Approved May 11, 1991

CHAPTER 170

COMMERCIAL MUSSEL FISHING
S.F. 205

AN ACT relating to residency requirements for commercial mussel fishers and providing effective and applicability dates.

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

Section 1. Section 109B.2, subsection 5, Code 1991, is amended to read as follows:

5. "Commercial mussel fisher" means a person who is licensed to take and sell freshwater mussels from waters of the state. A resident commercial mussel license holder must have resided in this state for one year preceding the person's application for a commercial mussel fishing license.

Sec. 2. Section 109B.4, subsection 6, paragraphs g, h, and i, Code 1991, are amended to read as follows:

Table with 2 columns: Description and Amount. Rows include Commercial mussel fisher, resident; Commercial mussel buyer, resident; Commercial mussel buyer, nonresident.

Sec. 3. Section 109B.4, subsection 6, Code 1991, is amended by adding the following new paragraphs:

Table with 2 columns: Description and Amount. Rows include NEW PARAGRAPH. l. Commercial mussel fisher, nonresident; NEW PARAGRAPH. m. Commercial mussel helper, resident; NEW PARAGRAPH. n. Commercial mussel helper, nonresident.

Sec. 4. Section 109B.12, subsection 1, paragraph d, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

d. A commercial mussel helper license is required to assist commercial mussel fishers in the possessing, processing, or transporting of commercial freshwater mussels. The taking or sale of mussels or shells is not permitted with a commercial mussel helper license.

Sec. 5. Section 109B.13, subsection 1, Code 1991, is amended to read as follows:

1. Reciprocal commercial fishing, and commercial turtle fishing, and commercial freshwater mussel fishing privileges are contingent upon a grant of similar privileges by the appropriate state to residents of this state.

Sec. 6. Section 109B.13, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 7. Section 109B.14, Code 1991, is amended to read as follows:
109B.14 REPORTS REQUIRED.

All commercial fishers, commercial turtle fishers, ~~and commercial mussel fishers, and commercial mussel buyers~~ shall submit a monthly report supplying all information requested on forms furnished by the commission. Reports must be received by the commission no later than the fifteenth day of the following month.

Sec. 8. APPLICABILITY.

1. The new fees established in this Act are applicable to licenses applied for on or after the effective date of this Act.

2. The residency requirement established in this Act is applicable to licenses applied for on or after the effective date of this Act.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 14, 1991

CHAPTER 171

PAY-PER-CALL SERVICE

S.F. 317

AN ACT relating to the regulation of pay-per-call service and advertisements and providing for the applicability of established penalties.

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

Section 1. NEW SECTION. 714A.1 DEFINITIONS.

As used in this chapter:

1. "Advertisement" means advertisement as defined in section 714.16, subsection 1, paragraph "a". However, for purposes of this chapter, advertisement does not include a residential listing or a listing in any section of the directory in which businesses or professions are listed alphabetically rather than grouped by subject category, or a standard listing in the subject category section of a telephone directory. Advertisement also does not include a display advertisement or a listing which is made to appear more conspicuous than other listings in the subject category section of a telephone directory, provided that such display advertisement or listing includes a conspicuous disclosure that the call is a pay-per-call service and refers a reader in a clear and conspicuous manner to a page number of the directory where the reader may find an explanation of pay-per-call services. Such explanation of pay-per-call services shall include all of the following:

- a. The disclosure and preamble requirements under the law.
- b. The availability and costs of blocking options, if any.
- c. Whether a consumer's phone service may be terminated for failure to pay for pay-per-call services.

- d. The procedures for handling consumer inquiries and complaints.

2. "Amount of time necessary to complete a call" means for purposes of a fixed length call, the total length of the call in minutes, and for purposes of a variable length call, a reasonable, good faith estimate in minutes of the likely length of the call.

3. "Merchandise" means merchandise as defined in section 714.16, subsection 1, paragraph "b".

4. a. "Pay-per-call service" means electronic communications products and services which are provided to end users by information or service providers, and which meet all of the following requirements:

(1) The end users send or receive information, services, or communications whose general subject matter is determined or influenced by the service provider.

(2) The end users send or receive the information, services, or communications via a telephone connection using audio input which is not modulated or demodulated by the end user.

(3) The charge to the end user for the information, services, or communications is determined by the information or service provider and is made on a per-call or per-minute basis.

b. (1) Where the requirements under paragraph "a" are met, pay-per-call service includes, but is not limited to, the following:

(a) Information retrieval from a remote database.

(b) Information collection for polling and data entry.

(c) Services offered for public entertainment in which users participate in or listen to a conversation.

(2) Pay-per-call service does not include electronic communication for the purpose of conducting financial transactions, or any service the price of which is established pursuant to a tariff approved by a regulatory agency.

5. "Person" means person as defined in section 714.16, subsection 1, paragraph "c", and includes a long distance company and local exchange company as defined in section 477.10.

Sec. 2. NEW SECTION. 714A.2 DISCLOSURE OF CHARGES.

With respect to each pay-per-call service, the call shall contain an introductory disclosure message that specifies clearly, and at the same audio volume of the ensuing program, if the charge for the call is on a flat rate basis, the total charge for the call, or if charged on a per-minute basis, the charge per minute for the call, the charge for each additional minute, and the amount of time necessary to complete the call, and all other fees, and which informs the caller of the option to disconnect the call at the end of the introductory message without incurring a charge. However, an introductory message is not required if the total charge for the call is one dollar or less.

Sec. 3. NEW SECTION. 714A.3 ADVERTISEMENTS.

Advertisements for pay-per-call service shall clearly state if the charge for the service is on a flat rate basis, the total charge for the call or, if charged on a per-minute basis, the charge per minute for the call, the charge for each additional minute, and the amount of time necessary to complete the call. Additionally, if in order to obtain the full advertised services or other merchandise, a caller will be required to make any payments in addition to the cost of the initial call, that fact shall be disclosed, along with the amounts of such additional payments. If the advertisement is oral, all cost information must be disclosed clearly and at the same audio volume of the ensuing program prior to providing the pay-per-call number and each time the number is mentioned.

Sec. 4. NEW SECTION. 714A.4 BILLING AND COLLECTION.

A person shall not bill or collect for a pay-per-call service if such person has actual knowledge of the failure of the pay-per-call service to comply with the requirements of this chapter. A person shall cease billing and collecting for a pay-per-call service which fails to comply with the requirements of this chapter as soon as practicable, but in no event more than thirty days, after acquiring knowledge of the noncompliance. Billing and collection contracts shall contain a provision which refers the pay-per-call service to chapter 714A, which provides for an introductory disclosure message and the requirements for such message.

Additionally, a person shall not bill or collect a charge for a pay-per-call service unless the call for which the charge is being made, is completed.

Sec. 5. NEW SECTION. 714A.5 ENFORCEMENT.

A violation of this chapter is an unfair or deceptive trade practice and is subject to the provisions of section 714.16, except that the remedies and penalties provided pursuant to that section shall not be applied to a newspaper, magazine, publication, directory, or other print media in which an advertisement appears, or to a radio station, television station, or other

electronic media which disseminates the advertisement, and no other penalty or cause of action under this chapter shall accrue against the media in or by which the advertisement appears or is disseminated, where the particular advertisement is not sponsored by the media, unless the media also performs the billing or collecting for the pay-per-call service.

Approved May 14, 1991

CHAPTER 172

AGRICULTURAL LAND

S.F. 429

AN ACT relating to agricultural land, by providing for land use, and land held by corporations, limited partnerships, and trusts, and providing penalties.

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

Section 1. Section 108.13, subsection 3, Code 1991, is amended to read as follows:

3. This section does not prevent a landowner from utilizing the bed of a protected wetland for pasture or cropland during a period of drought if there is no construction of dikes, ditches, tile lines, or buildings and the agricultural use does not result in drainage.

Sec. 2. Section 172C.1, subsection 1, Code 1991, is amended to read as follows:

1. "Corporation" means a domestic or foreign corporation ~~and includes~~ subject to chapter 490, a nonprofit corporation and co-operatives, or a cooperative.

Sec. 3. Section 172C.3, Code 1991, is amended to read as follows:

172C.3 PENALTIES FOR PROHIBITED OPERATION – INJUNCTIVE RELIEF.

~~Any A processor violating the provisions of section 172C.2 shall, upon conviction, be punished by a fine assessed a civil penalty of not more than fifty twenty-five thousand dollars.~~ The courts of this state may prevent and restrain violations of this chapter 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 chapter.

Sec. 4. Section 172C.4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Any A corporation or trust, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust, violating the provisions of this section shall upon conviction, be punished by assessed a fine civil penalty of not more than fifty twenty-five thousand dollars and shall divest itself of any land acquired held in violation of this section within one year after conviction judgment.~~ 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.

Sec. 5. Section 172C.5, subsection 3, paragraph a, Code 1991, is amended to read as follows:

a. ~~Any An~~ authorized farm corporation, authorized trust, or limited partnership violating this section shall, ~~upon conviction, be punished by assessed a fine civil penalty of not more than fifty twenty-five thousand dollars and shall divest itself of any land acquired held in violation of this section within one year after conviction judgment.~~ A civil penalty of not more than one thousand dollars may be imposed on a person who becomes a stockholder of an authorized farm corporation, beneficiary of an authorized trust, or limited partner in a limited partnership in violation of this section. The person shall divest the interest held by the person in the corporation, trust, or limited partnership to comply with this section. The court may

determine the method of divesting an interest held by a person found to be in violation of this chapter. A financial gain realized by a person who disposes of an interest held in violation of this chapter shall be forfeited to the state's general fund. All court costs and fees shall be paid by the person holding the interest in violation of this chapter.

Sec. 6. Section 172C.11, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The secretary of state shall notify a person who the secretary has reason to believe is required to file a report as provided by this chapter and who has not filed a timely report, that the person may be in violation of this section. After thirty days from receipt of the notice, any person required to report under this chapter who has not filed, shall be assessed a civil penalty of one hundred dollars for each day in which the report is not filed. The secretary of state shall include in the notice, a statement of the penalty which will be assessed if the report is required and is not filed within thirty days. This penalty shall be in addition to any other penalty under this chapter. The secretary of state shall notify the state attorney general, when the secretary of state has reason to believe a violation of this chapter has occurred. The secretary of state shall include in the notice, a statement of the penalty which may be assessed if the required report is not filed within thirty days. The secretary of state shall refer to the attorney general any person who the secretary has reason to believe is required to report under this chapter if, after thirty days from receipt of the notice, the person has not filed the required report. The attorney general may, upon referral from the secretary of state, file an action in district court to seek the assessment of a civil penalty of one hundred dollars for each day the report is not filed.

Sec. 7. Section 172C.14, Code 1991, is amended to read as follows:

172C.14 DUTIES OF SECRETARY OF STATE — LEGISLATIVE USE.

The secretary of state shall do all things necessary to implement this chapter. The secretary of state shall notify the attorney general when the secretary of state has reason to believe a violation of this chapter has occurred. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of farming being carried out in this state by corporations and other business entities and the effect of such farming practices upon the economy of this state. The reports of corporations, limited partnerships, trusts, contractors, and processors required in this chapter shall be confidential reports except as to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

Sec. 8. Sections 172C.8 and 172C.12, Code 1991, are repealed.

Approved May 14, 1991

CHAPTER 173

PUBLIC ASSISTANCE

S.F. 470

AN ACT relating to federal-state public assistance programs.

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

Section 1. Section 239.2, subsection 3, paragraph e, Code 1991, is amended by striking the paragraph.

Sec. 2. Section 239.19, Code 1991, is amended to read as follows:

239.19 TRANSFER AID FUNDS TO OTHER WORK INCENTIVE PROGRAMS.

The department of human services shall be authorized to may transfer ~~such of the aid to dependent children funds in its control to any other department or agency of the state of Iowa~~ for the purpose of providing funds to carry out the ~~work incentive job opportunities and basic skills training program created by Public Law 90-248, 81 Stat. 821, Title II, section 204, the Social Security Amendments of 1967 to the Social Security Act, and nothing in the laws of the state of Iowa shall be construed as limiting the authority granted by that Act~~ the federal Family Support Act of 1988, Title II, Pub. L.No. 100-485, as codified in 42 U.S.C. § 602 et seq.

Sec. 3. Section 239.21, Code 1991, is amended to read as follows:

239.21 TRANSITIONAL CHILD CARE ASSISTANCE.

A recipient who loses eligibility for assistance under this chapter because of an increase in earned income, increased hours of employment, or loss of the earned income ~~disregards~~ is eligible to receive transitional child care assistance, in accordance with the provisions of the federal Family Support Act of 1988, Title III, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq., for a period of twelve months following the loss of assistance. The department shall deliver the transitional child care assistance through a vendor voucher payment or purchase of service system which requires the recipient to contribute to the cost of the assistance in accordance with a sliding-scale fee established by rule.

Sec. 4. Section 249C.1, subsection 4, Code 1991, is amended to read as follows:

4. "Public assistance" means aid or assistance provided ~~under chapter 239 or 249.~~

Sec. 5. Section 249C.1, subsection 5, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A person who is not an eligible person pursuant to rules adopted by the director and as required by the federal Family Support Act of 1988, Title II, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq.

Sec. 6. Section 249C.3, Code 1991, is amended to read as follows:

249C.3 WORK AND TRAINING PROGRAM.

The director shall establish a work and training program for persons and members of families applying for and receiving public assistance. ~~The division of job service of the department of employment services, all county boards and departments of social welfare the division of job training of the department of economic development, and all state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and co-operate in the program. They shall make agreements and arrangements for maximum co-operation and use of all available resources in the program. By mutual agreement the director may delegate any of the director's powers and duties under this chapter to the division of job service of the department of employment services or to the division of job training of the department of economic development.~~

Sec. 7. Section 249C.6, Code 1991, is amended to read as follows:

249C.6 PARTICIPATION REQUIRED.

Each eligible person shall be required to participate in the work and training program, to co-operate fully in the program, and to accept any reasonably suitable employment, training, or education offered to the person in connection with the program, as a condition of receiving public assistance. If the person fails or refuses to do so, the person shall not receive public assistance. The person's disqualification shall not disqualify other members of the person's family who are entitled to public assistance, except as required under the federal Family Support Act of 1988, Title II, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq., but their public assistance shall not be paid to the disqualified person and shall be paid in a manner which will not permit the disqualified person to have access to the assistance funds. A person shall not be disqualified for public assistance if it is impossible to arrange suitable work or training for the person.

Sec. 8. Section 249C.18, Code 1991, is amended to read as follows:

249C.18 EDUCATIONAL INCENTIVES PARTICIPATION REQUIREMENTS.

A An eligible person who receives assistance under chapter 239 may participate or cooperate in a program to attain a certificate of general educational development, high school diploma, or adult basic literacy where the person has not previously received such certification. The participation shall be optional unless required under the federal Family Support Act of 1988, Title II, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq. The department shall provide incentives to encourage ~~such~~ optional participation.

Approved May 14, 1991

CHAPTER 174

COLLECTIVE BARGAINING

S.F. 501

AN ACT relating to collective bargaining by delineating certain duties and powers of the public employment relations board and modifying certain collective bargaining procedures for teachers.

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

Section 1. Section 20.6, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. Establish minimum qualifications for arbitrators and mediators, establish procedures for appointing, maintaining, and removing from a list persons representative of the public to be available to serve as arbitrators and mediators, and establish compensation rates for arbitrators and mediators.

Sec. 2. Section 20.11, subsection 4, Code 1991, is amended to read as follows:

4. The board shall file its findings of fact and conclusions of law within sixty days of the close of any hearing, receipt of the transcript, or submission of any briefs. If the board finds that the party accused has committed a prohibited practice, the board may, within thirty days of its decision, enter into a consent order with the party to discontinue the practice, or after the thirty days following the decision may petition the district court for injunctive relief pursuant to rules of civil procedure 320 to 330.

Sec. 3. Section 20.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If the public employees in a certified employee organization are teachers licensed under chapter 260, and the public employer is a school district, community college, or area education agency, the negotiation of a proposed collective bargaining agreement shall be complete not later than April 15 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which any impasse item must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed collective bargaining agreements not later than April 15. The date selected for the mandatory submission of impasse items to binding arbitration shall be sufficiently in advance of April 15 to insure that the arbitrators' decision can be reasonably made before April 15.

Sec. 4. Section 20.19, Code 1991, is amended to read as follows:

20.19 IMPASSE PROCEDURES — AGREEMENT OF PARTIES.

As the first step in the performance of their duty to bargain, the public employer and the employee organization shall endeavor to agree upon impasse procedures. Such agreement shall

provide for implementation of these impasse procedures not later than one hundred twenty days prior to the certified budget submission date of the public employer. However, if the public employees represented by the employee organization are teachers licensed under chapter 260, and the public employer is a school district, community college, or area education agency, the agreement shall provide for implementation of impasse procedures not later than ninety days prior to the certified budget submission date of the public employer. If the parties fail to agree upon impasse procedures under the provisions of this section, the impasse procedures provided in sections 20.20 to 20.22 shall apply.

Sec. 5. Section 20.20, Code 1991, is amended to read as follows:

20.20 MEDIATION.

In the absence of an impasse agreement between the parties or the failure of either party to utilize its procedures, one hundred twenty days prior to the certified budget submission date, or ninety days prior to the certified budget submission date if the public employees represented by the employee organization are teachers licensed under chapter 260 and the public employer is a school district, community college, or area education agency, the board shall, upon the request of either party, appoint an impartial and disinterested person to act as mediator. It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but the mediator may not compel the parties to agree.

Sec. 6. Section 20.21, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, the board shall not appoint a fact-finder representative of the public if the public employees represented by a certified employee organization are teachers licensed under chapter 260 and the public employer is a school district, community college, or area education agency. The board shall adopt rules regarding the time period after mediation when binding arbitration procedures must begin for teachers exempt from this section.

Sec. 7. Section 279.15, subsection 1, Code 1991, is amended to read as follows:

1. The superintendent or the superintendent's designee shall notify the teacher not later than ~~March~~ April 15 that the superintendent will recommend in writing to the board at a regular or special meeting of the board held not later than ~~March 31~~ April 30 that the teacher's continuing contract be terminated effective at the end of the current school year. However, if the district is subject to reorganization under chapter 275, the notification shall not occur until after the first organizational meeting of the board of the newly formed district.

Approved May 14, 1991

CHAPTER 175

RAFFLES CONDUCTED BY QUALIFIED ORGANIZATIONS

H.F. 298

AN ACT relating to the conduct of games and raffles by qualified organizations.

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

Section 1. Section 99B.7, subsection 3, paragraph a, Code 1991, is amended to read as follows:

a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be

issued a limited license ~~which shall authorize the person~~ to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days. In addition, a qualified organization may be issued a limited license to conduct raffles pursuant to this section for a period of ninety days for a license fee of forty dollars or for a period of one hundred eighty days for a license fee of seventy-five dollars. A limited license shall not be issued more than once during any calendar year to the same person, or for the same location. For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the fourteen-day period for which the license is issued.

Approved May 14, 1991

CHAPTER 176

FEEES FOR HIGHWAY ADVERTISING DEVICES

H.F. 483

AN ACT relating to permit fees for highway advertising devices.

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

Section 1. Section 306C.18, Code 1991, is amended to read as follows:
306C.18 PERMIT REQUIRED.

The owner of every advertising device regulated by the provisions of this chapter, except signs and advertising devices excepted by section 306C.11, subsections 1, 2 and 5, shall be required to make application to the department for a permit.

1. The application for a permit shall be on a form provided by the department and shall contain the name and address of the owner of the advertising device and the name and address of the owner of the real property on which it is located; the date of its erection; a description of its location; its dimensions; and such other information required by the department, together with a permit fee as provided in this section.

2. After July 1, 1972, no new advertising device for which an application for a permit is required may be erected without first obtaining a permit from the department, except in the case of advertising devices lawfully in existence in areas adjacent to any highway made an interstate, freeway primary, or primary highway after July 1, 1972. The owner shall be required to make application for a permit as provided for in this section within thirty days after the date the said highway acquired said designation.

3. Upon receipt of an application containing all the required information in due form and properly executed together with the fee required, the department shall issue a permit to be affixed to the advertising device if the advertising device will not violate any provision of this division or chapter 306B, or any rule promulgated by the department, provided that in the case of advertising devices to be acquired pursuant to section 306C.15, a provisional permit shall be issued.

4. The fee for both types of permits shall be ~~twenty-five~~ fifty dollars for the initial fee and ~~five ten~~ dollars for each annual renewal. The fees collected for the above permits shall be credited to a special account entitled the "highway beautification fund" and all salaries and expenses incurred in administering this chapter shall be paid from this fund or from specific appropriations for this purpose, except that surveillance of, and removal of, advertising devices performed by regular maintenance personnel are not to be charged against the account.

Approved May 14, 1991

CHAPTER 177**CHILD SUPPORT RECOVERY PROCEDURES***H.F. 558*

AN ACT relating to child support by affecting informational requirements of the child support recovery unit and the receipt and disbursement of child support payments.

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

Section 1. Section 252B.9, Code 1991, is amended to read as follows:

252B.9 AVAILABILITY OF RECORDS.

1. a. The director may request from state, county and local agencies, information and assistance deemed necessary to carry out the provisions of this chapter. State, county and local agencies, officers and employees shall co-operate with the unit in locating absent parents of children on whose behalf public assistance is being provided and shall on request supply the department with available information relative to the location, income and property holdings of the absent parent and the custodial parent, notwithstanding any provisions of law making such this information confidential. The cooperation and information required by this subsection shall also be provided to the department when it is requested by the unit on behalf of persons who have applied for support enforcement services.

b. Parents of a child on whose behalf support enforcement services are provided shall provide information regarding income, resources, financial circumstances, and property holdings to the department for the purpose of establishment, modification, or enforcement of a support obligation. The department may provide the information to parents of a child as needed to implement the requirements of section 598.21, subsection 4, notwithstanding any provisions of law making this information confidential.

2. Information Except as otherwise provided in subsection 1, paragraph "b", information recorded by the department pursuant to this section shall be available only to the unit, attorneys prosecuting a case in which the unit may participate according to sections 252B.5 and 252B.6, courts having jurisdiction in support or abandonment proceedings, and agencies in other states charged with support collection and paternity determination responsibilities as determined by the rules of the department and the provisions of Title IV of the federal Social Security Act. However, information relating to the location of an absent parent shall be made available, pursuant to federal regulations, to a resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under Title IV-A of the federal Social Security Act. Unless otherwise prohibited by federal statute or regulation, the child support recovery unit shall release information relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director.

Sec. 2. Section 252B.13A, subsection 1, Code 1991, is amended to read as follows:

1. The department shall establish within the unit a collection services center for the receipt and disbursement of support payments as defined in section 598.1 required pursuant to an order for which the unit is providing ~~or has provided~~ enforcement services ~~on or after July 1, 1988,~~ under this chapter. For purposes of this section, support payments do not include attorney fees or court costs.

Sec. 3. Section 252B.14, subsection 3, Code 1991, is amended to read as follows:

3. Payments to persons other than the clerk of the district court or the collection services center do not satisfy the support obligations created by a support order or judgment, except as provided for trusts and social security income in section 252D.1, 598.22, or 598.23, or for tax refunds or rebates in section 602.8102, subsection 47, and except as provided ~~for certain orders entered on or after July 1, 1985, in which a sworn affidavit is submitted as proof of payment pursuant to~~ in section 598.22A.

Sec. 4. Section 252B.15, subsection 4, Code 1991, is amended to read as follows:

4. If the unit's child support enforcement services relating to a support order are terminated but the support obligation remains accrued or accruing, the support payment receipt and disbursement responsibilities relating to the order shall be transferred from the collection services center to the appropriate clerk of the district court. The department shall send notice of the transfer to the last known addresses of the obligor and obligee. The issuance of notice to the obligor is the equivalent of a court order requiring the obligor to direct payment to the clerk of the district court for disbursement. The department shall adopt rules pursuant to chapter 17A relating to the transfer of the responsibilities and notice requirements.

Sec. 5. Section 252B.16, subsection 2, Code 1991, is amended to read as follows:

2. The department shall adopt rules pursuant to chapter 17A to ensure that the affected parties are notified that the support payment disbursement responsibilities have been transferred to the collection services center from the clerk of the district court. The rules shall include a provision requiring that a notice shall be sent by regular mail to the last known addresses of the obligee and the obligor. The issuance of notice to the obligor is the equivalent of a court order requiring the obligor to direct payment to the collection services center for disbursement.

Sec. 6. Section 252D.18, subsection 1, Code 1991, is amended to read as follows:

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.1, subsection 3, or subchapter II, shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than two dollars from each payment from the employee's wages as a reimbursement for the payor's costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court or collection services center.

Sec. 7. Section 598.22A, subsection 1, Code 1991, is amended to read as follows:

1. For payment made pursuant to an order entered on or after July 1, 1985, the clerk of the district court or collection services center shall record a satisfaction as a credit on the official support payment record if its validity is confirmed by the court upon submission of an affidavit by the person entitled to receive the payment, after notice is given to all parties.

If a satisfaction recorded on the official support payment record by the clerk of the district court or collection services center prior to July 1, 1991, was not confirmed as valid by the court, and a party to the action submits a written affidavit objecting to the satisfaction, notice of the objection shall be mailed to all parties at their last known addresses. After all parties have had sufficient opportunity to respond to the objection, the court shall either require the satisfaction to be removed from the official support payment record or confirm its validity.

Sec. 8. Section 598.26, subsection 1, Code 1991, is amended to read as follows:

1. Until a decree of dissolution has been entered, the record and evidence shall be closed to all but the court, ~~and its officers,~~ and the child support recovery unit of the department of human services pursuant to section 252B.9. ~~No officer or other person shall permit a copy of any of the testimony, or pleading, or the substance thereof, to be made available to any person other than a party to the action or a party's attorney.~~ Nothing in this subsection shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure.

Sec. 9. ASSISTANCE OF THE CHILD SUPPORT ADVISORY COMMITTEE.

The child support enforcement program advisory committee established pursuant to section 252B.18 shall assist the department of human services in examining the impact and advisability of developing procedures providing for the suspension, revocation, or denial of a license to persons practicing professions licensed or certified under chapters 80A, 258A, 260, 321, and 602, or any other chapter, when such persons are delinquent in the payment of child support and of procedures to ensure the timely payment of child support by those persons who are financially able to make payments.

CHAPTER 178**SCHOOL DISTRICT REORGANIZATION INCENTIVES***H.F. 583*

AN ACT relating to eligibility of school districts for the reorganization incentives and providing an effective date.

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

Section 1. Section 257.3, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. **TAX FOR REORGANIZED AND DISSOLVED DISTRICTS.** Notwithstanding subsection 1, a reorganized school district shall cause a foundation property tax of four dollars and forty cents per thousand dollars of assessed valuation to be levied on all taxable property which, in the year preceding a reorganization, was within a school district affected by the reorganization as defined in section 275.1, or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the director of the department of education pursuant to section 275.55. In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved must have had a certified enrollment of fewer than six hundred in order for the four-dollar-and-forty-cent levy to apply. In succeeding school years, the foundation property tax levy on that portion shall be increased twenty cents per year until it reaches the rate of five dollars and forty cents per thousand dollars of assessed valuation.

For purposes of this section, a reorganized school district is one which absorbed at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution was initiated by a vote of the board of directors or jointly by the affected boards of directors prior to November 30, 1990, and the reorganization or dissolution takes effect on or after July 1, 1991, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

The reduced property tax rates of reorganized school districts that met the requirements of section 442.2, Code 1991, prior to July 1, 1991, shall continue to increase as provided in that section until they reach five dollars and forty cents.

Sec. 2. Section 257.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. SUPPLEMENTAL AID. However, if the rate of the additional property tax levy determined under subsection 1 with the application of section 257.15 for a budget year for a reorganized school district is higher than the rate of additional property tax levy determined under subsection 1 with the application of section 257.15 for the year previous to the reorganization for a school district that had a certified enrollment of less than six hundred and that was within the school districts affected by the reorganization as defined in section 275.1, the department of management shall reduce the rate of the additional property tax levy in the portion of the reorganized district where the new rate is higher, to the rate that was levied in that portion of the district during the year preceding the reorganization, for a five-year period. The department of management shall include in the state aid payments made to each reorganized school district under section 256.16 during each of the first five years of existence of the reorganized district as supplemental aid, moneys equal to the reduction in property tax revenues made under this subsection. For the budget year beginning July 1, 1991, the base year calculation shall be made using chapter 442, Code 1991.

For purposes of this section, a reorganized school district is one in which action to bring about a reorganization was initiated by a vote of the board of directors or jointly by the affected boards of directors prior to November 30, 1990, and the reorganization will take effect on or after July 1, 1991, and on or before July 1, 1993. Each district which initiated, by a vote of

the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

Sec. 3. Section 257.5, unnumbered paragraphs 1 and 2, Code 1991, are amended by striking the unnumbered paragraphs and inserting in lieu thereof the following:

A reorganized school district, as defined in section 257.4, subsection 1A, receiving supplemental aid prior to July 1, 1991, under section 442.9A, Code 1991, shall continue to receive supplemental aid as provided in that section for the five-year period specified in that section.

Sec. 4. Section 257.12, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

257.12 SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

In determining weighted enrollment under section 257.6, if the board of directors of a school district has approved a contract for sharing under section 442.39, subsection 2 or 4, Code 1991, or section 257.11 and the school district has initiated an action prior to November 30, 1990, to bring about a reorganization, the reorganized school district shall include, for a period of five years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district. For purposes of this section, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, 1991, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

A reorganized school district in which eligible pupils were added under section 442.39A, Code 1991, shall continue to have pupils added, subject to the changes in weighting made under section 257.11, until the expiration of the five-year period provided in section 442.39A, Code 1991.

Sec. 5. Section 257.16, unnumbered paragraph 1, Code 1991, is amended to read as follows:

There is appropriated each year from the general fund of the state an amount necessary to pay the foundation aid and supplementary aid under section 257.4, subsection 1A.

Sec. 6. Section 442.2, subsection 1, unnumbered paragraph 3, Code 1991, is amended to read as follows:

For purposes of this section, a reorganized school district is one which absorbed at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution was initiated by a vote of the board of directors or jointly by the affected boards of directors prior to November 30, 1990, and the reorganization or dissolution takes effect on or after July 1, 1988, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

Sec. 7. Section 442.2, subsection 2, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 8. Section 442.9A, unnumbered paragraph 4, Code 1991, is amended to read as follows:

For purposes of this section, a reorganized school district is one in which action to bring about a reorganization was initiated by a vote of the board of directors or jointly by the affected boards of directors prior to November 30, 1990, and will take effect on or after July 1, 1986, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors

or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

Sec. 9. Section 442.39A, Code 1991, is amended to read as follows:

442.39A SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

In determining weighted enrollment under section 442.4, if the board of directors of a school district has approved a contract for sharing under section 442.39, subsection 2 or 4, and the school district has initiated an action prior to November 30, 1990, to bring about a reorganization, the reorganized school district shall include, for a period of five years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district. For purposes of this section, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, 1986, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

Sec. 10. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved May 14, 1991

CHAPTER 179

STATE ADMINISTRATIVE RULES AFFECTING POLITICAL SUBDIVISIONS

S.F. 182

AN ACT relating to administrative rulemaking.

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

Section 1. Section 25B.6, Code 1991, is amended to read as follows:

25B.6 STATE RULES.

A state agency or department shall not propose or adopt an administrative rule which exceeds its statutory authority by mandating expenditures by political subdivisions, or agencies and entities which contract with political subdivisions to provide services. A state administrative rule, filed proposed pursuant to chapter 17A, which necessitates additional annual expenditures exceeding one hundred thousand dollars by political subdivisions or agencies and entities which contract with a political subdivision to provide services beyond that which are explicitly provided by state law shall be accompanied by a fiscal note outlining the costs. The affected political subdivision, or an entity representing the affected political subdivision, shall cooperate in the preparation of the fiscal note. The fiscal note shall be submitted to the administrative rules coordinator for publication in the Iowa administrative bulletin along with the notice of intended action.

The fiscal note shall also be submitted to the legislative fiscal committee of the legislative council. Beginning in the first full fiscal year after adoption of the state administrative rule, the fiscal committee shall annually prepare a report for each fiscal note submitted detailing the fiscal impact of the administrative rule on the affected political subdivision, or agencies and entities which contract with the political subdivision to provide services. The report shall be transmitted to the governor and the general assembly.

Approved May 17, 1991

CHAPTER 180
COLLEGE STUDENT AID
H.F. 423

AN ACT relating to student financial aid programs administered by the college student aid commission.

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

Section 1. Section 261.9, subsection 5, unnumbered paragraph 1, and paragraphs a, b, and d, Code 1991, are amended to read as follows:

"Accredited private institution" means an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state, except for county hospitals as provided in paragraph "d c" of this subsection, and which meets at least one of the following criteria:

a. Which is accredited by the North Central Association of Colleges and Secondary Schools accrediting agency based on their requirements as of April 1, 1969, or

b. Which has been certified by the North Central Association of Colleges and Secondary Schools accrediting agency based on their requirements as of April 1, 1969, (1) as a candidate for accreditation by such that agency or (2) as a school giving satisfactory assurance that it has the potential for accreditation and is making progress which, if continued, will result in its achieving accreditation by such agency within a reasonable time, or

d. Which was eligible to participate in the tuition grant program during the school year beginning July 1, 1986 under paragraph "c", 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 which attains full accreditation under a time period established by the North Central Association.

Sec. 2. Section 261.19A, unnumbered paragraph 1, Code 1991, is amended to read as follows:

There is established a forgivable loan program, to be administered by the college student aid commission for students enrolled at the university of osteopathic medicine and health sciences. A student from the university of osteopathic medicine is eligible for loan forgiveness if the student is a resident of the state of Iowa and if the student:

Sec. 3. Section 261.25, subsection 5, unnumbered paragraph 2, Code 1991, is amended by striking the paragraph.

Sec. 4. Section 261.38, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The commission may exceed the full-time equivalent positions authorized and may expend moneys in the loan reserve account in excess of the amounts appropriated to the commission under subsection 2, if additional positions or funding are needed to meet federal regulatory requirements or mandates or if previous contract costs or loan guarantee volume estimates are exceeded, in order to maintain loan guarantee operations. At least two weeks prior to a full-time equivalent position authorization adjustment or to a transfer of additional moneys from the reserve account, the commission shall notify the chairpersons and ranking members of the standing appropriations committees of the general assembly and the co-chairpersons and ranking members of the education appropriations subcommittee of the proposed adjustment or transfer. The notice shall include specific information concerning the amount of, and reason for, the adjustment or transfer. The chairpersons and ranking members shall have at least two weeks' time to review and comment on the proposed adjustment or transfer before the adjustment or transfer is made.

Sec. 5. Section 261.38, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 6. The commission may expend funds in the reserve account to enter into agreements which increase access for students to a loan program for guaranteed loans which are not subsidized by the federal government.

Sec. 6. Section 261.81, Code 1991, is amended to read as follows:

261.81 WORK-STUDY PROGRAM.

The Iowa college work-study program is established to stimulate and promote the part-time employment of students attending Iowa postsecondary educational institutions, and the part-time or full-time summer employment of students registered for classes at Iowa postsecondary institutions during the succeeding school year, who are in need of employment earnings in order to pursue postsecondary education. The program shall be administered by the commission. The commission shall adopt rules under chapter 17A to carry out the program. The employment under the program shall be employment by the postsecondary education institution itself or work in a public agency or private nonprofit organization under a contract between the institution or the commission and the agency or organization. An eligible postsecondary institution that is allocated twenty fifty thousand dollars or more for the work-study program by the commission shall allocate at least ten percent of the funds received for public interest student employment in a public agency or private nonprofit organization that is accredited, approved, licensed, registered, certified, or operated by the department of human services, the department of natural resources, the department of agriculture and land stewardship, or the department of corrections, for off-campus employment under the federal college work-study program or is part of the Iowa heritage corps established in section 261.81A. The work shall not result in the displacement of employed workers or impair or affect existing contracts for services. Moneys used by an institution for the work-study program shall supplement and not supplant jobs and existing financial aid programs provided for students through the institution.

Sec. 7. Section 261.88, subsection 3, Code 1991, is amended to read as follows:

3. Program volunteers shall receive monthly stipends equivalent to seven hundred dollars per month full-time employment at a rate which is at least equal to the minimum wage stated in section 91D.1, subsection 1, paragraph "a", for each month of work completed under the program. The state shall contribute five hundred dollars per month and the employer shall either contribute two hundred dollars per month to the volunteer's stipend or provide the volunteer with room and board. The employer shall also contribute one hundred dollars per month to the education trust fund created pursuant to section 261.90. The volunteer may elect to defer receipt of the employer's stipend contribution and receive a single lump sum stipend amount upon completion of the period of service under the program.

Sec. 8. Section 261.88, subsection 6, Code 1991, is amended to read as follows:

6. The public or nonprofit entity to which an individual is assigned shall supervise and direct that individual in the same manner as other employees and shall pay for all necessary work materials, supplies, and transportation costs. The state shall provide general liability and workers' compensation coverage for the volunteers, under chapter 25A, as if the volunteers were state employees. The volunteers are exempt from chapter 96, under section 96.19, subsection 6, paragraph "a", subparagraph (6), subdivision (e), and are exempt from chapters 19A, 97A 97B, and 400.

Sec. 9. Sections 261.40, 261.71, 261.72, and 261.73, Code 1991, are repealed.

Approved May 17, 1991

CHAPTER 181**CRIME VICTIMS***H.F. 430*

AN ACT relating to the crime victim assistance programs and victims' rights and the jurisdiction of the court to enter restraining orders under the victim and witness protection Act.

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

Section 1. **NEW SECTION. 611.23 CIVIL ACTIONS INVOLVING ALLEGATIONS OF SEXUAL ABUSE OR DOMESTIC ABUSE.**

In a civil case in which a plaintiff is seeking relief or damages for alleged sexual abuse as defined in section 709.1 or domestic abuse as defined in section 236.2, the plaintiff may seek, and the court may grant, an order requiring the defendant to receive professional counseling, in addition to any other appropriate relief or damages.

Sec. 2. Section 910.1, subsection 2, Code 1991, is amended to read as follows:

2. "Pecuniary damages" means all damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, "pecuniary damages" includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.

Sec. 3. Section 910A.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The date on which the offender is released on bail or appeal, pursuant to section 811.5.

Sec. 4. **NEW SECTION. 910A.9A NOTIFICATION BY DEPARTMENT OF HUMAN SERVICES.**

The department of human services shall notify a victim registered with the department, regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of human services, and placed at the state training school at Eldora or Toledo, of the following:

1. The date on which the juvenile is expected to be temporarily released from the custody of the department of human services, and whether the juvenile is expected to return to the community where the registered victim resides.

2. The juvenile's escape from custody.

3. The recommendation by the department to consider the juvenile for release or placement.

4. The date on which the juvenile is expected to be released from a facility pursuant to a plan of placement.

Sec. 5. Section 910A.10, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the board of parole makes a recommendation to the governor for a reprieve, pardon, or commutation of sentence of an offender, as provided in section 248A.3, the board shall forward with the recommendation information identifying a registered victim for the purposes of notification by the governor as required in section 910A.10A.

Sec. 6. **NEW SECTION. 910A.10A NOTIFICATION BY THE GOVERNOR.**

1. Prior to the governor granting a reprieve, pardon, or commutation to an offender convicted of a violent crime, the governor shall notify a registered victim that the victim's offender has applied for a reprieve, pardon, or commutation. The governor shall notify a registered victim regarding the application not less than forty-five days prior to issuing a decision on the application. The governor shall inform the victim that the victim may submit a written opinion concerning the application.

2. The county attorney may notify an offender being considered for a reprieve, pardon, or commutation of sentence of a victim's registration with the county attorney and the substance of any opinion submitted by the victim concerning the reprieve, pardon, or commutation of sentence.

Sec. 7. Section 910A.11, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

Sec. 8. Section 910A.11, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 3. Violation of a restraining or protective order issued under this section constitutes contempt of court, and may be punished by contempt proceedings.

NEW SUBSECTION. 4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge or magistrate having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

Sec. 9. Section 910A.19, Code 1991, is amended to read as follows:
910A.19 CITIZEN INTERVENTION.

Any person who, in good faith and without ~~compensation~~ remuneration, renders reasonable aid or assistance to another against whom a crime is being committed or, if rendered at the scene of the crime, to another against whom a crime has been committed is not liable for any civil damages for acts or omissions resulting from the aid or assistance and is eligible to file a claim for reimbursement as a victim pursuant to section 912.1.

Sec. 10. Section 912.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

912.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Compensation" means moneys awarded by the department as authorized by this chapter.
2. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony or misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 106.14, 321.261, 321.277, 321J.2, or 707.6A, or when the intention is to cause personal injury or death. A license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this chapter.
3. "Department" means the department of justice.
4. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.
5. "Victim" means a person who suffers personal injury or death as a result of any of the following:

- a. A crime.
- b. The good faith effort of a person attempting to prevent a crime.
- c. The good faith effort of a person to apprehend a person suspected of committing a crime.

Sec. 11. Section 912.2A, subsection 1, paragraph e, Code 1991, is amended to read as follows:
e. A Two public member members who has have received victim services.

Sec. 12. Section 912.4, Code 1991, is amended to read as follows:
912.4 APPLICATION FOR REPARATION COMPENSATION.

1. To claim a reparation compensation under the crime victim reparation compensation program, a person shall apply in writing on a form prescribed by the department and file the application with the department within ~~one hundred eighty days~~ two years 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 department 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 reparation program by a prospective applicant alone shall not constitute good cause.

2. A person is not eligible for reparation compensation unless the crime was reported to the local police department or county sheriff department within seventy-two hours of its occurrence. If the crime cannot reasonably be reported within that time period, the crime shall have been reported within seventy-two hours of the time a report can reasonably be made.

3. Notwithstanding subsection 2, a victim under the age of eighteen or dependent adult as defined in section 235B.1 who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for reparation compensation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 7, or upon a dependent adult by a caretaker as defined in section 235B.1, and was reported to an employee of the department of human services and the employee verifies the report to the department.

4. When immediate or short-term medical services or mental health services are provided to a victim under section 910A.16, the department of human services shall file the claim for reparation compensation as provided in subsection 3 for the victim.

5. When immediate or short-term medical services to a victim are provided pursuant to section 910A.16 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation compensation, unless the department of human services is required to file the claim under this section. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

6. The victim shall cooperate with reasonable requests by the appropriate law enforcement agencies in the investigation or prosecution of the crime.

Sec. 13. Section 912.6, Code 1991, is amended to read as follows:

912.6 COMPUTATION OF ~~REPARATION~~ COMPENSATION.

The department shall ~~make reparation award~~ compensation, as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed one thousand five hundred dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 236A.1.

2. Loss of income from work the victim would have performed and for which the victim would have received ~~compensation~~ remuneration if the victim had not been injured not to exceed two thousand dollars.

3. Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed one hundred dollars.

4. Reasonable funeral and burial expenses not to exceed two thousand five hundred dollars.

5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.

6. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 236A.1, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under

chapter 147 or 150A. The allowable charges under this subsection shall not exceed five hundred dollars per person or a total of two thousand dollars per victim death.

Sec. 14. Section 912.7, Code 1991, is amended to read as follows:

912.7 REDUCTIONS AND DISQUALIFICATIONS.

~~Reparations are~~ Compensation is subject to reduction and disqualification as follows:

1. ~~A reparation~~ Compensation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of, a person who committed the crime or who is otherwise responsible for damages resulting from the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

c. From public funds.

d. As an emergency award under section 912.11.

2. ~~A reparation~~ Compensation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:

a. Consent, provocation, or incitement by the victim.

b. The victim assisting, attempting, or committing a criminal act.

Sec. 15. Section 912.11, Code 1991, is amended to read as follows:

912.11 EMERGENCY PAYMENT ~~REPARATION~~ COMPENSATION.

If the department determines that ~~reparation~~ compensation may be made and that undue hardship may result to the person if partial immediate payment is not made, the department may order ~~an emergency reparation~~ compensation to be ~~made~~ paid to the person, not to exceed five hundred dollars.

Sec. 16. Sections 13.31, 809.17, 910.1, 910A.6, 911.1, 912.2, 912.3, 912.5, 912.8, 912.9, 912.10, and 912.12, Code 1991, are amended by striking the words "reparation", "reparations", and "a reparation", and inserting in lieu thereof the word "compensation".

Approved May 17, 1991

CHAPTER 182

EMERGENCY ASSISTANCE BY VOLUNTEERS

H.F. 596

AN ACT relating to the liability of certain persons rendering emergency care or assistance in good faith.

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

Section 1. Section 613.17, Code 1991, is amended to read as follows:

613.17 EMERGENCY ASSISTANCE IN AN ACCIDENT.

Any A person, who in good faith renders emergency care or assistance without compensation shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness. For purposes of this section, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, or a volunteer emergency medical technician, or a volunteer registered member of the national ski patrol system receives nominal compensation not based upon the value of the

services performed, that person shall be considered to be receiving no compensation. The operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator, or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance for purposes of this section.

Approved May 17, 1991

CHAPTER 183

MARKETABLE TITLE OF REAL ESTATE AND LAPSE OF CERTAIN MINERAL INTERESTS

H.F. 618

AN ACT relating to real estate, by providing for the marketable title of real estate and the lapse of stale mineral interests in coal.

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

Section 1. Section 331.602, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 35A. Record a statement of claim provided in chapter 557C relating to mineral interests in coal.

Sec. 2. **NEW SECTION. 557C.1 LAPSE OF MINERAL INTERESTS IN COAL — PREVENTION.**

A mineral interest in coal shall be extinguished twenty years after its creation, transfer, or preservation, unless a statement of claim is filed in accordance with section 557C.3, and the ownership shall revert to the person who was then the owner of the interest from which the mineral interest in coal was created, transferred, or preserved. Upon the filing of a statement of claim within the specified period, the mineral interest shall be deemed to have been preserved for an additional period of twenty years, or a shorter period as may be specified in the instrument creating the interest.

Sec. 3. **NEW SECTION. 557C.2 MINERAL INTEREST — DEFINITION.**

A mineral interest in coal means an interest created by an instrument which creates or transfers either by grant, assignment, reservation, or otherwise, an interest of any kind in coal, as described in chapter 83, without limitation on the manner of mining the coal.

Sec. 4. **NEW SECTION. 557C.3 STATEMENT OF CLAIM — FILING — REQUIREMENTS.**

The statement of claim provided in section 557C.1 shall be filed by the owner of the mineral interest in coal prior to the end of the twenty-year period set forth in section 557C.1 or by July 1, 1994, whichever is later. The statement of claim shall contain the name and address of the owner of the mineral interest in coal, and a description of the real estate on, or under, which the mineral interest in coal is located. The statement of claim shall be filed in the office of the recorder in the county in which the real estate is located.

Sec. 5. **NEW SECTION. 557C.4 STATEMENT OF CLAIM — FILING — RECORDER'S DUTY.**

Upon the filing of the statement of claim provided for in section 557C.3 in the recorder's office for the county where the real estate on, or under, which the mineral interest in coal exists, is located, the recorder shall record the statement of claim and index it in the claimant's book.

Sec. 6. NEW SECTION. 557C.5 RESERVATION IN OTHER CONVEYANCE.

A reservation of a mineral interest in coal or an exception of a mineral interest in coal, contained in a conveyance of the interest out of which it is carved, by a nonowner of the mineral interest in coal shall not be deemed to satisfy the requirements of this chapter or as a revival of a mineral interest in coal otherwise extinguished under this chapter.

Sec. 7. NEW SECTION. 557C.6 EXEMPTION.

The filing of the statement of claim required under section 557C.3 to preserve the mineral interest in coal shall not be required of an owner if the mineral interest was separately taxed for real estate tax purposes at any time after July 1, 1971.

Sec. 8. Section 558.5, Code 1991, is amended to read as follows:

558.5 CONTRACT FOR DEED — PRESUMPTION OF ABANDONMENT.

When the record shows that a contract or bond for a deed has been given prior to January 1, 1970 executed more than ten years earlier, and the record discloses no performance of the same and that more than ten years have elapsed since the contract by its terms was to be performed, the contract shall be deemed abandoned and of no effect and the land shall be freed from any lien or defect on account of the contract.

On and after July 1, 1992, this section shall apply to a contract or bond described in this section, if the contract or bond is not filed of record but referred to in another instrument which is filed of record. The contract or bond shall be deemed abandoned ten years from the date that the contract or bond is to be performed according to the recorded instrument. However, if the recorded instrument does not refer to a performance date for the contract or bond, the contract or bond shall be deemed abandoned ten years after the date that the instrument containing the reference is recorded.

Sec. 9. Section 558.14, Code 1991, is amended to read as follows:

558.14 GRANTOR DESCRIBED AS "SPOUSE" OR "HEIR" — PRESUMPTION.

All conveyances or the record title thereof of real estate executed prior to January 1, 1950 more than ten years earlier, wherein the grantor or grantors described themselves as the surviving spouse, heir at law, heirs at law, surviving spouse and heir at law, or surviving spouse and heirs at law, of some person deceased in whom the record title or ownership of said real estate previously vested, shall be conclusive evidence of the facts so recited as far as they relate to the right of the grantor or grantors to convey, as fully as if the record title of said grantor or grantors had been established by due probate proceedings in the county wherein the real estate is situated.

Sec. 10. Section 587.10, Code 1991, is amended to read as follows:

587.10 AFFIDAVIT OF PUBLICATION OF NOTICE BY ASSISTANT PUBLISHER.

All affidavits of proof of publication of any notice or original notice made by the assistant publisher of any newspaper of general circulation, which were executed and filed prior to January 1, 1970 more than ten years earlier, are hereby legalized, declared valid, binding, and of full force and effect.

Sec. 11. Section 589.1, Code 1991, is amended to read as follows:

589.1 ACKNOWLEDGMENTS — SEAL NOT AFFIXED.

All deeds, mortgages, or other instruments in writing for the conveyance of lands which have been made and executed before July 1, 1970 more than ten years earlier, and the officer taking the acknowledgment has not affixed the officer's seal to the acknowledgment; the acknowledgment is, nevertheless, good and valid in law and equity, anything in any law passed before July 1, 1970, any other provision of law to the contrary notwithstanding.

Sec. 12. Section 589.2, Code 1991, is amended to read as follows:

589.2 CONVEYANCES BY COUNTY.

All deeds executed before July 1, 1970 more than ten years earlier, by a court or the chairperson of the board of supervisors of a county, and to which the officer executing the deed

has failed or omitted to affix the county seal, and all deeds where the clerk has failed or omitted to countersign when required so to do, are legalized and valid as though the law had in all respects been fully complied with.

Sec. 13. Section 589.3, Code 1991, is amended to read as follows:

589.3 ABSENCE OF OR DEFECTIVE ACKNOWLEDGMENTS.

Any instrument in writing affecting the title to real estate within the state of Iowa, to which is attached no certificate of acknowledgment, or to which is attached a defective certificate of acknowledgment, which was, prior to January 1, 1970 more than ten years earlier, recorded or spread upon the records in the office of the recorder of the county in which the real estate described in the instrument is located, is, together with the recording and the record of the recording, valid, legal, and binding as if the instrument had been properly acknowledged and legally recorded.

Sec. 14. Section 589.4, Code 1991, is amended to read as follows:

589.4 ACKNOWLEDGMENTS BY CORPORATION OFFICERS.

The acknowledgments of all deeds, mortgages, or other instruments in writing taken or certified before July 1, 1970 more than ten years earlier, which instruments have been recorded in the recorder's office of any county of this state, including acknowledgments of instruments made by a corporation, or to which the corporation was a party, or under which the corporation was a beneficiary, and which have been acknowledged before or certified by a notary public who was at the time of the acknowledgment or certifying a stockholder or officer in the corporation, are legal and valid official acts of the notaries public, and entitle the instruments to be recorded, anything in the laws of the state of Iowa in regard to acknowledgments to the contrary notwithstanding. This section does not affect pending litigation.

Sec. 15. Section 589.5, Code 1991, is amended to read as follows:

589.5 ACKNOWLEDGMENTS BY STOCKHOLDERS.

All deeds and conveyances of lands within this state executed before July 1, 1970 more than ten years earlier, but which have been acknowledged or proved according to and in compliance with the laws of this state before a notary public or other official authorized by law to take acknowledgments who was, at the time of the acknowledgment, an officer or stockholder of a corporation interested in the deed or conveyance, or otherwise interested in the deeds or conveyances, are, if otherwise valid, valid in law as though acknowledged or proved before an officer not interested in the deeds or conveyances; and if recorded before July 1, 1970 more than ten years earlier, in the respective counties in which the lands are, the records are valid in law as though the deeds and conveyances, so acknowledged or proved and recorded, had, prior to being recorded, been acknowledged or proved before an officer having no interest in the deeds or conveyances.

Sec. 16. Section 589.6, Code 1991, is amended to read as follows:

589.6 INSTRUMENTS AFFECTING REAL ESTATE.

All instruments in writing executed by a corporation prior to July 1, 1970 more than ten years earlier, conveying, encumbering, or affecting real estate, including releases, satisfactions of mortgages, judgments, or any other liens by entry of the release or satisfaction upon the page where the lien appears recorded or entered, where the corporate seal of the corporation has not been affixed or attached, and which are otherwise legally and properly executed, are legal, valid, and binding as though the corporate seal had been attached or affixed.

Sec. 17. Section 589.8, Code 1991, is amended to read as follows:

589.8 MORTGAGES, TRUST DEEDS AND REALTY LIENS — RELEASES BEFORE JULY 1, 1970 EXECUTED, FILED, AND RECORDED FOR MORE THAN TEN YEARS.

A release or satisfaction of a mortgage or trust deed, or of an instrument in writing creating a lien upon real estate where the release or satisfaction has been recorded in the recorder's office of the county in this state, or upon the margin of the record, where the original instrument was recorded and which release or satisfaction was made by an individual, association,

copartnership, assignee, corporation, attorney in fact, or by a resident or foreign executor, administrator, referee, receiver, trustee, guardian, or commissioner, and which release or satisfaction was executed, filed, and recorded ~~prior to July 1, 1970~~ more than ten years earlier, is valid, legal and binding, any defects in the execution, acknowledgment, recording, filing, or otherwise of the releases or satisfactions to the contrary notwithstanding.

Sec. 18. Section 589.9, Code 1991, is amended to read as follows:

589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.

The release or satisfaction of a school-fund mortgage entered on the margin of the record of the mortgage by the auditor of the county ~~prior to July 1, 1970~~ more than ten years earlier, is legalized as though the auditor had, at the time of entering the release or satisfaction, the same power thereafter conferred upon the auditor by chapter 53 of the Acts of the Twenty-fifth General Assembly.

Sec. 19. Section 589.10, Code 1991, is amended to read as follows:

589.10 MARGINAL ASSIGNMENT OF MORTGAGE OR LIEN.

If an assignment of a mortgage or other recorded lien on real estate has been ~~made before July 1, 1970~~ executed more than ten years earlier, by written assignment on the margin of the record where the mortgage or other lien is recorded or entered, the assignment passed all the right, title, and interest in the real estate, which the assignor at the time had, with like force and effect as if the assignment had been made by separate instrument duly acknowledged and recorded; and an assignment or a duly authenticated copy of an assignment when accompanied by a duly authenticated copy of the record of the instrument or lien it purports to assign, is admissible in evidence as provided by law for the admission of the records of deeds and mortgages.

Sec. 20. Section 589.11, Code 1991, is amended to read as follows:

589.11 CONVEYANCES BY FIDUCIARIES.

If, ~~prior to the year 1970~~, an executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner, acting in that capacity in this or any state, has conveyed in the trust capacity real estate lying in this state and the conveyance has been of record ~~since prior to January 1, 1970~~ for more than ten years, in the county where the real estate so conveyed is located and which conveyance purports to sustain the title in the present record owner, the conveyance is not void or insufficient because due and legal notice of all proceedings with reference to the making of the conveyance was not served upon all interested or necessary parties, or that the executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner is not shown to have been duly authorized by an order of court to make and execute the conveyance, that a bond was not given, or that a report of the sale was not made; or the sale or deed of conveyance was not approved by order of court, or a foreign executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner was not appointed or qualified in the state of Iowa prior to the making of the conveyance, or the record fails to disclose compliance with any law, and all such conveyances are valid, legal, and binding. Allotments by referees in partition are conveyances within the meaning of this section.

Sec. 21. Section 589.12, Code 1991, is amended to read as follows:

589.12 SHERIFFS' DEEDS.

A foreclosure proceeding or sale of real estate on execution ~~prior to January 1, 1970~~, if a sheriff's deed was ~~executed~~ executed more than ten years earlier which purports to sustain the record title is not ineffectual on account of the failure of the record to show that any of the steps in obtaining the judgment or in the sale of the property were complied with. The proceedings are legalized as if the record showed that the law has been complied with.

Sec. 22. Section 589.13, Code 1991, is amended to read as follows:

589.13 SHERIFF'S DEED EXECUTED BY DEPUTY.

All conveyances of land in this state, executed in this state by a deputy sheriff, and properly recorded in the office of the county recorder of the county where the land is located, ~~prior~~

to January 1, 1970 more than ten years earlier, have the same force and effect as though the conveyance had been executed by the sheriff.

Sec. 23. Section 589.14, Code 1991, is amended to read as follows:

589.14 DEFECTIVE TAX DEEDS.

A sale of real property for taxes made prior to January 1, 1970, in which the tax deed was executed and the deed more than ten years earlier which purports to sustain the record title, is not ineffectual because of the failure of the record to show that any of the steps in the sale and deeding of the property were complied with and these proceedings are legalized and valid as if the record showed that the law had been complied with.

Sec. 24. Section 589.17, Code 1991, is amended to read as follows:

589.17 CONVEYANCES BY SPOUSE UNDER POWER.

A conveyance of real estate made before July 1, 1970 executed more than ten years earlier, in which the husband or wife conveyed or contracted to convey the inchoate right of dower through the other spouse, acting as the attorney in fact, by virtue of a power of attorney executed by the spouse, the power of attorney not having been executed as a part of a contract of separation, are not invalid as contravening section 3154 of the Code of 1897, or section 10447 of subsequent Codes to and including the Code of 1939, but all such conveyances are legalized and effective.

Sec. 25. Section 589.18, Code 1991, is amended to read as follows:

589.18 CONVEYANCES BY FOREIGN EXECUTORS.

All conveyances of real property made prior to January 1, 1970 executed more than ten years earlier, by executors or trustees under foreign wills and prior to the date upon which the will was admitted to probate in Iowa or prior to the expiration of three months after the recording of a duly authenticated copy of the will, original record of appointment, qualification, and bond as required by section 3295 of the Code of 1897 or sections 11878 to 11881, inclusive, of subsequent Codes to and including the Code of 1939, and in which the will was, subsequent to the conveyance, probated in Iowa, and in which a duly authenticated copy of the will, original record of appointment, qualification, and bond as required by those sections was, subsequent to the conveyance, made a matter of record as provided in those sections, are legalized and valid in law and in equity as though the will had been probated in Iowa prior to the conveyance and as though the sections had been strictly complied with. However, this section does not affect pending litigation.

Sec. 26. Section 589.19, Code 1991, is amended to read as follows:

589.19 CONVEYANCES UNDER SCHOOL-FUND FORECLOSURES.

If the title to real estate has been conveyed prior to January 1, 1970 more than ten years earlier, by the sheriff of a county pursuant to sheriff's sale under the foreclosure of permanent school-fund mortgages to the state, or to the state for the use of the school fund, or to the county for the school fund; and the land has been sold under authority of the board of supervisors of the county and conveyed under its authority, prior to January 1, 1970 more than ten years earlier, and the full purchase price paid and credited to, and used by, the county for the permanent school fund of the county, all right, title, or interest of the state in and to the real estate is relinquished and quitclaimed to the purchaser or the purchaser's grantees forever, and the title confirmed in the purchaser, or the purchaser's grantees insofar as the erroneous conveyance is concerned.

Sec. 27. Section 589.21, Code 1991, is amended to read as follows:

589.21 RELEASES AND DISCHARGES.

All releases and discharges of judgments, mortgages, or deeds of trust affecting property in this state made prior to January 1, 1970 executed more than ten years earlier, by administrators, executors, or guardians appointed by the court of any other state or country without complying with section 3308 of the Code of 1897 and sections 11897 to 11899, inclusive, of subsequent Codes to and including the Code of 1931 are legalized, valid and effective in law and

in equity as though the sections had been strictly followed. However, this section does not affect pending litigation.

Sec. 28. Section 589.23, Code 1991, is amended to read as follows:
589.23 DESCRIPTIONS REFERRING TO DEFECTIVE PLATS.

The description of land in all instruments, conveyances, and encumbrances describing lots in or referring to plats of survey or to plats made by the a county auditors of Iowa auditor, or by the a county surveyor for the owner, and placed of record by the a county recorders of Iowa prior to January 1, 1970 recorder more than ten years earlier, are legalized, valid and binding as though the plats had been signed and acknowledged and filed and recorded in strict compliance with law.

Sec. 29. Section 589.24, Code 1991, is amended to read as follows:
589.24 DEFECTIVE INSTRUMENTS.

A deed of conveyance, or other instrument purporting to convey real estate within the state, where the deed or instrument has been recorded in the office of the recorder of any county in which the real estate is situated, and the deed or instrument was executed by a county treasurer under a tax sale, a sheriff under execution sale, or by a resident or foreign executor, administrator, referee, receiver, trustee, guardian, commissioner, individual, copartnership, association, or corporation, and was executed and recorded prior to January 1, 1970 more than ten years earlier, and if the grantee named in the deed or conveyance, or other instrument, or the grantee's heirs or devisees, by direct line of title or conveyance have been in the actual, open, adverse possession of the premises since that date, is legalized, valid, and binding, notwithstanding defects in the execution of the deed or instrument.

Sec. 30. Section 589.25, Code 1991, is amended to read as follows:
589.25 SALES OF REAL ESTATE BY SCHOOL DISTRICT.

All deeds and conveyances of land made executed by or purporting to be made executed by a school district or by the board of directors of a school district prior to July 1, 1970, and placed of record prior to July 1, 1970 more than ten years earlier, which deeds or conveyances purport to sustain the record title, are legalized and valid, even though the record fails to show that all necessary steps in the sale and deeding of the property were complied with. The deeds and conveyances are legalized and valid as if the record showed that the law had been complied with, and that the sales had been duly authorized by the electors of the school district.

Sec. 31. Section 589.26, Code 1991, is amended to read as follows:

589.26 SOCIAL WELFARE DEPARTMENT LAND TRANSFERS BY THE DEPARTMENT OF HUMAN SERVICES LEGALIZED.

Every deed, release or other instrument in writing purporting to transfer any interest in land held or claimed by either the state department of social welfare or the state board of social welfare of the state of Iowa human services or a predecessor agency, which is signed for either or both said bodies by the secretary of either a departmental official, and which are now was filed or of record as of February 1, 1961 more than ten years earlier, in the office of the auditor or recorder or clerk of the district court of any county in Iowa, and any writing thus signed, filed or recorded which purports to release any old-age assistance lien on any real estate in Iowa is hereby legalized and shall be good and valid in law and in equity as fully as if the record expressly showed that same it in all respects complied with and was fully authorized as provided in any statute pertaining to such instrument, anything in the laws of Iowa any other provision of law to the contrary notwithstanding.

Sec. 32. Section 592.3, Code 1991, is amended to read as follows:
592.3 CITY AND TOWN PLATS.

1. In all cases where, prior to January 1, 1970 1980, any person has laid out any parcel of land into town or city lots and the plat of the lots has been recorded and the plat appears to be insufficient because of failure to show certificates of the county clerk of the district court, county treasurer, or county recorder, or the affidavit and bond, if any, and the certificate of

approval of the local governing body or because the certificates are defective, or because of a failure to fully comply with all of the provisions of chapter ~~409~~ 409A of the Code of 1966 as amended to December 31, 1969 in effect at the time of the recording of the plat, or corresponding statutes of earlier Codes, or because the plat failed to show signatures or acknowledgment of proprietors as provided by law, or because the acknowledgment was defective, and subsequent to the platting, lots or subdivisions of the lots have been sold and conveyed, all such said plats which have not been vacated, are legalized as of the date of the recording of the plat, the same as though all certificates have been attached and all the other necessary steps taken as provided by law, and the record of the plat shall be conclusive evidence that the person was the proprietor of the tract of land and the owner of the tract at the time of the platting, and that the tract of land was free and clear of all encumbrances unless an affidavit to the contrary was filed at the time of recording the plat.

PARAGRAPH DIVIDED. After July 1, 1981 1992, no action shall be brought on any cause arising after December 31, 1949, and before January 1, 1970 more than ten years earlier or which has been in existence for more than ten years, to establish, enforce, or recover any right, title, interest, lien, or condition existing at the time of the platting after December 31, 1949, and before January 1, 1970, and adverse to a clear and unqualified title in fee simple in the owner unless on or before July 1, 1981 1992, there is filed in the office of county recorder of the county where the real estate involved is located a written statement, acknowledged by the claimant, definitely describing the real estate involved, stating the nature and extent of the right or interest claimed, and stating the facts upon which the claim is based.

2. After July 1, 1992, in all cases where more than ten years earlier, a plat of lots from a parcel of land which has been laid into town or city lots has been recorded and the plat appears to be insufficient, the plat is legalized as of the date of the recording of the plat to the same extent as if the plat did not appear insufficient, if subsequent to the platting, the lots or a subdivision of the lots have been sold and conveyed, and the plats have not been vacated. A plat shall appear insufficient because of one of the following:

a. A failure to show or a deficiency in a certificate of the county clerk of the district court, county treasurer, or county recorder, or an affidavit and bond, or a certificate of approval of a local governing body.

b. A failure to fully comply with Code provisions in effect at the time of the recording of the plat.

c. A failure to show or a deficiency in a signature or acknowledgment of a proprietor as provided by law.

The record of the plat shall be conclusive evidence that the person was the proprietor of the tract of land and the owner of the tract at the time of the platting, and that the tract of land was free and clear of all encumbrances unless an affidavit to the contrary was filed at the time of recording the plat.

Sec. 33. Section 614.14, Code 1991, is amended to read as follows:

614.14 RECOVERY BY BENEFICIARY OF TRUST.

1. In all cases where a deed of trust or declaration of trust has been executed and the real estate affected by the deed or declaration has been conveyed by the trustee or the surviving spouse or heirs of the trustee and the conveyance was recorded in the proper county prior to ~~January~~ March 1, 1970 1982, and the interest of the beneficiary of the trust in the real estate has not been conveyed or established by proper proceedings in court, by the beneficiary, an action, suit or proceeding shall not be commenced or maintained to foreclose the same, or to establish or recover the interest of the beneficiary in the real estate, or of the surviving spouse or heirs of the beneficiary, unless the action, suit, or proceeding is commenced by filing petition and service of notice not later than March 1, 1981 1992.

2. In all cases where a deed of trust or declaration of trust has been executed, no legal action shall be commenced or maintained to foreclose real estate or establish or recover the interest of a beneficiary or of the surviving spouse or an heir of the beneficiary in the real estate, if all the following conditions are satisfied:

a. The real estate affected by the deed or declaration of trust has been conveyed by the trustee or the surviving spouse or heir of the trustee.

b. The conveyance was recorded in the proper county for more than ten years.

c. The interest of the beneficiary of the trust and the real estate has not been conveyed or established by the proper proceedings in court.

However, this section shall not apply if the legal action is commenced by filing a petition of service of notice within ten years of the recording of the conveyance.

Sec. 34. Section 614.15, Code 1991, is amended to read as follows:

614.15 SPOUSE FAILING TO JOIN IN CONVEYANCE.

1. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, prior to ~~January July 1, 1970~~ 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representatives, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within one year after July 1, ~~1980~~ 1991. But in case the right to the distributive share has not accrued by the death of the spouse ~~making~~ executing the instrument, then the one not joining is authorized to file in the recorder's office of the county where the land is situated, a notice with affidavit setting forth affiant's claim, together with the facts upon which the claim rests, and the residence of the claimants. If the notice is not filed within two years from July 1, ~~1980~~ 1991, the claim is barred forever. Any action contemplated in this section may include land situated in different counties, by giving notice as provided by section 617.13.

2. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, after July 1, 1991, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and spouse failed to join in the conveyance, the spouse or the heirs at law, personal representative, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within ten years from the date of the conveyance. However, in the case where the right to the distributive share has not accrued by the death of the spouse executing the instrument, then the party not joining is authorized to file in the recorder's office in the county where the land is situated, a notice with affidavit setting forth the affiant's claim, together with the facts upon which the claim is based, and the residence of the claimants. If the notice is not filed within ten years from the date of the execution of the instrument the claim is barred forever. Any action contemplated in this section may include land situated in different counties by giving notice as provided in section 617.13. The effect of filing the notice with affidavit shall extend for a further period of ten years the time within which the action may be brought. Successive notices may be filed extending this period.

Sec. 35. Section 614.16, Code 1991, is amended to read as follows:

614.16 INTERPRETATIVE CLAUSE.

Sections 614.14 and 614.15 do not affect litigation pending on July 1, ~~1980~~ 1991, nor do they operate to revive rights or claims barred previous to that date, nor permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute in force prior to July 1, ~~1980~~ 1991.

Sec. 36. Section 614.17, Code 1991, is amended to read as follows:

614.17 CLAIMS TO REAL ESTATE ANTEDATING ~~1970~~ 1980.

An action based upon a claim arising or existing prior to January 1, ~~1970~~ 1980, shall not be maintained, either at law or in equity, in any court to recover real estate in this state or to recover or establish any interest in or claim to real estate, legal or equitable, against the holder of the record title to the real estate in possession, when the holder of the record title and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate, since January 1, ~~1970~~ 1980, unless the claimant in person, or by the claimant's attorney or agent, or if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent, within one year from and after July 1, ~~1980~~ 1991, files in the office of the recorder of deeds of the county in which the real estate is situated,

a statement in writing, which is duly acknowledged, definitely describing the real estate involved, the nature and extent of the right or interest claimed, and stating the facts upon which the claim is based.

For the purposes of this section, section 614.17A, and sections 614.18 to 614.20, a person who holds title to real estate by will or descent from a person who held the title of record to the real estate at the date of that person's death or who holds title by decree or order of a court, or under a tax deed, trustee's, referee's, guardian's, executor's, administrator's, receiver's, assignee's, master's in chancery, or sheriff's deed, holds chain of title the same as though holding by direct conveyance.

For the purposes of this section and section 614.17A, such possession of real estate may be shown of record by affidavits showing the possession, and when the affidavits have been filed and recorded, it is the duty of the recorder to enter upon the margin of the record, a certificate to the effect that the affidavits were filed by the owner in possession, as named in the affidavits, or by the owner's attorney in fact, as shown by the records and in like manner, the affidavits may be filed and recorded where any action was barred on any claim by this section as in force prior to July 1, ~~1980~~ 1991.

Sec. 37. **NEW SECTION. 614.17A CLAIMS TO REAL ESTATE AFTER 1992.**

1. After July 1, 1992, an action shall not be maintained in a court, either at law or in equity, in order to recover or establish an interest in or claim to real estate if all the following conditions are satisfied:

- a. The action is based upon a claim arising more than ten years earlier or existing for more than ten years.
- b. The action is against the holder of the record title to the real estate in possession.
- c. The holder of the record title to the real estate in possession and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate for more than ten years.

2. The claimant within ten years of the date on which the claim arose or first existed must file with the county recorder in the county where the real estate is located a written statement which is duly acknowledged and definitely describes the real estate involved, the nature and extent of the right of interest claimed, and the facts upon which the claim is based. The claimant must file the statement in person or by the claimant's attorney or agent. If the claimant is a minor or under a legal disability, the statement must be filed by the claimant's guardian, trustee, or by either parent.

The filing of a claim shall extend for a further period of ten years the time within which such action may be brought by any person entitled to bring the claim. The person may file extensions for successive claims.

3. Nothing in this section shall be construed to revive any cause of action barred by section 614.17.

Sec. 38. Section 614.20, Code 1991, is amended to read as follows:

614.20 LIMITATION ON ACT.

Sections 614.17 to 614.19 do not limit or extend the time within which actions by a spouse to recover dower or distributive share in real estate within this state may be brought or maintained under the provisions of section 614.15, nor do they limit or extend the time within which actions may be brought or maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate under the provisions of section 614.21, nor do they revive or permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute which is in force prior to July 1, ~~1980~~ 1991; nor do they affect litigation pending on July 1, ~~1980~~ 1991.

Sec. 39. Section 614.22, Code 1991, is amended to read as follows:

614.22 ACTION AFFECTING ANCIENT DEEDS.

1. An action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's

deed, referee's deed, assignee's deed or sheriff's deed which has been recorded in the office of the recorder of the county or counties in this state in which the land described in the deed is situated prior to January 1, ~~1970~~ 1980, unless the action is commenced prior to January 1, ~~1981~~ 1992, and if an action to set aside, cancel, annul, declare void or invalid, or to redeem from the deed is not commenced prior to January 1, ~~1981~~ 1992, then the deed and all the proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause; provided that this section and section 614.23 do not apply to real property described in a deed which is not on July 1, ~~1980~~ 1991, in the possession of those claiming title under the deed.

2. On and after January 1, 1992, an action shall not be maintained to set aside, cancel, annul, or void a deed, and an action shall not be maintained to redeem from such deed, if the deed has been recorded in the office of the recorder for more than ten years. The deed must be recorded in the office of the recorder of the county or counties in which the land described in the deed is situated. If an action under this subsection is not commenced within ten years of the recording of the deed, then the deed and all proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause. As used in this subsection "deed" means a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed.

However, this subsection and section 614.23 do not apply to real property described in any deed which is for more than ten years in the possession of a person claiming title under the deed.

Sec. 40. Section 589.20, Code 1991, is repealed.

Approved May 17, 1991

CHAPTER 184

DISCRIMINATORY PRACTICES IN HOUSING AND REAL ESTATE

H.F. 656

AN ACT relating to unfair or discriminatory practices in housing and real estate, providing civil remedies, and a criminal penalty.

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

Section 1. Section 601A.2, subsection 8, Code 1991, is amended to read as follows:

8. "Familial status" means one or more individuals under the age of eighteen domiciled with either one of the following:

- a. A parent or another person having legal custody of the individual or individuals.
- b. The designee of the parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person.
- c. A person who is pregnant or is in the process of securing legal custody of the individual or individuals.

Sec. 2. Section 601A.5, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 13. To issue subpoenas and order discovery as provided by this section in aid of investigations and hearings of alleged unfair or discriminatory housing or real property practices. The subpoenas and discovery may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in district court.

NEW SUBSECTION. 14. To defer proceedings and refer a complaint to a local commission that has been recognized by the United States department of housing and urban development as having adopted ordinances providing fair housing rights and remedies that are substantially equivalent to those granted under federal law.

Sec. 3. NEW SECTION. 601A.8A ADDITIONAL UNFAIR OR DISCRIMINATORY PRACTICES — HOUSING.

1. A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, religion, national origin, disability, or familial status.

2. A person shall not represent to a person of a particular race, color, creed, sex, religion, national origin, disability, or familial status that a dwelling is not available for inspection, sale, or rental when the dwelling is available for inspection, sale, or rental.

3. a. A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of any of the following persons:

(1) That buyer or renter.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that buyer or renter.

b. A person shall not discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of any of the following persons:

(1) That person.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that person.

c. For the purposes of this subsection only, discrimination includes any of the following circumstances:

(1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises.

In the case of a rental, a landlord may, where reasonable to do so, condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January 1, 1992, a failure to design and construct those dwellings in a manner that meets the following requirements:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons.

(b) All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.

d. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1", satisfies the requirements of paragraph "c", subparagraph (3), subparagraph subdivision (c).

e. Nothing in this subsection requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.

4. a. A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, religion, national origin, disability, or familial status.

b. For the purpose of this subsection, "residential real estate related transaction" means any of the following:

(1) To make or purchase loans or provide other financial assistance to purchase, construct, improve, repair, or maintain a dwelling, or to secure residential real estate.

(2) To sell, broker, or appraise residential real estate.

5. A person shall not deny another person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in terms or conditions of access, membership, or participation in such organization because of race, color, creed, sex, religion, national origin, disability, or familial status.

Sec. 4. **NEW SECTION. 601A.11A HOUSING DISCRIMINATION, THREAT OF FORCE OR INTIMIDATION — PENALTY.**

1. A person commits a public offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with or attempts to interfere with a person under any of the following circumstances:

a. Because of the person's race, color, creed, sex, religion, national origin, disability, or familial status, and because the person is or has been selling, purchasing, renting, occupying, or financing, contracting for, or negotiating for the sale, purchase, rental, or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings.

b. Because the person is or has been doing any of the following:

(1) Participating, without discrimination because of race, color, creed, sex, religion, national origin, disability, or familial status, in an activity, service, organization, or facility described in paragraph "a".

(2) Affording another person the opportunity or protection to so participate.

(3) Lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, creed, sex, religion, national origin, disability, or familial status, in an activity, service, organization, or facility described in paragraph "a".

2. A person violating this section is guilty of a serious misdemeanor.

Sec. 5. Section 601A.12, subsection 3, Code 1991, is amended to read as follows:

3. The rental or leasing of less than ~~six~~ four rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if the occupant or owner or members of that person's family reside ~~therein~~ in the accommodation.

Sec. 6. Section 601A.12, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 7. Section 601A.12, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. For ~~ninety~~ eighty percent occupancy by at least one person fifty-five years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of such persons.

Sec. 8. **NEW SECTION. 601A.12A ADDITIONAL HOUSING EXCEPTION.**

Section 601A.8A does not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than race, color, creed, sex, religion, national origin, disability, or familial status in appraising real estate.

Sec. 9. NEW SECTION. 601A.15A ADDITIONAL PROCEEDINGS — HOUSING DISCRIMINATION.

1. a. The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation, the commission determines that the person should be alleged to have committed a discriminatory housing or real estate practice.

b. In addition to the information required in the notice, the commission shall include in a notice to a respondent joined under this subsection an explanation of the basis for the determination under this subsection that the person is properly joined as a respondent.

2. a. The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in mediation with respect to the complaint.

b. A mediation agreement is an agreement between a respondent and the complainant and is subject to commission approval.

c. A mediation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a mediation agreement may authorize appropriate relief, including monetary relief.

d. A mediation agreement shall be made public unless the complainant and respondent agree otherwise, and the commission determines that disclosure is not necessary to further the purposes of this chapter relating to unfair or discrimination in housing or real estate.

e. The proceedings or results of mediation shall not be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons who are party to the mediation.

f. After the completion of the commission's investigation, the commission shall make available to the aggrieved person and the respondent information derived from the investigation and the final investigation report relating to that investigation.

3. a. If the commission concludes, following the filing of a complaint, that prompt judicial action is necessary to carry out the purposes of this chapter relating to unfair or discriminatory housing or real estate practices, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.

b. On receipt of the commission's authorization, the attorney general shall promptly file the action.

c. A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Iowa rules of civil procedure.

d. The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings in regard to an administrative hearing.

4. a. The commission shall prepare a final investigative report.

b. A final report under this section may be amended by the commission if additional evidence is discovered.

5. a. The commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

b. The commission shall make its determination under paragraph "a" not later than one hundred days after a complaint is filed unless any of the following applies:

(1) It is impracticable to make the determination within that time period.

(2) The commission has approved a mediation agreement relating to the complaint.

c. If it is impracticable to make the determination within the time period provided by paragraph "b", the commission shall notify the complainant and respondent in writing of the reasons for the delay.

d. If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection 7.

6. a. A determination issued under subsection 5 must include all of the following:

(1) Must consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

(2) Must be based on the final investigative report.

(3) Need not be limited to the facts or grounds alleged in the complaint.

b. Not later than twenty days after the commission issues a determination, the commission shall send a copy of the determination with information regarding the election under section 601A.16A to all of the following persons:

(1) Each respondent, together with a notice of the opportunity for a hearing as provided under subsection 10.

(2) Each aggrieved person on whose behalf the complaint was filed.

7. If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the attorney general for appropriate action.

8. a. If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.

b. The commission shall make public disclosure of each dismissal under this section.

9. The commission shall not issue a determination under this section regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.

10. a. If a timely election is not made under section 601A.16A, the commission shall provide for a hearing on the charges in the complaint.

b. Except as provided by paragraph "c", the hearing shall be conducted in accordance with chapter 17A for contested cases.

c. A hearing under this section shall not be continued regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.

11. a. If the commission determines at a hearing under subsection 10 that a respondent has engaged or is about to engage in a discriminatory housing or real estate practice, the commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief.

b. To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following applicable amount:

(1) Ten thousand dollars if the respondent has not been adjudged by the order of the commission or a court to have committed a prior discriminatory housing or real estate practice.

(2) Except as provided by paragraph "c", twenty-five thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed one other discriminatory housing or real estate practice during the five-year period ending on the date of the filing of the complaint.

(3) Except as provided by paragraph "c", fifty thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed two or more discriminatory housing or real estate practices during the seven-year period ending on the date of the filing of the complaint.

c. If the acts constituting the discriminatory housing or real estate practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing or real estate practice, the civil penalties in paragraph "b", subparagraphs (2) and (3) may be imposed without regard to the period of time within which any other discriminatory housing or real estate practice occurred.

d. At the request of the commission, the attorney general shall initiate legal proceedings to recover a civil penalty due under this section. Funds collected under this section shall be paid to the treasurer of state for deposit in the state treasury to the credit of the general fund.

Sec. 10. NEW SECTION. 601A.16A CIVIL ACTION ELECTED — HOUSING.

1. a. A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the charges asserted in the complaint decided in a civil action as provided by section 601A.17A.

b. The election must be made not later than twenty days after the date of receipt by the electing person of service under section 601A.15, subsection 5, or in the case of the commission, not later than twenty days after the date the determination was issued.

c. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the election relates.

2. a. An aggrieved person may file a civil action in district court not later than* two years after the occurrence of the termination of an alleged discriminatory housing or real estate practice, or the breach of a mediation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing or real estate practice or breach.

b. The two-year period does not include any time during which an administrative hearing under this chapter is pending with respect to a complaint or charge based on the discriminatory housing or real estate practice. This subsection does not apply to actions arising from a breach of a mediation agreement.

c. An aggrieved person may file an action under this section whether or not a discriminatory housing or real estate complaint has been filed under section 601A.15A, and without regard to the status of any discriminatory housing or real estate complaint filed under that section.

d. If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this section with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.

e. An aggrieved person shall not file an action under this section with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the commission if the commission has begun a hearing on the record under this chapter with respect to the charge.

Sec. 11. NEW SECTION. 601A.17A CIVIL PROCEEDINGS — HOUSING.

1. a. If timely election is made under section 601A.16A, subsection 1, the commission shall authorize, and not later than thirty days after the election is made, the attorney general shall file a civil action on behalf of the aggrieved person in a district court seeking relief.

b. Venue for an action under this section is in the county in which the alleged discriminatory housing or real estate practice occurred.

c. An aggrieved person may intervene in the action.

d. If the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may grant as relief any relief that a court may grant in a civil action under subsection 6.

e. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the district court shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the district court.

2. A commission order under section 601A.15A, subsection 11, does not affect a contract, sale, encumbrance, or lease that was consummated before the commission issued the order and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge issued under this chapter.

3. If the commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, not later than thirty days after the date of issuance of the order, shall do all of the following:

a. Send copies of the findings and the order to the governmental agency.

b. Recommend to the governmental agency appropriate disciplinary action.

*"Than" probably intended

4. If the commission issues an order against a respondent against whom another order was issued within the preceding five years under section 601A.15A, subsection 11, the commission shall send a copy of each order issued under that section to the attorney general.

5. On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory practice is alleged, the district court may appoint an attorney for the person.

6. In an action under this section, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may award or issue to the plaintiff one or more of the following:

- a. Actual and punitive damages.
- b. Reasonable attorney's fees.
- c. Court costs.

d. Subject to subsection 7, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

7. Relief granted under this section does not affect a contract, sale, encumbrance, or lease that was consummated before the granting of the relief and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under this chapter or a civil action under this section.

8. a. On the request of the commission, the attorney general may intervene in an action under this section if the commission certifies that the case is of general public importance.

b. The attorney general may obtain the same relief available to the attorney general under subsection 9.

9. a. On the request of the commission, the attorney general may file a civil action in district court for appropriate relief if the commission has reasonable cause to believe that any of the following applies:

(1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

(2) A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

b. In an action under this section, the district court may do any of the following:

(1) Order preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of housing rights as necessary to assure the full enjoyment of the housing rights granted by this chapter.

(2) Order another appropriate relief, including the awarding of monetary damages, reasonable attorney's fees, and court costs.

(3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed any of the following:

(a) Fifty thousand dollars for a first violation.

(b) One hundred thousand dollars for a second or subsequent violation.

c. A person may intervene in an action under this section if the person is any of the following:

(1) An aggrieved person to the discriminatory housing or real estate practice.

(2) A party to a mediation agreement concerning the discriminatory housing or real estate practice.

10. The attorney general, on behalf of the commission or other party at whose request a subpoena is issued, may enforce the subpoena in appropriate proceedings in district court.

11. A court in a civil action brought under this section or the commission in an administrative hearing under section 601A.15A, subsection 11, may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

Sec. 12. NEW SECTION. 601A.20 EFFECT ON OTHER LAW.

1. This chapter does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards.

2. This chapter does not affect a requirement of nondiscrimination in other state or federal law.

Approved May 17, 1991

CHAPTER 185

DISTRICT COURT CLERK — REPORTING REQUIREMENT DELETED *S.F. 102*

AN ACT eliminating the requirement that the clerk of the district court file an annual report with the treasurer of state on certain fines, penalties, forfeitures, and recognizances.

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

Section 1. Section 666.6, Code 1991, is amended to read as follows:

666.6 ANNUAL REPORT OF OUTSTANDING FINES, PENALTIES, FORFEITURES, AND RECOGNIZANCES.

The clerk of the district court shall make an annual report in writing to ~~the treasurer of state and~~ the state court administrator no later than January 15 of the fines, penalties, forfeitures, and recognizances which have not been paid, remitted, canceled, or otherwise satisfied during the previous calendar year.

Approved May 21, 1991

CHAPTER 186

URBAN RENEWAL AND URBAN REVITALIZATION *S.F. 547*

AN ACT relating to housing and residential development within certain urban renewal areas and to tax exemption schedules for revitalization areas and providing an applicability date.

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

Section 1. Section 403.2, subsection 3, Code 1991, is amended to read as follows:

3. It is further found and declared that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment; and that it is accordingly necessary to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its municipalities and for the provision of housing and residential development for low and moderate income families; that accordingly it is necessary to authorize local governing bodies to designate areas of a municipality as economic development areas for commercial and industrial enterprises or housing and residential development for low and moderate income families; and that it is also necessary to encourage the location and expansion of commercial enterprises to more

conveniently provide needed services and facilities of the commercial enterprises to municipalities and the residents of the municipalities. Therefore, the powers granted in this chapter constitute the performance of essential public purposes for this state and its municipalities.

Sec. 2. Section 403.17, subsection 20, Code 1991, is amended to read as follows:

20. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises or housing and residential development for low and moderate income families, including single or multifamily housing. Such designated area shall not include land which is part of a century farm.

Sec. 3. Section 403.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 20A. "Low or moderate income families" means low or moderate income families as defined in section 220.1.

Sec. 4. Section 403.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 21. "Housing and residential development" means single or multifamily dwellings to be constructed in an area with respect to which the local governing body of the municipality determines that there is an inadequate supply of affordable, decent, safe, and sanitary housing and that providing such housing is important to meeting any or all of the following objectives: retaining existing industrial or commercial enterprises; attracting and encouraging the location of new industrial or commercial enterprises; meeting the needs of special elements of the population, such as the elderly or handicapped; and providing housing for various income levels of the population which may not be adequately served.

Sec. 5. Section 404.3, subsection 6, Code 1991, is amended to read as follows:

6. The tax exemption schedule specified in subsection 1, 2, 3 or 4 shall apply to every revitalization area within a city unless a different schedule is adopted in the city plan as provided in section 404.2. However, a city shall not adopt a different schedule unless every revitalization area within the city has the same schedule applied to it and the, except in areas of the city which have been designated as both urban renewal and urban revitalization areas. In an area designated for both urban renewal and urban revitalization, a city may adopt a different schedule than has been adopted for revitalization areas which have not been designated as urban renewal areas. The different schedule adopted does shall not provide for a larger tax exemption in a particular year than is provided for that year in the schedule specified in the corresponding subsection of this section.

Sec. 6. This Act shall not apply to such projects where a governing body has adopted a resolution designating an economic development area prior to July 1, 1991.

Approved May 21, 1991

CHAPTER 187

ANNEXATION

H.F. 182

AN ACT relating to the annexation of land surrounded by one or more cities.

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

Section 1. Section 368.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Island" means land which is not part of a city and which is completely surrounded by the corporate boundaries of one or more cities. However, a part of the boundary of an "island" may be contiguous with a boundary of the state.

Sec. 2. Section 368.7, unnumbered paragraph 2, Code 1991, is amended to read as follows:

An application for annexation of territory not within the urbanized area of a city other than the city to which the annexation is directed must be approved by resolution of the council which receives the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the state department of transportation. The city clerk shall also file a copy of the map and resolution with the county recorder and secretary of state. The secretary of state shall not accept and acknowledge a copy of a map and resolution of annexation which would create an island. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.

Sec. 3. Section 368.7, unnumbered paragraph 3, Code 1991, is amended to read as follows:

An application for annexation of territory within the urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. The board shall not approve an application which creates an island. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 4. Section 368.17, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 7. An annexation which creates an island.

Sec. 5. ANNEXATION OF EXISTING ISLANDS.

1. On or before January 15, 1992, the board of supervisors of each county shall notify the city development board of the existence of any islands within the county that have not become a part of a city by annexation or incorporation as of the date of notification. The notification shall include a legal description of the island and a map showing its location in relationship to the city or cities surrounding the island. The city development board shall verify each county's identification of an island, giving notice and opportunity to contest the identification to each city within whose boundaries the identified island is located as part of the verification process. The city development board shall also give notice and the opportunity to protest the pending annexation to the landowners of the island.

2. If the island is within the boundaries of only one city, the board shall certify the verification to the city and declare the island annexed to the city as of the date of certification.

3. If the island is described by the boundaries of more than one city, the board shall conduct a public hearing for the purpose of determining to which city the island should be annexed. The board may determine that the island's territory shall be divided among the cities in a manner the board finds appropriate. The board's declaration of annexation to each city shall describe how the island is divided among the cities.

4. However, if a majority of the landowners of the island protest the annexation, the board shall discontinue the annexation proceedings unless the board finds that the residents of the island do not have adequate fire protection, police protection, emergency medical services, and road construction and maintenance services.

5. All applicable provisions of section 368.20 shall be followed with regard to annexations pursuant to this section.

Approved May 21, 1991

CHAPTER 188**CEMETERIES – PERPETUAL CARE***H.F. 237*

AN ACT relating to the perpetual care of cemeteries and cemetery lots and spaces.

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

Section 1. Section 250.17, Code 1991, is amended to read as follows:

250.17 MAINTENANCE OF GRAVES.

The county boards of supervisors shall each year appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service person is buried, a sum sufficient to pay for the care and maintenance of the lots on which they are buried, in all cases in which provision for such care is not otherwise made, or may conclude their responsibility by paying a mutually agreed to fee for perpetual care when the cemetery authority has established a perpetual care fund for the cemetery, to be paid either as a lump sum, or in not to exceed five installments in a manner agreed to by the parties.

Sec. 2. Section 368.3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a city is discontinued under this section or under sections 368.11 through 368.22, and that city owns a cemetery, the board shall determine if any perpetual care funds exist and provide for their transfer to a trustee named by a district court or to the county or other suitable governmental entity.

Sec. 3. Section 566.14, Code 1991, is amended to read as follows:

566.14 MUNICIPAL CORPORATION POLITICAL SUBDIVISIONS AS TRUSTEE TRUSTEES.

Counties, cities, irrespective of their form of government, boards of trustees of cities to whom the management of municipal cemeteries has been transferred by ordinance, and civil townships wholly outside of any city, ~~shall be and they are hereby created~~ trustees in perpetuity, and are required to accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of cemetery lot sales or permanent charges made against cemetery lots which has been set aside in a perpetual care fund for which there is no other acting trustee, to be used in caring for the property of the donor, or lot owner who by purchase or otherwise has provided for the perpetual care of a cemetery lot in any cemetery, or in accordance with the terms of ~~such~~ the donation, bequest, or agreement for sale and purchase of a cemetery lot, and the money or property thus received shall be used for no other purpose.

Sec. 4. Section 566.15, Code 1991, is amended to read as follows:

566.15 AUTHORITY TO INVEST FUNDS.

The board of supervisors, mayor and council, or ~~board of trustees~~ other elected governmental body, as the case may be, ~~shall have~~ has the authority to receive and invest all moneys and property, ~~so~~ donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against cemetery lots which ~~has have~~ been set aside in a perpetual care fund, in ~~such~~ authorized investments and in the manner prescribed in section 682.23, ~~or as the same may be hereafter amended.~~ Such money must be invested at the market value of such securities, and they shall use the for which they have exercised the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their affairs. The income from such the investment shall be used in caring for the property of the donor in any cemetery, or as shall be provided in the terms of such the gift or donations or agreement for sale and purchase of a cemetery lot.

Sec. 5. Section 566.15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All current charges received shall be allocated to the perpetual care fund or to the fund paying the costs of cemetery operation. Care charge payments received one year or more after the date they were incurred shall be used to fund the cost of operating the cemetery. Care charge payments received one year or more in advance of their due date shall be deposited in the perpetual care fund. Interest from the perpetual care fund shall be used for the maintenance of both occupied and unoccupied lots or spaces. Any remaining interest may be used for costs of access roads and paths, fencing, and general maintenance of the cemetery. Lots under perpetual care shall be maintained in accordance with the cemetery covenants of sale.

Sec. 6. Section 566.16, Code 1991, is amended to read as follows:

566.16 RESOLUTION OF ACCEPTANCE — INTEREST.

Before any part of the principal may be so invested or used, the county, city, board of trustees of a city to whom the management of a municipal cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the ~~donation or bequest, and that portion of cemetery lot sales or permanent charges made against cemetery lots which is to be used for perpetual care of cemetery lots, moneys described in section 566.14 and, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery association, or to the person having in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or lots which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of a cemetery lot.~~

In case If there is no cemetery association or person in charge of the cemetery, then the income from said the fund shall be expended under the direction of the board of supervisors, city council, board of trustees, or civil township trustees, as the case may be, in accordance with the terms of said the donation or bequest, or the terms of the sale or purchase of a cemetery lot.

Sec. 7. Section 566.21, Code 1991, is amended to read as follows:

566.21 PRESUMPTION OF ABANDONMENT.

The continued failure by the owner to maintain or care for a an unoccupied cemetery lot or space not under perpetual care, or to pay the annual care fee, for a period of ten years shall create and establish the presumption that the same lot or space has been abandoned. A lot with empty space under perpetual care which has not had a burial for seventy-five years shall create a presumption that the empty space has been abandoned.

Sec. 8. Section 566.22, Code 1991, is amended to read as follows:

566.22 NOTICE OF ABANDONMENT.

Abandonment shall not be deemed complete unless after such the ten-year or seventy-five year period, whichever is applicable, there shall have been is given by the reversionary owner to the recorded owner, or if the recorded owner is deceased or the recorded owner's whereabouts are unknown, to the heirs of such deceased the recorded owner, notice declaring the lot to be abandoned.

Sec. 9. Section 566.24, Code 1991, is amended to read as follows:

566.24 NOTICE OF NONABANDONMENT — EFFECT OVERCOMING PRESUMPTION OF ABANDONMENT.

If within one year from the time of serving such the notice, the recorded owner or the owner's heirs shall pay the past due annual care charges against the lot, then shall the presumption of abandonment shall no longer exist and the recorded owner may be required to make full payment for future perpetual care.

Sec. 10. Section 566.26, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

566.26 USE OF FUNDS.

Any funds realized from the sale of all or a part of an unoccupied lot not under perpetual care which has reverted shall be allocated to the perpetual care fund and to the fund paying the costs of cemetery operation.

Sec. 11. Section 566.27, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

566.27 ABANDONMENT IF PERPETUAL CARE PROVIDED BY WILL, COURT ORDER, OR CONTRACT.

After the seventy-five year period, sections 566.20 through 566.26 are applicable to an unoccupied lot or space for which perpetual care has been provided by will, court order, contract, or as provided by law. However, the reversionary owner shall not acquire the absolute right to sell the unoccupied lot or space until three years after the date notice was served on the recorded owner or the recorded owner's heirs.

Sec. 12. Section 566A.1, Code 1991, is amended to read as follows:

566A.1 APPLICABILITY OF CHAPTER.

1. ~~Any A corporation or other form of organization organized or engaging in the business under the laws of the state of Iowa, or wheresoever organized and engaging in the business in the state of Iowa,~~ of the ownership, maintenance, or operation of a cemetery, providing which provides lots or other interment space therein for the remains of human bodies, except such organizations which are churches or religious or established fraternal societies, or incorporated cities or other political subdivisions of the state of Iowa owning, maintaining or operating cemeteries, shall be is subject to the provisions of this chapter. However, a church, religious organization, or established fraternal society is subject only to subsection 2 of this section. Political subdivisions of the state are exempt from this chapter.

Sec. 13. Section 566A.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2. An organization which establishes a fund for the perpetual care of a cemetery shall establish the fund as an irrevocable trust to provide for the care and maintenance of the cemetery for which it was established, and shall provide for the appointment of a trustee, with perpetual succession, in case the organization is dissolved or ceases to be responsible for the cemetery's care and maintenance.

Approved May 21, 1991

CHAPTER 189**ELECTION OF MULTICOUNTY SHERIFF**

H.F. 510

AN ACT relating to the election of a county sheriff to serve more than one county.

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

Section 1. NEW SECTION. 331.661 MULTICOUNTY OFFICE.

1. Two or more county boards of supervisors may adopt resolutions proposing to share the services of a county sheriff. The resolutions shall also propose that the question of establishing the office of multicounty sheriff be submitted to the electorate of the counties proposing to share the services of a county sheriff. The proposal is adopted in those counties where a majority of the electors voting approves the proposal.

2. The county sheriff shall be elected by a majority of the votes cast for the office of county sheriff in all of the counties which the county sheriff will serve. The election shall be conducted in accordance with section 47.2, subsection 2.

3. The office of multicounty sheriff is created effective on January 1 of the year following the next general election at which the county sheriff is elected as provided by this section and section 39.17.

Approved May 21, 1991

CHAPTER 190

REAPPORTIONMENT OF COUNTY SUPERVISOR DISTRICTS

H.F. 614

AN ACT relating to the reapportionment of county supervisor districts.

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

Section 1. Section 331.209, subsection 1, Code 1991, is amended to read as follows:

1. Before December 15 of the nonelection year following each federal decennial census the board shall divide the county into a number of supervisor districts corresponding to the number of supervisors in the county. However, if the plan is selected pursuant to section 331.207, the board shall divide the county before March 15 of the election year. The supervisor districts shall be drawn, to the extent applicable, in compliance with the redistricting standards provided for ~~legislative and congressional senatorial and representative~~ districts in section 42.4, and if a supervisor redistricting plan is challenged in court, the requirement of justifying any variance in excess of one percent contained in section 42.4, subsection 1, paragraph "c" applies to the board. If the board adopts a supervisor redistricting plan with a variance in excess of one percent, the board shall publish the justification for the variance in one or more official newspapers as provided in chapter 349 within ten days after the action is taken. If more than one incumbent supervisor resides in the same supervisor district after the districts have been redrawn following the federal decennial census, the terms of office of those supervisors shall expire on the first day of January that is not a Sunday or a holiday following the next general election.

Approved May 21, 1991

CHAPTER 191

PROPERTY AND OTHER LOCAL TAXES — COLLECTION AND ADMINISTRATION

H.F. 687

AN ACT relating to the collection and administration of ad valorem property taxes, special assessments, mobile home taxes, and various rates and charges, and providing an effective date.

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

Section 1. Section 96.14, subsection 3, unnumbered paragraph 7, Code 1991, is amended to read as follows:

The division shall, substantially as provided in ~~sections 445.6 and 445.7~~ this chapter and chapter 626, proceed to collect all contributions as soon as practicable after ~~the same~~ they become delinquent, except that no property of the employer ~~shall be~~ is exempt from the payment of ~~said~~ the contributions.

Sec. 2. Section 135D.24, subsections 1 and 7, Code 1991, are amended to read as follows:

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 Interest 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 Interest attaches the following April 1 for taxes prorated on or after October 1. A penalty Interest 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. If the owner of a mobile home sells the mobile home, obtains a tax clearance statement, and obtains a replacement mobile home, the owner shall not pay taxes under this chapter for the newly acquired mobile home for the same tax period that the owner has paid taxes on the mobile home sold. Interest added as a penalty for delinquent taxes shall be calculated to the nearest whole dollar. In calculating interest each fraction of a month shall be counted as an entire month.

7. a. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year mobile home taxes. A minimum payment amount shall be established by the ~~county~~ treasurer. The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The county treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year mobile home taxes.

b. Partial payment of taxes which are delinquent may be made to the county treasurer. A minimum payment amount shall be established by the treasurer. The minimum payment must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent installment of the tax and shall be apportioned in accordance with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 3. Section 135D.24, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 8. Current year taxes may be paid at any time regardless of any outstanding prior year delinquent taxes.

Sec. 4. Section 135D.26, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. If a security interest is noted on the certificate of title, tendering to the secured party a mortgage on the real estate upon which the mobile home is to be located in the unpaid amount

of the secured debt, and with the same priority as or a higher priority than the secured party's security interest, or obtaining written consent of the secured party to the conversion, in which latter case the lien notation on the certificate of title shall suffice to preserve the lienholder's security in the mobile home separate from any interest in the land.

Sec. 5. Section 135D.26, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. If compliance with subsection 1, paragraph "c", has been accomplished by the secured party consenting to the conversion without accepting a mortgage, the secured party shall retain the mobile home vehicle title and the assessor shall note the conversion on the assessor's records and enter the property upon the tax rolls. So long as a security interest is noted on the certificate of title, the title to the mobile home will not be merged with title to the land, and the sale or foreclosure of an interest in the land shall not affect title to the mobile home or any security interest in the mobile home.

Sec. 6. Section 321.46, subsection 2, Code 1991, 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 public bidder sale in a county, shall be titled in the county's name, with no fee and the county treasurer shall issue the title.

Sec. 7. Section 331.401, subsection 1, paragraph 1, Code 1991, is amended to read as follows:

1. Carry out duties in regard to the collection of taxes as provided in sections 445.16, ~~445.19~~, 445.60, and 445.62.

Sec. 8. Section 331.427, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 84.21, 98.35, 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, 176A.8, 246.908, 321.105, 321.152, 321G.7, 331.554, subsection 6, 341A.20, 364.3, 368.21, 422.65, 422A.2, 428A.8, 430A.3, 433.15, 434.19, ~~445.52~~, 445.57, 533.24, 556B.1, 567.10, 583.6, 906.17, and 911.3, and chapter 405A, and the following:

Sec. 9. Section 331.512, subsections 14 and 15, Code 1991, are amended by striking the subsections.

Sec. 10. Section 331.552, subsection 23, Code 1991, is amended to read as follows:

23. Collect a fee of ~~three ten~~ dollars for issuing a tax sale certificate ~~for land sold for non-payment of taxes~~ or a certificate of redemption of land sold ~~for taxes from tax sale~~.

Sec. 11. Section 331.553, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Require that payment be made by guaranteed funds for tax sale redemptions, issuance of plat clearances, issuance of tax clearances for mobile homes, payments of taxes or assessments made within the ten days prior to the annual tax sale or any adjournment of the tax sale, and any other payment which is to be collected by the county treasurer. For the purposes of this subsection, "guaranteed funds" means cash, cashier's check, money order, travelers' check, or certified check.

Sec. 12. Section 331.559, subsections 22, 23, and 24, Code 1991, are amended to read as follows:

22. Carry out duties relating to the sale of property parcels for delinquent taxes as provided in chapter 446.

23. Carry out duties relating to the redemption of property parcels sold for delinquent taxes as provided in chapter 447.

24. Carry out duties relating to the issuance of a tax deed or certificate of title for property parcels, as defined in section 445.1, sold for delinquent taxes as provided in chapter 448.

Sec. 13. Section 331.604, Code 1991, is amended to read as follows:

331.604 GENERAL RECORDING AND FILING FEE.

Except as otherwise provided by state law or section 331.605, the recorder shall collect a fee of five dollars for each page or fraction of a page of an instrument which is filed or recorded in the recorder's office. If a page or fraction of a page contains more than one transaction, the recorder shall collect the fee for each transaction.

Sec. 14. Section 331.653, subsections 36 and 37, Code 1991, are amended by striking the subsections.

Sec. 15. Section 409A.4, subsection 1, paragraph a, Code 1991, is amended to read as follows:
a. A parcel letter or number designation approved by the auditor.

Sec. 16. Section 409A.5, subsection 1, paragraph a, Code 1991, is amended to read as follows:
a. The parcel letter or number designation.

Sec. 17. Section 420.246, Code 1991, is amended to read as follows:

420.246 TAX AND DEED STATUTES APPLICABLE.

Sections ~~445.47 to 445.51, 446.3 to 446.6, 446.16, 446.32, and 448.10 to 448.13~~ 448.12 are applicable to cities acting under special charters, except that, where the word "treasurer" is used, there shall be substituted the words "city collector or treasurer or deputy treasurer or deputy or officer authorized to collect city taxes"; and where the word "auditor" is used, there shall be substituted the words "city clerk or recorder".

Sec. 18. Section 422.26, unnumbered paragraph 8, Code 1991, is amended to read as follows:

The department shall, substantially as provided in ~~sections 445.6 and 445.7~~ this chapter and chapter 626, proceed to collect all taxes and penalties as soon as practicable after ~~the same~~ they become delinquent, except that no property of the taxpayer ~~shall be~~ is exempt from the payment of ~~said the tax~~. ~~In the event~~ If service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized revenue agents of the department ~~are hereby empowered to~~ may serve and make return of ~~such the~~ warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedure shall be in compliance with chapter 626.

Sec. 19. Section 425.17, subsection 10, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

10. "Special assessment" means an unpaid special assessment certified pursuant to chapter 384, division IV. The claimant may include as a portion of the taxes due during the fiscal year next following the base year an amount equal to the unpaid special assessment installment due, plus interest, during the fiscal year next following the base year.

Sec. 20. Section 427.8, Code 1991, is amended to read as follows:

427.8 PETITION FOR SUSPENSION OR CANCELLATION ABATEMENT OF TAXES, ASSESSMENTS, AND RATES OR CHARGES.

If a person, ~~by reason of age or infirmity~~, is unable to contribute to the public revenue, the person may file a petition, duly sworn to, with the board of supervisors, stating that fact and giving a statement of real property parcels, as defined in section 445.1, owned or possessed by the petitioner, and other information as the board may require. The board of supervisors

may order the county treasurer to suspend the collection of the taxes, special assessments under sections 384.37 through 384.79, and rates or assessments imposed under section 384.84 or chapter 317 or 364, and rates or charges which are assessed against the petitioner or the petitioner's estate, or both, for the current year and those unpaid for prior years, or the board may ~~cancel and remit~~ abate the taxes, special assessments, and other assessments or rates or charges. However, the petition must first be approved by the council of the city in which the property of the petitioner is located, or by the township trustees of the township in which the property is located. The petition, when approved, shall be filed by March 1 of the current tax year with the treasurer.

Sec. 21. Section 427.9, Code 1991, is amended to read as follows:

427.9 SUSPENSION OF TAXES, ASSESSMENTS, AND RATES OR CHARGES.

~~Whenever~~ If a person is a recipient of federal supplementary security income or state supplementary assistance, as defined in section 249.1, or is a resident of a health care facility, as defined by section 135C.1, which is receiving payment from the department of human services for the person's care, the person shall be deemed to be unable to contribute to the public revenue. The director of human services shall notify the board of supervisors, of the county in which the assisted person owns ~~property~~ parcels, as defined in section 445.1, of the fact, giving a statement of ~~property~~, parcels owned, possessed, or upon which the person is paying taxes as a purchaser under contract. The board of supervisors so notified, without the filing of a petition and statement as specified in section 427.8, shall order the county treasurer to suspend the collection of all the taxes, special assessments, and rates or charges assessed against the ~~property~~ parcels and remaining unpaid by the person or contractually payable by the person, for such time as the person remains the owner or contractually prospective owner of the ~~property~~ parcels, and during the period the person receives assistance as described in this section. The director of human services shall advise the person that the person may apply for an additional property tax credit pursuant to sections 425.16 to 425.39 which shall be credited against the amount of the ~~property~~ taxes suspended.

Sec. 22. Section 427.10, Code 1991, is amended to read as follows:

427.10 BOARD MAY CANCEL OR REMIT ABATEMENT.

The board of supervisors may, if in their judgment it is for the best interests of the public and the petitioner referred to in section 427.8, or the public and the person referred to in section 427.9, ~~cancel and remit~~ abate the taxes assessed against the petitioner or the person or the petitioner's or person's estate or both, even though the taxes, special assessments, and rates or charges which have previously been suspended as provided in sections 427.8 or 427.9.

Sec. 23. Section 427.11, Code 1991, is amended to read as follows:

427.11 GRANTEE OR DEVISEE TO PAY TAX.

~~In the event that~~ If the petitioner shall sell or person described in section 427.9 sells any real estate parcel upon which the ~~tax has~~ taxes, special assessments, and rates or charges have been suspended in the manner above provided, or in case if any property parcel, or any part thereof of the parcel, upon which ~~said tax has~~ the taxes, special assessments, and rates or charges have been suspended, shall ~~pass~~ passes by devise, bequest, or inheritance to any person other than the surviving spouse or minor child of ~~such~~ infirm the petitioner or other person, the taxes, special assessments, and rates or charges without any accrued penalty interest, that have been thus suspended shall all become due and payable, with six percent interest per annum from the date of such suspension, except that no interest on taxes shall be charged against the property or estate of a person receiving or having received monthly or quarterly payments of old-age assistance, and shall be enforceable against the property or part thereof which does not pass to such spouse or minor child. The petitioner, or any other person, shall have the right to may pay the suspended taxes amounts at any time.

Sec. 24. Section 427.12, Code 1991, is amended to read as follows:

427.12 SUSPENDED TAX LIST RECORD.

The county treasurer shall maintain a book which shall be known as the "suspended tax list" and in which the treasurer shall enter the following data relative to all taxes within the county system, as defined in section 445.1, the official record of suspended taxes, special assessments, and rates or charges, the collection of which has been suspended by order of the board of supervisors. The record shall include, but is not limited to, the following information:

1. A governmental or platted description of the land parcel on which the tax, special assessment, rate, or charge has been levied or on which it is a lien.
2. The name of the owner of the land parcel.
3. The amount, and current year of the tax, special assessment, rate or charge.
4. The date of the order suspending collection of the tax the suspension was ordered.

The book county system, as defined in section 445.1, shall be so prepared, ruled, and headed such that all entries of taxes and polls, special assessments, rates, or charges against the land in a section or in a city plat, addition, or auditor's plat parcel shall be separate from the entry of taxes, special assessments, rates, or charges against the land in any other section, or city plat, addition, or auditor's plat all other parcels.

If a suspended tax on the book special assessment, or rate or charge in the county system is paid, or subsequently legally canceled and remitted abated, the treasurer shall enter in the book and over the treasurer's official signature county system a notification of satisfaction payment or abatement.

The suspended tax list is the only official record of suspended taxes in the county. When a suspension ordered by the board of supervisors for any reason provided by law, has been entered in the suspended tax list county system, the entry, on and after its date, is a lien and shall serve as notice of a lien in accordance with section 445.10 and is not required to be entered in or carried forward to any other book or tax list.

Sec. 25. Section 428A.2, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 21. Deeds in which the consideration is five hundred dollars or less.

Sec. 26. Section 445.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

445.1 DEFINITION OF TERMS.

For the purpose of chapters 445, 446, 447, and 448, section 331.553, subsection 3, and sections 427.8 through 427.12 and 569.8:

1. "Abate" means to cancel in their entirety all applicable amounts.
2. "Compromise" means to enter into a contractual agreement for the payment of taxes, interests, fees, and costs in amounts different from those specified by law.
3. "County system" means a method of data storage and retrieval as approved by the auditor of state including, but not limited to, tax lists, books, records, indexes, registers, or schedules.
4. "Parcel" means each separate item shown on the tax list, mobile home tax list, schedule of assessment, or schedule of rate or charge.
5. "Rate or charge" means an item legally certified to the county treasurer for collection as provided in sections 331.489, 364.11, and 364.12 and section 384.84, subsection 1.
6. "Taxes" means an annual ad valorem tax, a special assessment, a rate or charge, and taxes on mobile homes pursuant to chapter 135D which are collectible by the county treasurer.
7. "Total amount due" means the aggregate total of all taxes, penalties, interests, costs, and fees due on a parcel.

Sec. 27. NEW SECTION. 445.2 DUTY OF COUNTY TREASURER.

The county treasurer, after making the entry provided in section 445.10, shall proceed to collect the ad valorem taxes, and the list referred to in chapter 443 is the treasurer's authority and justification against any illegality in the proceedings prior to receiving the list. The treasurer shall also collect, as far as practicable, the taxes remaining unpaid on the county system. If the taxes are not paid, the treasurer shall send a statement of delinquent taxes as part of the notice of tax sale as provided in section 446.9.

Sec. 28. Section 445.3, Code 1991, is amended to read as follows:

445.3 ACTIONS AUTHORIZED.

In addition to all other remedies and proceedings now provided by law for the collection of taxes on personal property, the county treasurer is hereby authorized to may bring or cause an ordinary suit at law to be commenced and prosecuted in the treasurer's name for the use and benefit of the county for the collection of taxes from any person, persons, firm, or corporation as shown by the tax list county system in the treasurer's office, and the same suit shall be in all respects commenced, tried, and prosecuted to final judgment the same as provided by the Code for ordinary actions.

The commencement of actions for ad valorem taxes authorized under this section shall not begin until the issuance of a tax sale certificate under the requirements of section 446.19. The commencement of actions for all other taxes authorized under this section shall not begin until ten days after the publication of tax sale under the requirements of section 446.9, subsection 2.

Sec. 29. Section 445.4, Code 1991, is amended to read as follows:

445.4 STATUTES APPLICABLE — ATTACHMENT — DAMAGES.

All the provisions of chapters Chapter 639 and 642 are hereby made is applicable to any proceedings instituted by a county treasurer under section 445.3, and a writ of attachment shall be issued upon the county treasurer complying with the provisions of said chapters chapter 639, for taxes, whether due or not due, except that no a bond shall not be required from the treasurer or county in such cases, but the county shall be liable for damages, only, as provided by section 639.14. The county attorney, upon request of the treasurer, shall assist in prosecution of actions authorized in this section.

Sec. 30. Section 445.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

445.5 RECEIPT.

The county treasurer shall deliver to the taxpayer a receipt stating the year of tax, date of payment, a description of the parcel, and the amount of taxes, interest, fees, and costs paid except when payment of taxes is made by check, then a receipt shall be issued only upon request. The receipt shall be in full of the first half, second half, or full year amounts unless a payment is made under section 445.36A or 135D.24, subsection 7.

Sec. 31. Section 445.10, Code 1991, is amended to read as follows:

445.10 FORMER DELINQUENT REAL ESTATE TAXES.

The county treasurer shall each year, upon after receiving the tax list referred to in chapter 443, enter upon the same in separate columns opposite into the county system a notation of delinquency for each parcel of real estate on which the tax remains unpaid for any previous year, the amount of such unpaid tax, and unless such. Unless the delinquent real estate tax is so brought forward and entered it shall cease to be a lien upon the real estate upon which the same was levied, and upon any other real estate of the owner that parcel. But to To preserve such the tax lien it shall is only be necessary to enter such tax, as aforesaid, opposite the notation for any tract parcel upon which it was is a lien. Any sale for the whole or any part of such delinquent tax not so entered shall be invalid. Nothing contained in this section shall be held to require that in order to preserve the lien of such tax and make such tax sale valid, delinquent taxes must be brought forward upon the current tax list if said tax list is received by the county treasurer less than six months preceding the date of conducting the said tax sale as provided in section 446.25 or section 446.28 if the tax list received each year by the treasurer. If the county system is such that all delinquent real estate and delinquent personal taxes of any preceding year are shown automatically brought forward against each parcel of the real estate on which the tax remains unpaid for any year and the amount of such unpaid tax is shown, the treasurer shall is not be required to make any further entry. Any sale for a delinquent tax not noted on the county system is invalid. However, this section does not require that in order to preserve the lien of tax and make the tax sale valid, delinquent taxes must be brought forward upon the county system if the tax list is received by the treasurer less than six months preceding the date of conducting the tax sale as provided in section 446.25 or 446.28.

Sec. 32. Section 445.11, Code 1991, is amended to read as follows:

445.11 SPECIAL ASSESSMENT BOOK LEVY SUBMITTED.

When the levy of a special assessment is submitted to the county treasurer, in a format acceptable by the treasurer, the county treasurer shall prepare in a book to be known as a special assessment book, the list of the persons owning real estate affected by the assessment, in alphabetical or numerical order, which book shall contain enter in the county system a description of the real estate each parcel affected, the date of the assessment, the total amount assessed, the installments to be paid, and the amounts of the respective installments if the assessment is payable in installments.

Sec. 33. Section 445.12, Code 1991, is amended to read as follows:

445.12 ADDITIONAL DATA FOR SPECIAL ASSESSMENTS.

~~Said special assessment tax list shall also~~ The county system may contain space for showing penalties interest, if any, that may be incurred, a column showing payments and their amounts thereof, a column showing the number of the receipt to be issued by the county treasurer, and a column that may be used to show the date of payment of said the assessment, or any installment thereof of it.

Sec. 34. Section 445.14, Code 1991, is amended to read as follows:

445.14 ENTRIES ON GENERAL TAX LIST THE COUNTY SYSTEM.

The county treasurer shall each year, ~~upon~~ after receiving the tax list referred to in section 445.10, indicate upon the tax list, in a separate column opposite each parcel of real estate upon which the special assessment remains unpaid for any previous year on the county system that a special assessment is due unpaid. This indication is not required if the county system automatically brings forward a notation of the unpaid special assessment.

Sec. 35. Section 445.16, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

445.16 ABATEMENT OR COMPROMISE OF TAX.

When a parcel is offered and not sold at regular tax sale, or if the county holds the tax sale certificate of purchase and the county is unable to assign the certificate as provided in section 446.31, the county, through the board of supervisors, may compromise by written agreement, or abate by resolution, the tax, interest, fees, or costs. In the event of a compromise, the board of supervisors may enter into a written agreement with the owner of the legal title or with any lienholder for the payment of a stipulated sum in full satisfaction of all amounts included in that agreement.

A copy of the agreement or resolution shall be filed with the county treasurer.

Sec. 36. Section 445.18, Code 1991, is amended to read as follows:

445.18 EFFECT OF COMPROMISE PAYMENT OR ABATEMENT.

When payment is made, as provided by the compromise agreement or when there is an abatement, all taxes included in the compromise agreement or abatement shall be deemed to be fully satisfied and canceled and the county treasurer shall cause the appropriate books to show the satisfaction on the county system.

Sec. 37. Section 445.22, Code 1991, is amended to read as follows:

445.22 SUBSEQUENT COLLECTION.

~~Any delinquent taxes tax~~ subsequently collected shall be apportioned according to the tax apportionment for the current year at the time of collection. However, this section does not apply to the payment of special assessments, or rates or charges.

Sec. 38. Section 445.23, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

445.23 STATEMENT OF TAXES DUE.

Upon request, the county treasurer shall state in writing the full amount of taxes against a parcel, all sales for unpaid taxes, and the amount needed to redeem the parcel, if redeemable. If the person requesting the statement is not the titleholder of record or contract holder

of record of the parcel, that person shall pay a fee at the rate of two dollars per parcel for each year that there are unpaid taxes to be deposited in the county general fund.

Sec. 39. Section 445.24, Code 1991, is amended to read as follows:

445.24 EFFECT OF STATEMENT AND RECEIPT.

The statement received under section 445.23, with the county treasurer's receipt showing the payment of all the taxes specified in the statement, and the treasurer's certificate of redemption from the tax sales mentioned in the statement, is conclusive evidence for all purposes, and against all persons, that the parcel of real estate in the statement and receipt described was, at the date of the receipt, free and clear of all taxes and assessments, and sales for taxes or assessments, except sales where the time of redemption had already expired and the tax purchaser had received the deed.

Sec. 40. Section 445.28, Code 1991, is amended to read as follows:

445.28 TAX LIEN OF TAXES ON REAL ESTATE.

Taxes upon real estate shall be a lien on the real estate parcel against all persons except the state. However, taxes upon real estate shall be the parcel are a lien on the real estate parcel against the state and any a political subdivision of the state which is liable for payment of property taxes as a purchaser under the provisions of section 427.18.

Sec. 41. Section 445.30, Code 1991, is amended to read as follows:

445.30 LIEN BETWEEN VENDOR AND PURCHASER.

As against a purchaser, such tax liens shall attach to real estate a parcel on and after June 30 in each year.

Sec. 42. Section 445.32, Code 1991, is amended to read as follows:

445.32 LIENS ON BUILDINGS.

If a building is erected by a person other than the owner of the land on which the building is located, as provided for in section 428.4, the taxes on the building shall be are and remain a lien on the building from the date of levy until paid. If the property taxes on the building become delinquent for a tax year, as provided in section 445.37, the county treasurer shall collect the tax in the same manner as delinquent personal property taxes are collected under section 445.8 as provided in sections 445.3 and 445.4. This section does not apply to special assessments, or rates or charges.

Sec. 43. Section 445.36, Code 1991, is amended to read as follows:

445.36 PAYMENT — INSTALLMENTS.

1. For fiscal years after July 1, 1975, the property The taxes which become delinquent during the fiscal year shall be are for the previous fiscal year.

2. No A demand of taxes shall be is not necessary, but it shall be the duty of every person subject to taxation to shall attend at the office of the county treasurer, at some time between the first Monday in August and September 1 following, and pay the person's taxes either in full, or one-half thereof of the taxes before September 1 succeeding the levy, and the remaining half before March 1 following. However, if the first installment of a person's taxes are is delinquent and not paid as of February 15, the treasurer shall mail a notice to the taxpayer of the delinquency and the due date for the second installment. Failure to receive a mailed notice is not a defense to the payment of the tax and any interest and penalty due. This section does not apply to special assessments, or rates or charges.

Sec. 44. Section 445.36A, Code 1991, is amended to read as follows:

445.36A MONTHLY OR QUARTERLY PARTIAL PAYMENTS.

1. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year real estate and real property taxes. A minimum payment amount shall be established by the county treasurer. The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior

to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The county treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year real estate and real property taxes.

2. Partial payment of taxes which are delinquent may be made to the county treasurer. A minimum payment amount shall be established by the treasurer. The minimum payment must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent installment of the tax and shall be apportioned in accordance with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Current year taxes may be paid at any time regardless of any outstanding prior year delinquent tax.

This section does not apply to the payment of mobile home taxes, special assessments, or rates or charges.

Sec. 45. Section 445.37, Code 1991, is amended to read as follows:

445.37 WHEN DELINQUENT.

In all cases where If the half semiannual installment of any taxes tax has not been paid before October 1 succeeding the levy, the that amount thereof shall become becomes delinquent from October 1 after due; and in case unless the last day of September is a Saturday or Sunday in which case the amount of those taxes becomes delinquent from the following Tuesday. If the second installment is not paid before April 1 succeeding its maturity, it shall become becomes delinquent from April 1 after due unless the last day of March is a Saturday or Sunday in which case the amount of that installment becomes delinquent from the following Tuesday. This paragraph does not apply to special assessments or rates or charges.

However, if there is a delay of the certification delivery of the tax list referred to in chapter 443 to the county treasurer, the amount of ad valorem taxes and mobile home taxes due shall become delinquent thirty days after such the date of certification delivery or October 1 on the delinquent date of the first installment, whichever date occurs later. However, such The delay shall not affect the due and delinquent dates for special assessments specified by section 384.65 and rates or charges. The delinquent date for special assessments, and rates or charges is the same as the first installment delinquent date for ad valorem taxes.

Sec. 46. Section 445.38, Code 1991, is amended to read as follows:

445.38 APPORTIONMENT.

In all cases where If ad valorem or mobile home taxes are paid by installment, each of such those payments shall be apportioned among the several funds for which taxes have been assessed in their proper proportions.

Sec. 47. Section 445.39, Code 1991, is amended to read as follows:

445.39 INTEREST AS PENALTY ON DELINQUENT TAXES.

If the first installment of taxes is not paid by the delinquent date specified in section 445.37, the installment shall become becomes due and draw draws interest, as a penalty, of one and one-half percent per month until paid, from the delinquent date following the levy; and if. If

the last half is not paid by April 1 following the levy the delinquent date specified for it in section 445.37, the same interest shall be charged from the date the last half became delinquent. However, after April 1 in a fiscal year when late ~~certification~~ delivery of the tax list referred to in chapter 443 results in a ~~penalty~~ delinquency date later than October 1 for the first installment, ~~penalties~~ interest on delinquent first installments shall accrue as if ~~certification~~ were delivery were made on the previous June 30. The interest ~~penalty~~ imposed under this section shall be computed to the nearest whole dollar and the amount of interest shall not be less than one dollar. In calculating interest each fraction of a month shall be counted as an entire month. The interest percentage on delinquent special assessments and rates or charges is the same as that for the first installment of delinquent ad valorem taxes.

Sec. 48. Section 445.41, Code 1991, is amended to read as follows:

445.41 WHEN INTEREST PENALTY OMITTED.

No interest as a penalty Interest shall not be added to taxes levied by any a court to pay a judgment on county, city, or school district indebtedness, other than the interest which ~~such~~ that judgment may draw, nor upon taxes levied in aid of the construction of any a railroad.

Sec. 49. Section 445.53, Code 1991, is amended to read as follows:

445.53 TAXES CERTIFIED TO ANOTHER COUNTY.

In all cases of delinquent taxes in any county, ~~where if~~ the person upon whose property the same taxes were levied ~~shall have~~ has disposed of or removed the ~~said~~ property and the treasurer of the county where the taxes were levied can find no property within ~~said that~~ county out of against which ~~said those~~ taxes can be made collected, the treasurer of the county where ~~said those~~ taxes are delinquent shall make out a certified abstract ~~thereof of the taxes~~ and forward ~~the same~~ it to the treasurer of the county in which the delinquent person resides or has property, ~~when if~~ the treasurer transmitting the ~~said~~ abstract has reason to believe that ~~said the delinquent~~ taxes can be collected ~~thereby by that~~ county.

Sec. 50. Section 445.54, Code 1991, is amended to read as follows:

445.54 COLLECTION IN SUCH CASE.

The county treasurer forwarding and the one receiving said abstract shall each keep a record ~~thereof of it~~, and, upon receipt and filing in the office of the treasurer to whom sent, it shall have the effect of a levy of taxes in that county, and the collection ~~of the same shall be proceeded with~~ proceed in the same manner as in the collection of other taxes.

Sec. 51. Section 445.55, Code 1991, is amended to read as follows:

445.55 PENALTIES FEES COLLECTIBLE.

The ~~officer~~ county treasurer collecting taxes so certified into another county shall, in addition to the ~~penalties interest, fees, and costs~~ on delinquent taxes, assess and ~~collect~~ the fur-ther penalty a collection fee of twenty percent on the whole amount of ~~such the~~ taxes, inclusive of the ~~penalties thereon~~ interest, fees, and costs on the taxes.

Sec. 52. Section 445.56, Code 1991, is amended to read as follows:

445.56 RETURN.

The county treasurer receiving the abstract shall, upon collection, forward the amount to the treasurer of the county where the taxes were levied, less the collection fee provided in section 445.55.

The ~~officer~~ treasurer receiving ~~said the~~ abstract shall, when in the ~~officer's~~ treasurer's opinion the taxes are uncollectible, return the ~~same~~ abstract with the endorsement ~~thereon~~ "uncollectible", and, if collected, the ~~officer~~ shall remit the amount to the treasurer of the county where ~~said taxes were levied, less the penalty provided by section 445.55 on it. In such case, when it is administratively impractical to collect the tax, the board of supervisors shall compromise or abate the tax, interest, and costs.~~

Sec. 53. Section 445.57, Code 1991, is amended to read as follows:
445.57 MONTHLY APPORTIONMENT.

On or before the tenth day of each month, the county treasurer shall apportion all taxes collected during the preceding month, except partial payment amounts collected pursuant to section 445.36A, subsection 1 and section 135D.24, subsection 7, paragraph "a", among the several funds to which they belong according to the amount levied for each fund, and shall apportion the interest and penalties thereon, fees, and costs on the taxes to the general fund, and shall enter the same those amounts upon the treasurer's cash account, and report the amount of each tax and the interest and penalties collected on the same amounts to the county auditor, who shall charge the treasurer in each fund with the same.

Sec. 54. Section 445.60, Code 1991, is amended to read as follows:
445.60 REFUNDING ERRONEOUS TAX.

The board of supervisors shall direct the county treasurer to refund to the taxpayer any tax or portion of any a tax found to have been erroneously or illegally paid, with all interest, fees, and costs actually paid. A refund shall not be ordered or made unless a claim for refund is presented to the board within one year of the date the tax was due, or if appealed to the board of review, the state board of tax review, or district court, within one year of the final decision.

Sec. 55. Section 445.61, Code 1991, is amended to read as follows:
445.61 SALE FOR ERRONEOUS TAX.

In case any real estate If a parcel subject to taxation shall be is sold for the payment of such erroneous tax, interest, fees, or costs, the error or irregularity in the tax may be corrected at any time provided in this chapter, but such this correction shall does not affect the validity of the sale or the right or title conveyed by a county treasurer's deed, if the property parcel was subject to taxation for any of the purposes for which any portion of the taxes for which the land parcel was sold was levied, and the taxes were not paid before the sale, or the property parcel redeemed from sale.

Sec. 56. Section 445.62, Code 1991, is amended to read as follows:
445.62 REMISSION ABATEMENT OR REFUND IN CASE OF LOSS.

The board of supervisors shall have power to remit has the authority to abate or refund in whole or in part the taxes of any person whose buildings, crops, stock, or other property has been destroyed by fire, tornado, or other unavoidable casualty, if said that property has not been sold for taxes, or if said the taxes have not been delinquent for thirty days at the time of the destruction. The loss for which such remission abatement or refund is allowed shall be such only as that amount which is not covered by insurance. The loss of capital stock in a bank operated within the state and the making and paying of a stock assessment for the year such that stock was assessed for taxation shall be is a destruction within the meaning of this section.

Sec. 57. Section 445.63, Code 1991, is amended to read as follows:
445.63 ABATEMENT OF TAXES.

When delinquent mobile home taxes, regular property taxes, or special assessments are owing against property a parcel owned or claimed by the state or a political subdivision of this state and the taxes or special assessments are were owing before the property is parcel was 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 shall abate all of the delinquent mobile home taxes, regular property taxes, or special assessments.

Sec. 58. Section 446.1, Code 1991, is amended to read as follows:
446.1 SALE SHOWN.

The county treasurer shall designate on the tax list county system each piece or parcel of real estate sold for taxes, and not redeemed, by writing opposite the parcel of real estate noting on the county system the year in which it was sold in a column headed "sold in".

Sec. 59. Section 446.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

446.2 NOTICE OF PREVIOUS SALE.

For each parcel sold, the county treasurer shall notify the titleholder of record that the parcel was sold at tax sale. The notice of sale may be included on or with the tax statement or by separate mail.

Sec. 60. Section 446.7, Code 1991, is amended to read as follows:

446.7 ANNUAL TAX SALE.

Annually, on the third Monday in June the county treasurer shall offer at the treasurer's office at public sale all lands, city lots, or other real property parcels on which taxes, regular, special, and those charges certified pursuant to section 384.84, for the preceding fiscal year or years are delinquent, which. The sale shall be made for the total amount of taxes, interest, fees, and costs due and unpaid, including all prior suspended taxes. However, property against which the county holds a tax sale certificate, shall not be offered or sold. Interest or penalty on suspended taxes shall not be included in the sale price, except that six percent interest per annum from the date of suspension shall be included as to taxes suspended under section 427.8.

Property Parcels against which the county holds a tax sale certificate, parcels of municipal and political subdivisions of the state of Iowa, and property parcels held by a city or county agency or the Iowa finance authority for use in an Iowa homesteading project, or parcels of the state or its agencies, shall not be offered or sold at tax sale and a tax sale of that property those parcels is void from its inception. When delinquent taxes are owing against property parcels owned or claimed by a municipal or political subdivision of the state of Iowa, or property parcels held by a city or county agency or the Iowa finance authority for use in an Iowa homesteading project, or parcels of the state or its agencies, the treasurer shall give notice to the appropriate governing body of the agency, subdivision or authority which shall then pay the total amount of the due and delinquent taxes. If the governing body fails to pay the taxes total amount due, the board of supervisors shall abate the taxes as provided in chapters 427 and 445 and section 569.8 total amount due.

Sec. 61. Section 446.9, Code 1991, is amended to read as follows:

446.9 NOTICE OF SALE — SERVICE — PUBLICATION — COSTS.

1. A notice of the time and place of the annual tax sale shall be served upon the person in whose name the real estate parcel subject to sale is taxed. The county treasurer shall serve the notice by sending it by regular first class mail to the person's last known address not later than May 1 of each fiscal year. The notice shall contain a description of the real estate parcel to be sold which is clear, concise, and sufficient to distinguish the real estate parcel to be sold from all other parcels. It shall also contain the amount of delinquent taxes, both regular and special, for which the real estate parcel is liable each year, the amount of the penalty, interest, fees, and the actual cost of publication in an official newspaper of the notice as provided in subsection 2, all to be incorporated as a single sum. The notice shall contain a statement that, after the sale, if the real estate parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

2. Publication of the time and place of the annual tax sale shall be made once by the treasurer in an official newspaper in the county designated by the treasurer at least one week, but not more than three weeks, before the day of sale. The publication shall contain a description of the real estate parcel to be sold that is clear, concise, and sufficient to distinguish the real estate parcel to be sold from all other parcels. All items offered for sale pursuant to section 446.18 may be indicated by an "s" or by an asterisk. The publication shall also contain the name of the person in whose name the real estate parcel to be sold is taxed, the amount of delinquent taxes, both regular and special, for which the real estate parcel is liable for each year, the amount of the penalty, interest, fees, costs, and the actual cost of publication in an official the newspaper, all to be incorporated as a single sum. The publication shall contain

a statement that, after the sale, if the real estate parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

3. In addition to the notice required by subsection 1 and the publication required by subsection 2, the treasurer shall send, at least one week, but not more than three weeks, before the day of sale, a notice of sale in the form prescribed by subsection 1, by regular first class mail, to any mortgagee having a lien upon the real estate parcel, a vendor of the real estate parcel under a recorded contract of sale, a lessor of the parcel who has a recorded lease or memorandum of a recorded lease, and to any other person who has an interest of record in the real estate parcel, if the mortgagee, vendor, lessor, or other person having an interest of record has done both of the following:

a. Has ~~requested~~, Requested on a form prescribed by the treasurer; that notice of sale be sent to the person.

b. Has ~~filed~~ Filed the request form with the treasurer at least one month prior to the date of sale, together with a fee of twenty-five dollars per parcel.

The request for notice is valid for a period of five years from the date of filing with the treasurer. The request for notice may be renewed for additional periods of five years by the procedure specified in this subsection.

4. Notice required by subsections 1 and 3 shall be deemed ~~made and~~ completed when the notice is enclosed in a sealed envelope with the proper postage on the envelope, is addressed to the person entitled to receive it at the person's last known mailing address, and is deposited in a mail receptacle provided by the United States postal service.

Sec. 62. Section 446.10, Code 1991, is amended to read as follows:

446.10 PUBLICATION COSTS.

The compensation for publication shall not exceed four dollars for each separately described parcel, and shall be paid by the county. The amount paid shall be collected as a part of the costs of sale and ~~paid deposited~~ into the county ~~treasury~~ general fund. If the taxes are paid before the date of sale, the amount paid for publication shall be included as a part of the costs of collecting the taxes.

Sec. 63. Section 446.11, Code 1991, is amended to read as follows:

446.11 SUBSTITUTED SERVICE.

If the county treasurer cannot procure the publication of the notice for the sum ~~herein fixed~~, then specified in section 446.10, the notice may be given by posting the same ~~it~~ in ~~four of the most public places in the county, to be selected by the treasurer, for four weeks, and filing a copy thereof with the auditor before the day of sale, with the treasurer's verified statement thereon that it had been posted as and for the time herein required, and that the treasurer could not obtain a publication thereof at the legal rate~~ the treasurer's office for two weeks.

Sec. 64. Section 446.12, Code 1991, is amended to read as follows:

446.12 CERTIFICATE OF PUBLICATION.

The county treasurer shall obtain a copy of the notice of sale, with a certificate of its publication, from the printer or publisher, and file it in the office of the auditor, which treasurer. The certificate shall be substantially in the following form:

I,, publisher (or printer) of the, a newspaper printed and published in the county of and state of Iowa, certify that the foregoing notice and list were published in that newspaper on the ... day of,, and that copies of each issue of the paper in which the notice and list were published were delivered by carrier or transmitted by mail to each of the subscribers to the paper.

.....
Signature of publisher (or printer)

State of Iowa,)
..... County.) ss.

The above certificate of publication was subscribed and sworn to before me by the above named, who is personally known to me to be the identical person described in the certificate, on the . . . day of,

.....
Auditor Notary

..... County, Iowa.

Sec. 65. Section 446.13, Code 1991, is amended to read as follows:
446.13 METHOD OF DESCRIBING LANDS PARCELS, ETC.

In all entries required to be made by the county auditor, county treasurer, or other officer, letters and figures may be used to denote townships, ranges, sections, parts of sections, lots, blocks, ~~date~~ dates, and the amount of taxes, interest, fees, and costs.

Sec. 66. Section 446.14, Code 1991, is amended to read as follows:
446.14 IRREGULARITIES IN ADVERTISEMENT.

~~No~~ An irregularity or informality in the advertisement ~~shall~~ does not affect the legality of the sale or the title to ~~any real estate a~~ parcel conveyed by the county treasurer's deed under this chapter and chapters 447 and 448, and in all cases its provisions shall be sufficient notice to the owners of the sale ~~thereof of the~~ parcel.

Sec. 67. Section 446.15, Code 1991, is amended to read as follows:
446.15 OFFER FOR SALE.

The county treasurer shall, on the day of the sale, at ~~ten o'clock in the forenoon, at the treasurer's office,~~ offer for sale, separately, for the total amount due each ~~tract~~ tract or parcel of real estate advertised for sale on which the taxes and costs shall not have been paid.

Sec. 68. Section 446.16, Code 1991, is amended to read as follows:
446.16 BID — PURCHASER.

The person who offers to pay the total amount of taxes due which are a lien on any parcel of land or city lot for the smallest portion thereof shall be of the parcel is the purchaser, and when the purchaser ~~shall designate~~ designates the portion of any ~~tract of land or city lot~~ parcel for which the purchaser will pay the whole total amount of taxes for which it may be sold due, the portion thus designated shall be become an undivided portion. The delinquent tax lien transfers with the tax sale certificate, whether held by the county or if ~~paid~~ purchased by an individual, by through assignment or ~~purchased~~ direct purchase at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 69. Section 446.17, Code 1991, is amended to read as follows:
446.17 SALE CONTINUED.

The county treasurer shall continue the sale from day to day as long as there are bidders, or until ~~the taxes are all paid~~ all delinquent parcels have been offered for sale.

Sec. 70. Section 446.18, Code 1991, is amended to read as follows:
446.18 "SCAVENGER PUBLIC BIDDER SALE" — NOTICE.

Each county treasurer shall, on the day of the regular tax sale each year or any continuance or adjournment thereof of the tax sale, offer and sell at public sale, to the highest bidder, all real estate parcels which remains remain liable to sale for delinquent taxes, and shall which have previously been advertised, and offered for ~~two years~~ one year or more, and remained remain unsold for want of bidders; ~~general notice~~. Notice of ~~such~~ the sale being shall be given at the same time and in the same manner as that given of the regular sale.

Sec. 71. Section 446.19, Code 1991, is amended to read as follows:
446.19 COUNTY AS PURCHASER.

When ~~property a~~ parcel is offered at a tax sale under the provisions of section 446.18, and no bid is received, or if the bid received is less than the total amount of the delinquent ~~general and special~~ taxes, interest, penalties and costs due, the county in which the real estate parcel

is located, through its board of supervisors, shall bid for the real estate parcel a sum equal to the total amount of all delinquent general taxes, special assessments, interest, penalties and costs charged against real estate due. ~~No money~~ Money shall not be paid by the county or other tax-levying and tax-certifying body for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the general and special taxes for which the real estate is sold shall be charged with the full total amount of all the delinquent general and special taxes due the levying and tax-certifying bodies, body as its just share of the purchase price.

PARAGRAPH DIVIDED. This section does not prohibit a governmental agency or political subdivision from bidding at the sale for ~~property a parcel~~ to protect its interests. When a bid is received by a city in which the parcel is located, money shall not be paid by the city, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the levying and tax-certifying bodies as its just share of the purchase price.

Sec. 72. NEW SECTION. 446.20 REMEDIES.

1. Without limiting the county's rights under section 445.3, once a certificate is issued to a county, a county may collect the total amount due by the alternative remedy provided in section 445.3 by converting the total amount due to a personal judgment. The prosecution in equity of such action may be commenced anytime after the date of issuance of the certificate under section 446.19. Entrance of the judgment shall be shown on the county system. Collection of the judgment may then be initiated as provided in section 445.4. The county attorney shall, upon request of the treasurer, assist in prosecution of action authorized under this section and sections 445.3 and 445.4.

2. If the board or council determines that any property located on a parcel purchased by the county or city pursuant to section 446.19 requires removal, dismantling, or demolition, the board or council shall, at the same time and in the same manner that the notice of expiration of right of redemption is served, cause to be served on the person in possession of the parcel and also upon the person in whose name the parcel is taxed a separate notice stating that if the parcel is not redeemed within the time period specified in the notice of expiration of right of redemption, the property described in the notice shall be removed, dismantled, or demolished. The notice shall further state that the costs of removal, dismantling, or demolition shall be assessed against the person in whose name the parcel is taxed and a lien for the costs shall be placed against any other parcel taxed in that person's name within the county.

Service of the notice shall also be made by mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, if the mortgagee, vendor, lessor, or other person has filed a request for notice, as prescribed in section 446.9, subsection 3, and on the state of Iowa in case of an old-age assistance lien by service upon the department of human services. The notice shall also be served on any city where the parcel is situated.

Sec. 73. Section 446.21, Code 1991, is amended to read as follows:

446.21 APPLICABLE STATUTE ASSIGNMENT OF CERTIFICATE TO BONDHOLDER.

In tax sales made under section 446.19, a holder of a special assessment certificate against a ~~lot or parcel of ground, or, a holder of a bond payable in whole or in part out of a special assessment against a lot or parcel of ground, or a city within which the lot or a parcel of ground~~ is situated, which ~~lot or parcel of ground~~ has been sold for taxes, either general or special, is entitled to an assignment of any certificate of tax sale of the ~~property for general taxes or special taxes parcel~~, upon tender to the holder or to the county treasurer of the amount to which the holder of the tax sale certificate would be entitled in case of redemption.

Sec. 74. Section 446.23, Code 1991, is amended to read as follows:

446.23 RESALE.

The person purchasing a tax sale certificate against any parcel ~~or part thereof~~ shall ~~forth-~~with immediately pay to the county treasurer the total amount bid, and on bid. Upon failure

to do so the same shall at once be parcel is again offered as if no such sale had been made. Such These payments may be made in the funds receivable in payment of taxes.

Sec. 75. Section 446.24, Code 1991, is amended to read as follows:

446.24 RECORD OF SALES.

The county treasurer or a designee shall attend all tax sales of real estate for taxes, and keep a record in the county system of the sales in a book to be kept for that purpose, describing each tract of real estate parcel on which the taxes and costs were total amount due was paid by the purchaser, as they are described in the copy of the notice on file in the treasurer's office, stating in separate columns the amount, as obtained from the tax list, of each. The county system shall include a statement of the amount, kind of tax, interest, fees, and costs for each tract, how much and what part of each parcel was sold parcel, to whom sold, and the date of sale.

Sec. 76. Section 446.25, Code 1991, is amended to read as follows:

446.25 SALE ADJOURNED.

When all the real estate parcels advertised for sale has have been offered, and a part remains parcels remain unsold for want of bidders, the county treasurer shall adjourn the sale to some day not exceeding two months from adjournment, due notice of which day shall be given at the time thereof of adjournment, and by keeping such the notice posted in a conspicuous place in the treasurer's office, and no further. Further notice shall be is not necessary. On the day fixed by the adjournment, the same proceedings shall be had occur as in the first instance. Further adjournment adjournments shall be made from time to time, not exceeding intervals of two months, and the sales thus continued continue until the next regular annual sale, or until all the taxes are paid parcels are sold.

Sec. 77. Section 446.26, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

446.26 RESPONSIBILITY OF TREASURER TO ATTEND TAX SALE.

A county treasurer failing to attend a tax sale in person, by a deputy treasurer, or by another designated employee is guilty of a simple misdemeanor.

Sec. 78. Section 446.27, Code 1991, is amended to read as follows:

446.27 FRAUD OF OFFICER LIABILITY OF TREASURER.

1. If the county treasurer, deputy treasurer, or other designated employee sells or assists in selling any parcel, knowing it is not subject to taxation or that the amount for which it is sold has been paid, or knowingly and willfully sells or assists in selling a parcel to defraud the owner, or knowingly and willfully executes a deed for such a parcel sold, the treasurer, deputy treasurer, or designated employee is guilty of a serious misdemeanor and liable to pay the injured party all damages sustained as a result of the illegal sale.

2. If any the treasurer is directly or indirectly concerned in the purchase of real estate a parcel sold for the nonpayment of taxes at tax sale, the treasurer and the treasurer's sureties are liable on the treasurer's official bond for all damages sustained by the owner of the property parcel. In addition, the treasurer, deputy treasurer, or designated person, as the case may be, is guilty of a fraudulent practice.

3. Sales made in violation of this section are void. In addition, the treasurer is guilty of a fraudulent practice.

Sec. 79. Section 446.28, Code 1991, is amended to read as follows:

446.28 SUBSEQUENT SALE.

If, from neglect of officers to make returns, or other for good cause, real estate a parcel cannot be advertised and offered for sale on the third Monday of June, the county treasurer shall make the sale on the first third Monday of the next succeeding month in which the required notice can be given.

Sec. 80. Section 446.29, Code 1991, is amended to read as follows:

446.29 CERTIFICATE OF PURCHASE.

The county treasurer shall prepare, sign, and deliver to the purchaser of any real estate parcel or part of a parcel sold for the nonpayment of taxes a certificate of purchase, describing it the parcel or part of the parcel as shown in the record of sales, giving the part of each tract or lot county system identifying the parcel or part of the parcel sold, the total amount of each kind of tax, interest, and costs due for each tract or lot parcel as described in the record, and that payment has been made. Not more than one parcel or description shall be entered upon each certificate of purchase. The certificate fee is the amount specified in section 331.552, subsection 23. The delinquent tax lien transfers with the tax sale certificate, whether held by the county or if paid purchased by an individual, by through assignment or purchased direct purchase at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 81. Section 446.30, Code 1991, is amended to read as follows:

446.30 LOSS OF CERTIFICATE.

In case of loss of said If a certificate of purchase is lost or destroyed, the owner thereof, as appears on of record, may, by filing an affidavit of such the loss or destruction with the county treasurer, receive a duplicate thereof of the certificate, which shall take the place of the original certificate and have the same force and effect in law and be subject to the same rules laws. The cost of a duplicate certificate of purchase is the same as the cost of the original certificate as provided in section 331.552, subsection 23.

Sec. 82. Section 446.31, Code 1991, is amended to read as follows:

446.31 ASSIGNMENT — PRESUMPTION FROM DEED RECITALS.

The certificate of purchase ~~shall be~~ is assignable by endorsement and entry in the register of tax sales county system in the office of county treasurer of the county from which ~~said the~~ certificate was issued, and when ~~such the~~ assignment is so entered, it shall vest in the assignee or legal representatives of the assignee all the right and title of the assignor. The statement in the treasurer's deed of the fact of the assignment ~~shall be~~ is presumptive evidence thereof of that fact. When the county acquires a certificate of purchase ~~and has the same in its possession for one year, or more,~~ the board of supervisors may compromise and assign the said certificate of purchase, with the written approval of all tax-levying and tax-certifying bodies having any interest in said general taxes. All money received from assignment of said certificates of purchase shall be apportioned to the tax-levying and certifying bodies in proportion to their interests in the taxes for which ~~said real estate the~~ parcel was sold. After assignment of a certificate of purchase which is held by the county, section 446.37 applies. In that instance, the three-year requirement shall be calculated from the date of assignment.

Sec. 83. Section 446.32, Code 1991, is amended to read as follows:

446.32 PAYMENT OF SUBSEQUENT TAXES BY PURCHASER.

The county treasurer shall also prepare, sign, and deliver to the purchaser of any real estate a parcel sold for taxes at tax sale a receipt for taxes, interest, and costs the total amount paid by the purchaser after the date of purchase for a subsequent year. Taxes for a subsequent year may be paid by the purchaser any time after certification June 30 or upon delivery of the new tax list referred to in chapter 443.

Sec. 84. Section 446.35, Code 1991, is amended to read as follows:

446.35 ASSESSMENT TO WRONG PERSON.

No A sale of real estate for taxes shall be a parcel through tax sale is not invalid on account of its having been if taxed in any other name than that of the rightful owner, if it is in other respects sufficiently described.

Sec. 85. Section 446.36, Code 1991, is amended to read as follows:

446.36 CERTIFIED COPIES OF RECORDS AS EVIDENCE.

The books and records belonging to information in the county system of the office of the county treasurer, or copies of them a copy properly certified, are is sufficient evidence to prove

the sale of real estate for taxes a parcel at tax sale, the redemption of the real estate parcel, or the payment of taxes on it.

Sec. 86. Section 446.37, Code 1991, is amended to read as follows:

446.37 FAILURE TO OBTAIN DEED — CANCELLATION OF SALE.

After ~~five~~ three years have elapsed from the time of any tax sale, and action has not been completed during the time which qualifies the holder of a certificate to obtain a deed, the county treasurer shall cancel the sale from the ~~tax sale index and tax sale register county system~~. However, this section does not apply to certificates of purchase at tax sale which are held by a county.

Sec. 87. Section 446.38, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

446.38 SUSPENDED TAXES OF OLD-AGE ASSISTANCE RECIPIENTS.

In cases where taxes were suspended one year or more upon the parcel of a deceased old-age assistance recipient and no estate was opened within ninety days after the death of the recipient and the surviving spouse of the recipient is not occupying the parcel, the county may apply to the probate court to have the parcel conveyed to it for satisfaction of the suspended taxes. The probate court shall prescribe the manner and notices to be given. The probate court shall order the parcel conveyed to the county for satisfaction of the suspended taxes if an estate is not opened within a time specified by the court. The probate court shall make and enter all appropriate orders to effect this conveyance to the county if an estate is not opened within the time specified. The parcel, at the election of the county treasurer, may be offered at tax sale after its conveyance to the county.

Sec. 88. Section 446.39, Code 1991, is amended to read as follows:

446.39 IOWA FINANCE AUTHORITY STATEMENT.

A city or county, a city or county agency as authorized by the Iowa finance authority, or the Iowa finance authority may file with the county treasurer a verified statement that a parcel of property to be sold at tax sale is abandoned and deteriorating in condition, or is inhabited but is not safe for human habitation, or is, or is likely to become, a public nuisance, and that the property parcel is suitable for use and is to be used in an Iowa homesteading project under section 220.14. Other information may be included. Upon proper filing of the statement, and if the property parcel is offered at any a tax sale and no bid is received, or if the bid received is less than the total amount of the delinquent general taxes, interest, penalties and costs due, or if the property parcel is to be transferred to the county under section 446.38, the city, county, city or county agency, or Iowa finance authority may bid for the property parcel for use in an Iowa homesteading project, bidding a sum equal to the total amount of all delinquent general taxes, interest, penalties and costs charged against the property due. Each of the tax-levying and tax-certifying bodies having an interest in the taxes for which the property parcel is sold shall be charged with the full amount of all delinquent taxes due to it, as its proportionate share of the purchase price.

Sec. 89. Section 447.1, Code 1991, is amended to read as follows:

447.1 REDEMPTION — TERMS.

Real estate A parcel sold under this chapter and chapter 446 may be redeemed at any time before the right of redemption is cut off expires, by the payment to the county treasurer, to be held by the treasurer subject to the order of the purchaser, of the amount for which the real estate parcel was sold and four percent of the amount added as a penalty, with three-quarters percent interest of two percent per month on the sale price plus the penalty, counting each fraction of a month as an entire month, from the date month of sale, and the total amount of all taxes, interest, and costs paid by the purchaser or the purchaser's assignee for any subsequent year, with a similar penalty interest at the same rate added as before on the amount of the payment for each subsequent year, and three-quarters percent per month on the whole amount from the date month of payment, counting each fraction of a month as

an entire month. The amount of interest must be at least one dollar and shall be rounded to the nearest whole dollar. Interest shall accrue on subsequent amounts from the month of payment by the certificate holder.

When the county is the certificate holder of the parcel redeemed, the redemption amount shall be apportioned among the several funds for which the taxes were levied. All interest, costs, and fees shall be apportioned to the general fund of the county.

Sec. 90. Section 447.3, Code 1991, is amended to read as follows:

447.3 AGRICULTURAL COLLEGE LANDS.

In redeeming from a sale of a leasehold interest in agricultural college land, the amount to be paid shall include any amount paid by the holder of the certificate as interest or principal due by the terms of the lease or otherwise to prevent a forfeiture, and for which proper voucher has been filed with the county treasurer, with interest at eight percent per annum from date of payment, which amount shall be paid by the treasurer to the holder of the certificate, and the certificate of redemption shall show the amount paid by the party redeeming.

Sec. 91. Section 447.4, Code 1991, is amended to read as follows:

447.4 REDEMPTION FROM SALE FOR PART OF TAX.

In case a redemption is made of real estate sold a parcel compromised and assigned for a sum less than the taxes, penalty, interest, and costs total amount due, the purchaser is entitled to receive only the amount paid and a ratable part of the penalty, interest, and costs. In determining the interest and penalties to be paid upon redemption from sale, the sum due on a parcel sold shall be taken to be the full total amount of taxes, interest, and costs due on the parcel at the time of sale, and the amount paid for a parcel at sale shall be apportioned ratably among the several funds to which it belongs in accordance with section 447.1. Real estate Parcels so sold is are redeemable in the same manner and with the same penalties interest as that those sold for the taxes of the preceding year.

Sec. 92. Section 447.5, Code 1991, is amended to read as follows:

447.5 CERTIFICATE OF REDEMPTION — ISSUED BY TREASURER.

The county treasurer shall, upon application of any a party to redeem real estate a parcel sold for taxes at a tax sale, and being satisfied that the party has a right to redeem the real estate parcel upon the payment of the proper amount, shall issue to the party a certificate of redemption, setting forth the facts of the sale substantially as contained in the certificate, the date of the redemption, the amount paid, and by whom redeemed, and shall make the proper entries in the book of sales county system in the treasurer's office. The amount of the fee shall be as provided in section 331.552, subsection 23, for either the original certificate or duplicate certificate.

Sec. 93. Section 447.6, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

447.6 ERASURES PROHIBITED.

The entries by the county treasurer on the county system shall be of a permanent nature and if errors are subsequently discovered the correcting entries shall be adequately documented to support the correction.

Sec. 94. Section 447.7, Code 1991, is amended to read as follows:

447.7 MINORS AND PERSONS OF UNSOUND MIND.

If real property a parcel of a minor, or person of unsound mind is sold for taxes at tax sale, it may be redeemed at any time within one year after the disability is removed, in the manner specified in section 447.8, or redemption may be made by the guardian or legal representative under sections 447.1 to and 447.3 at any time before the delivery of the treasurer's deed.

Sec. 95. Section 447.8, Code 1991, is amended to read as follows:

447.8 REDEMPTION AFTER DELIVERY OF DEED.

Any person entitled to redeem lands sold for taxes after After the delivery of the treasurer's deed, a person entitled to redeem a parcel sold at tax sale shall do so by an equitable

action in a court of record, in which all persons claiming an interest in the land parcel derived from the tax sale, as shown by the record, shall be made defendants, and the court shall determine the rights, claims, and interest interests of the several parties, including liens for taxes and claims for improvements made on or to the land parcel by the person claiming under the tax title. ~~No~~ A person shall be is not allowed to redeem land a parcel sold for taxes in any other manner after the service of the notice provided for by section 447.9 and the execution and delivery of the treasurer's deed.

Sec. 96. Section 447.9, Code 1991, is amended to read as follows:

447.9 NOTICE OF EXPIRATION OF RIGHT OF REDEMPTION.

After ~~two years~~ one year and nine months from the date of sale, or after nine months from the date of a sale made under section 446.18, 446.38 or 446.39, the holder of the certificate of purchase may cause to be served upon the person in possession of the real estate parcel, and also upon the person in whose name the real estate parcel is taxed, in the manner provided for the service of original notices in R.C.P.56.1, if the person resides in Iowa, or otherwise as provided in section 446.9, subsection 1, a notice signed by the certificate holder or the certificate holder's agent or attorney, stating the date of sale, the description of the property parcel sold, the name of the purchaser, and that the right of redemption will expire and a deed for the land parcel be made unless redemption is made within ninety days from the completed service of the notice. The ninety-day redemption period begins as provided in section 447.12. When the notice is given by a county as a holder of a certificate of purchase the notice shall be signed by the county treasurer or the county attorney, and when given by a city, it shall be signed by the city officer designated by resolution of the council. When the notice is given by the Iowa finance authority or a city or county agency holding the property parcel as part of an Iowa homesteading project, it shall be signed on behalf of the agency or authority by one of its officers, as authorized in rules of the agency or authority.

Service of the notice shall also be made by mail on any mortgagee having a lien upon the real estate parcel, a vendor of the real estate parcel under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, and on the state of Iowa in case of an old-age assistance lien by service upon the state department of human services. The notice shall also be served on any city where the real estate parcel is situated. Only those persons who are required to be sent the notice of expiration as provided in this section are eligible to redeem a parcel from tax sale.

Sec. 97. Section 447.11, Code 1991, is amended to read as follows:

447.11 AGENT OF NONRESIDENT.

Any ~~such~~ A nonresident may in writing appoint a resident of the county in which ~~such~~ land the parcel is situated as agent, and file ~~said~~ the appointment with the county treasurer of ~~said~~ the county, who shall ~~forthwith record~~ make note of the same in a record kept in the treasurer's office therefor, and ~~index the same appointment in the county system~~, after which personal service of ~~said~~ the notice shall be made upon ~~said~~ the agent.

Sec. 98. Section 447.12, Code 1991, is amended to read as follows:

447.12 WHEN SERVICE DEEMED COMPLETE — PRESUMPTION.

Service is complete only after an affidavit has been filed with the county treasurer, showing the making of the service, the manner of service, the time when and place where made, and under whose direction the service was made, and costs incurred as provided in section 447.13. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer. The affidavit shall be made by the holder of the certificate or by the holder's agent or attorney, and in either of the latter cases stating that the affiant is the agent or attorney of the holder of the certificate. The affidavit shall be filed by the treasurer and entered upon the sale book opposite the entry of the sale, in the county system and the record or affidavit is presumptive evidence of the completed service of the notice. The right of redemption shall not expire until ninety days after service is complete. When the property parcel

is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the property parcel is the subject of a conditional conveyance granted under the project, the affidavit shall be made by the treasurer of the county or the county attorney, a city officer designated by resolution of the council, or on behalf of the agency or authority, by one of its officers as authorized in rules of the agency or authority.

Sec. 99. Section 447.13, Code 1991, is amended to read as follows:

447.13 COST — FEE — REPORT.

The cost of a record search and the cost of serving the notice, including the cost of mailing certified mail notices and the cost of publication under section 447.10 if publication is required, shall be added to the amount necessary to redeem. The fee for personal service of the notice shall be the same as for service of an original notice, including copy fee and mileage. The county treasurer shall file the proof of service and statement of costs and enter it on the sale book record these costs against the proper tract of real estate parcel. The certificate holder of the certificate of sale or the holder's agent shall report in writing to the county treasurer the amount of authorized costs incurred, and the treasurer shall enter it in the sale book file the statement. A redemption is not complete until the costs are paid. Costs not filed with the treasurer before redemption shall not be collected by the treasurer and may be recovered through a court action against the parcel owner by the certificate holder. If the property parcel is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the property parcel is the subject of a conditional conveyance granted under the project, the costs incurred for repairs and rehabilitation work required and undertaken in order to make the property parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem; and a redemption is not complete until the costs are paid.

Sec. 100. Section 448.1, Code 1991, is amended to read as follows:

448.1 DEED EXECUTED.

Immediately after the expiration of ninety days from the date of completed service of the notice provided in section 447.12 the county treasurer ~~then in office~~ shall make out a deed for each ~~lot or parcel of land~~ sold and unredeemed, and deliver it to the purchaser upon the return of the certificate of purchase. The treasurer shall receive ~~three~~ twenty-five dollars for each deed made by the treasurer, and the treasurer may include any number of parcels of land purchased by one person in one deed, if desired authorized by the purchaser treasurer.

Sec. 101. Section 448.2, Code 1991, is amended to read as follows:

448.2 FORM.

Deeds executed by the county treasurer shall be substantially in the following form:

KNOW ALL PERSONS BY THESE PRESENTS, that the following described real property parcel: (Here follows the description), situated in the county of and state of Iowa, was subject to ~~taxation~~ taxes for the year (or years) A.D., and the taxes assessed thereon on the parcel for the year (or years) stated remained due and unpaid at the date of the sale; and the treasurer of the county, on the day of, A.D., by virtue of the authority vested by law in the treasurer, at (an adjournment of) the sale begun and publicly held on the third Monday of June, A.D., exposed to public sale at the office of the county treasurer in the county named, in substantial conformity with all the requirements of the statute, the real property parcel described, for the payment of the taxes, interest and costs total amount then due and remaining unpaid on the property parcel, and at that time and place A B, of the county of and state of, offered to pay the sum of dollars and cents, being the whole total amount of taxes, interest and costs then due and remaining unpaid on the property parcel, for (here follows the description of the property parcel sold) which was the least quantity bid for, and payment of that sum was made by that person to the treasurer, the property parcel was stricken off to that person at that price; and A B did, on the day of, A.D., assign the

certificate of the sale of the property parcel and all right, title, and interest to the property parcel to E F of the county of and state of; and by the affidavit of, filed in the treasurer's office on the day of, A.D., it appears that notice has been given more than ninety days before the execution of this deed to and of the expiration of the time of redemption allowed by law; and three two years have elapsed since the date of the sale, and the property parcel has not been redeemed:

Now, I, C D, treasurer of said the county, for the consideration of said the stated sum paid to the treasurer paid as aforesaid and by virtue of law, have granted, bargained, and sold, and by these presents do grant, bargain, and sell to the said A B (or E F), and that person's heirs and assigns, the real property hereinbefore parcel described, to have and to hold unto that person (or E F), and that person's heirs and assigns, forever; subject, however, to all the rights of redemption provided by law. In witness whereof, I, C D, treasurer as aforesaid of county, by virtue of the authority aforesaid vested in me, have hereunto subscribed my name on this day of, A.D.

.....
Treasurer

State of Iowa,)
 County.) ss.

I hereby certify that before me,, in and for said county, personally appeared the above named C D, treasurer of said the county, personally known to me to be the treasurer of said the county at the date of the execution of the above conveyance, and to be the identical person whose name is affixed to and who executed the above conveyance as treasurer of said the county, and acknowledged the execution of the same conveyance to be the treasurer's voluntary act and deed as treasurer of said the county, for the purposes therein expressed in the conveyance.

Given under my hand (and seal) this day of, A.D.

Sec. 102. Section 448.3, Code 1991, is amended to read as follows:

448.3 EXECUTION AND EFFECT OF DEED.

The deed shall be signed by the county treasurer as such, and acknowledged by the treasurer before some officer authorized to take acknowledgments, and when substantially thus executed and recorded in the proper record in the office of the recorder of the county in which the property parcel is situated, shall vest in the purchaser all the right, title, interest, and estate of the former owner in and to the land parcel conveyed, subject to all restrictive covenants, resulting from prior conveyances in the chain of title to the former owner, and all the right, title, interest, and claim of the state and county thereto to the parcel. The issuance of the deed shall operate to cancel all suspended taxes.

Sec. 103. Section 448.4, Code 1991, is amended to read as follows:

448.4 PRESUMPTIVE EVIDENCE.

The deed shall be presumptive evidence in all the courts of this state in all controversies and actions in relation to the rights of the purchaser, and the purchaser's heirs or assigns, to the land thereby parcel conveyed, of the following facts:

1. That the real property parcel conveyed was subject to taxation taxes for the year or years stated in the deed.
2. That the taxes were not paid at any time before the sale.
3. That the real property parcel conveyed had not been redeemed from the sale at the date of the deed.
4. That the property parcel had been listed and assessed.
5. That the taxes were levied or set according to law.
6. That the property parcel was duly advertised for sale.
7. That the property parcel was sold for taxes as stated in the deed.

Sec. 104. Section 448.5, subsection 3, Code 1991, is amended to read as follows:

3. That all the prerequisites of the law were complied with by all the officers who had, or whose duty it was to have had, any part or action in any transaction relating to or affecting the title conveyed or purporting to be conveyed by the deed, from the listing and valuation of the property parcel up to the execution of the deed, both inclusive, and that all things ~~whatsoever~~ required by law to make a good and valid sale and to vest the title in the purchaser were done, except in regard to the points named in section 448.4 wherein for which the deed shall be presumptive evidence only.

Sec. 105. Section 448.6, Code 1991, is amended to read as follows:

448.6 FACTS NECESSARY TO DEFEAT DEED.

In all actions involving the title to real estate a parcel claimed and held under a deed executed substantially as aforsaid required in this chapter by the county treasurer, the person claiming title adverse to the title conveyed ~~thereby~~ shall be required to prove, in order to defeat the title, either any of the following:

1. That the real property parcel was not subject to taxation taxes for the year or years named in the deed;
2. That the taxes had been paid before the sale;
3. That the property parcel had been redeemed from the sale and that such the redemption was ~~had or~~ made for the use and benefit of persons having the right of redemption; ~~or~~.
4. That there had been an entire omission to list or assess the property parcel, or to levy the taxes, or to give notice of the sale, or to sell the property parcel.

Sec. 106. Section 448.7, Code 1991, is amended to read as follows:

448.7 ADDITIONAL FACTS NECESSARY.

~~No~~ A person shall not be permitted to question the title acquired by a county treasurer's deed without first showing that the person, or the person under whom that person claims title, had title to the property parcel at the time of the sale, or that the title was obtained from the United States or this state after the sale, and that all taxes amounts due upon the property parcel have been paid by such that person, or the person under whom that person claims title.

Sec. 107. Section 448.8, Code 1991, is amended to read as follows:

448.8 SALE MADE BY MISTAKE.

~~In any case where a person had paid the person's taxes~~ If an amount due was paid, and through mistake in the entry made in the treasurer's books, or in the receipt, the land upon which the taxes were paid county system, the parcel was afterward sold, the treasurer's deed shall does not convey the title.

Sec. 108. Section 448.9, Code 1991, is amended to read as follows:

448.9 FRAUDULENT SALE.

~~In all cases where~~ If the owner of the lands a parcel sold for taxes shall resist resists the validity of the tax title, the owner may prove fraud committed by the officer selling the same parcel, or in the purchaser, to defeat the same title, and, if fraud is established, the sale and title shall be void.

Sec. 109. Section 448.10, Code 1991, is amended to read as follows:

448.10 WRONGFUL SALES — PURCHASER INDEMNIFIED.

~~When~~ If, by mistake or wrongful act of the county treasurer, land a parcel has been sold on which no tax was due at the time, or when land a parcel is sold in consequence of error in describing it ~~in the tax receipt within the county system~~, the county shall hold the purchaser harmless by paying the purchaser the amount of principal, interest, and costs due to which the purchaser would have been entitled had the land parcel been rightfully sold, and the treasurer and the treasurer's surety shall be liable to the county ~~therefor~~ to the amount of the treasurer's official bond; or the purchaser, or the purchaser's assignee, may recover the same amount directly of from the treasurer and the treasurer's surety.

Sec. 110. Section 448.11, Code 1991, is amended to read as follows:

448.11 CORRECTING WRONGFUL SALE.

When it shall be is made to appear known to the county treasurer, before the execution of a deed for real estate a parcel sold for taxes, or if the deed be is returned by the purchaser, that any tract or lot a parcel was sold which was not subject to taxation, or upon which the taxes had been paid, the treasurer shall make an entry opposite such tract or lot on the sale book in the county system that the same parcel was erroneously sold, and such the entry shall be evidence of the fact therein stated, and the purchase money shall be refunded to the purchaser.

Sec. 111. Section 448.12, Code 1991, is amended to read as follows:

448.12 LIMITATION OF ACTIONS.

An action for the recovery of real estate a parcel sold for the nonpayment of taxes shall not be brought after five three years from the execution and recording of the county treasurer's deed, unless the owner is, at the time of the sale, a minor, a mentally ill person, or an inmate in an adult correctional institution, in which case such the action must be brought within five three years after such the disability is removed.

Sec. 112. Section 448.14, Code 1991, is amended to read as follows:

448.14 OFFICERS DE FACTO.

In all actions and controversies involving the question of title to real property a parcel held under a county treasurer's deed, all acts of assessors, treasurers, auditors, supervisors, and other officers de facto shall be of the same validity as acts of officers de jure.

Sec. 113. Section 448.15, Code 1991, is amended to read as follows:

448.15 AFFIDAVIT BY TAX-TITLE HOLDER.

After two years from Immediately after the issuance and recording of a tax deed or an instrument purporting to be a tax deed issued by a county treasurer of this state, the then owner or holder of such the title or purported title may file with the county recorder of the county in which such real estate the parcel is located an affidavit substantially in the following form: State of Iowa,)

..... County.) ss.

I,, being first duly sworn, on oath depose and say that on (date) the county treasurer issued a tax deed to (grantee) for the following described real estate parcel:

..... ; that said the tax deed was filed for record in the office of the county recorder of county, Iowa, on (date), and appears in the records of the office in county as recorded in Book ... Page ... of the Records; and that is now in possession of such real estate the parcel and claims title to the same parcel by virtue of such the tax deed, or such purported tax title.

Any person claiming any right, title, or interest in or to such real estate the parcel adverse to the title or purported title by virtue of such the tax deed referred to herein shall file a claim of the same with the recorder of the county wherein such real estate where the parcel is located, within one hundred twenty days after the filing of this affidavit, such the claim to set forth the nature thereof of the interest, also the time and manner in which such the interest claimed was acquired.

Subscribed and sworn to before me this day of, 19
.....
Notary Public in and for
..... County, Iowa.

Sec. 114. Section 448.16, Code 1991, is amended to read as follows:

448.16 CLAIMS ADVERSE TO TAX TITLE BARRED.

When ~~such the~~ affidavit ~~described in section 448.15~~ is filed it shall be notice to all persons, and any person claiming any right, title, or interest in or to ~~such real estate the parcel described~~ adverse to the title or purported title by virtue of ~~such the~~ tax deed ~~hereinabove~~ referred to, shall file a claim of the same with the county recorder of the county in which ~~such real estate the parcel~~ is located within one hundred twenty days after the filing of ~~such the~~ affidavit, which claim shall set forth the nature ~~thereof of the interest~~, the time when and the manner in which ~~such the~~ interest was acquired.

At the expiration of ~~said the~~ period of one hundred twenty days, if no such claim has been filed, all persons shall thereafter be forever barred and estopped from having or claiming any right, title, or interest in ~~such real estate the parcel~~ adverse to the tax title or purported tax title, and no action shall thereafter be brought to recover ~~such real estate the parcel~~, and the then tax-title owner or owner of the purported tax title shall also have acquired title to ~~such real estate the parcel~~ by adverse possession.

Sec. 115. Section 448.17, Code 1991, is amended to read as follows:

448.17 INDEXING AND RECORDING OF AFFIDAVITS AND CLAIMS.

All affidavits and claims as provided for in sections 448.15 and 448.16, filed with the county recorder, shall be indexed in the claimant's book under the description of the ~~real estate parcel~~ involved, and shall be recorded as other instruments affecting ~~real estate parcels~~.

Sec. 116. Section 449.1, Code 1991, is amended to read as follows:

449.1 APPLICATION.

When a ~~tract of real estate parcel~~ has been assessed and taxed as one item of ~~property unit~~, and thereafter and before the tax is paid, the title to different portions of ~~said real estate the parcel~~ becomes vested in different parties in severalty, and the ~~said~~ owners are unable to agree as to what portion of the total tax each portion of the ~~real estate parcel~~ should bear, any of ~~said the~~ parties may file with the board of supervisors a written application for the apportionment of ~~said the~~ tax.

Sec. 117. Section 449.3, Code 1991, is amended to read as follows:

449.3 ORDER – RECORD.

~~On~~ At the hearing, the board shall apportion ~~said the~~ tax to the different portions of the ~~real estate parcel~~ owned in severalty, in accordance with the values ~~thereof of the portions~~. All orders and determinations of the board shall be entered ~~of record~~ in its minutes. An order of apportionment shall ~~definitely~~ clearly identify each portion of ~~said real estate so the parcel~~ owned in severalty.

Sec. 118. Section 449.4, Code 1991, is amended to read as follows:

449.4 CORRECTION OF BOOKS OR RECORDS.

The county auditor shall, upon the making of an order of apportionment, at ~~once~~ correct the tax books or records in the auditor's possession, in accordance with ~~said the~~ order, and if ~~said the~~ books or other records have been delivered to the county treasurer, the ~~said~~ auditor shall at once certify ~~said the~~ order of apportionment to the ~~said~~ treasurer who shall ~~make said correction correct the county system~~.

Sec. 119. Section 450.81, Code 1991, is amended to read as follows:

450.81 DUTY OF RECORDER.

Each county recorder shall, upon the filing in the recorder's office of ~~any a~~ deed, bill of sale, or other transfer of any description ~~whatsoever~~ which shows upon its face that it was made or intended to take effect in possession or enjoyment at or after the death of the maker of ~~such the~~ instrument, forward to the department of revenue and finance a ~~certified~~ copy ~~thereof of the instrument~~.

Sec. 120. Section 455A.19, subsection 1, paragraph b, subparagraph (5), Code 1991, is amended to read as follows:

(5) Funds allocated pursuant to subparagraphs (2) and (3) shall only be allocated to counties dedicating property tax revenue at least equal to twenty-two cents per thousand dollars of the assessed value of taxable property in the county to county conservation purposes. State funds received under this paragraph shall not reduce or replace county tax revenues appropriated for county conservation purposes. The county auditor and treasurer shall submit documentation annually of the dedication of property tax revenue for county conservation purposes. The annual audit of the financial transactions and condition of a county shall certify compliance with requirements of this subparagraph. Funds not allocated to counties not qualifying for the allocations under subparagraph (2) as a result of this subparagraph shall be held in reserve for each county for two years. Counties qualifying within two years may receive the funds held in reserve. Funds not spent by a county within two years shall revert to the general pool of county funds for reallocation to other counties where needed.

Sec. 121. Section 468.27, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. Upon the establishment of the drainage district, the petitioners shall file with the county auditor the survey and report or the permanent survey, plat, and profile, if one was made, and this filing shall be constructive notice of a permanent right-of-way easement.

Sec. 122. Section 569.8, Code 1991, is amended to read as follows:

569.8 TITLE UNDER TAX DEED — SALE — APPORTIONMENT OF PROCEEDS.

1. Disposition by a county of ~~property a parcel~~ acquired by tax deed shall comply with the requirements of section 331.361, subsection 2.

2. When title to ~~property a parcel~~ acquired by tax deed is transferred, the auditor shall immediately record the deed and the assessor shall enter the ~~property parcel~~ to be assessed following the assessment date.

3. ~~Property A parcel~~ the county holds by tax deed shall not be assessed or taxed until transferred.

4. The transfer of ~~property a parcel~~ acquired by tax deed gives the purchaser free title as to past general ~~previously levied or set~~ taxes, and special taxes which are past due on any special assessment already certified to the county.

5. ~~After deducting any expense the county incurred in the sale, the~~ The proceeds of the sale including penalty, interest and costs shall be divided and prorated to the several taxing districts for general taxes and special assessments owed to the taxing districts in the proportion that the amounts of general taxes and special assessments owed to each taxing district are of the total amount of general taxes and special assessments owed to all taxing districts credited to the county general fund.

Sec. 123. Sections 445.6 through 445.9, 445.17, 445.19, 445.20, 445.29, 445.31, 445.40, 445.42 through 445.52, 445.58, 445.59, 446.3 through 446.6, 447.2, and 448.13, Code 1991, are repealed.

Sec. 124. This Act takes effect April 1, 1992.

Approved May 21, 1991

CHAPTER 192**COLLECTION OF DELINQUENT CRIMINAL FINES AND COURT COSTS***H.F. 697*

AN ACT relating to the collection of delinquent criminal fines and court costs by counties.

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

Section 1. **NEW SECTION. 909.9 COLLECTION OF DELINQUENT FINES AND COURT COSTS.**

A fine or court costs remaining unpaid after six months from the date the fine or court costs were imposed may be collected in accordance with section 331.756 by the county attorney. Of the amount collected, after payment of court costs, sixty-five percent shall be remitted to the treasurer of state for deposit and disposition as otherwise provided by law. The remaining thirty-five percent shall be retained by the county and deposited in the general fund of the county, notwithstanding the disposition provisions of sections 602.8106 and 911.3.

Approved May 21, 1991

CHAPTER 193**TEACHING OF AMERICAN SIGN LANGUAGE***S.F. 23*

AN ACT relating to the teaching of American sign language in accredited schools.

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

Section 1. Section 256.11, subsection 5, paragraph f, Code 1991, is amended to read as follows:

f. Four sequential units of one foreign language other than American sign language. Provision of instruction in American sign language shall be in addition to and not in lieu of, provision of instruction in other foreign languages. The department may waive the third and fourth years of the foreign language requirement on an annual basis upon the request of the board of directors of a school district or the authorities in charge of a nonpublic school if the board or authorities are able to prove that a licensed teacher was employed and assigned a schedule that would have allowed students to enroll in a foreign language class, the foreign language class was properly scheduled, students were aware that a foreign language class was scheduled, and no students enrolled in the class.

Sec. 2. Section 280.4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The medium of instruction in all secular subjects taught in both public and nonpublic schools shall be the English language, except when the use of a foreign language is deemed appropriate in the teaching of any subject or when the student is non-English-speaking. When the student is non-English-speaking, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in the English language or a transitional bilingual program, until the student demonstrates a functional ability to speak, write, read and understand the English language. As used in this section, "non-English-speaking student" means a student whose native language is not English and whose inability or limited ability to speak, write or read English significantly impedes educational progress. As used in this section, "foreign language" means spoken and written languages other than the English language, and includes American sign language.

Sec. 3. LICENSING STANDARDS. The board of educational examiners, in consultation with an Iowa association of deaf persons which is familiar with and regularly uses American sign language, shall adopt rules which shall be effective no later than January 1, 1992, and which set standards for the licensing or license endorsement of practitioners who teach American sign language. Standards adopted shall include, but are not limited to, minimum teacher preparation requirements and grade levels of instruction.

Sec. 4. REGENTS STUDY. The state board of regents, in conjunction with the board of educational examiners and the department of education, shall conduct a study of the use of and instruction in American sign language. The study shall include, but is not limited to, development of core courses to prepare individuals to teach American sign language in accredited schools, development of standards for crediting secondary school course work in American sign language toward foreign language college entrance requirements, and development of college-level instruction in and relating to American sign language. In conducting the study and developing recommendations, the state board of regents, the board of educational examiners, and the department of education shall consult with an Iowa association of deaf persons which is familiar with and regularly uses American sign language. The state board of regents shall report the results of the study, along with any recommendations, to the General Assembly by January 1, 1992.

Approved May 22, 1991

CHAPTER 194

TELECOMMUNICATIONS SERVICES FOR THE DEAF AND THE BLIND

S.F. 318

AN ACT creating a statewide dual party relay service system, establishing telephone utility assessments, and authorizing distribution of telecommunications devices to the deaf.

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

Section 1. NEW SECTION. 477C.1 DUAL PARTY RELAY SERVICE – PURPOSE.

The general assembly finds that the provision of a statewide dual party relay service will further the public interest and protect the health, safety, and welfare of the people of Iowa through an increase in the usefulness and availability of the telephone system. Many deaf, hearing-impaired, and speech-impaired persons are not able to utilize the telephone system without this type of service. Therefore, it is the purpose of this chapter to enable the orderly development, operation, promotion, and funding of a statewide dual party relay service.

Sec. 2. NEW SECTION. 477C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the utilities board within the department of commerce created in section 474.1.
2. "Communication impairment" means the inability to use the telephone for communication without a telecommunications device for the deaf.
3. "Council" means the dual party relay council established in section 477C.5.
4. "Dual party relay service" or "relay service" means a communication service which provides communication-impaired persons access to the telephone system functionally equivalent to the access available to persons not communication-impaired.
5. "Telecommunications device for the deaf" means any specialized or supplemental telephone equipment used by communication-impaired persons to provide access to the telephone system.

Sec. 3. NEW SECTION. 477C.3 DUAL PARTY RELAY SERVICE.

With the advice of the council, the board shall plan, establish, administer, and promote a statewide program to provide dual party relay service as follows:

1. The board may enter into the necessary contracts and arrangements with private entities to provide for the delivery of relay service.
2. The relay service, to the extent reasonably possible, shall allow persons with communication impairments to use the telephone system in a manner and at a rate equivalent to persons without communication impairments.
3. The relay service may be provided on a stand-alone basis within the state, with other states, or with telephone utilities providing relay service in other states.
4. The board may employ additional personnel, pursuant to section 476.10, to plan, establish, administer, and promote the relay service.

Sec. 4. NEW SECTION. 477C.4 TELECOMMUNICATIONS SERVICES FOR THE DEAF.

With the advice of the council, the board may plan, establish, administer, and promote a program to secure, finance, and distribute telecommunications devices for the deaf. The board may establish eligibility criteria for persons to receive telecommunications devices for the deaf, including, but not limited to, requiring certification that the recipient cannot use the telephone for communication without a telecommunications device for the deaf.

Sec. 5. NEW SECTION. 477C.5 DUAL PARTY RELAY SERVICE COUNCIL.

1. A dual party relay service council is established, consisting of eleven members appointed by the board. The council shall advise the board on all matters concerning relay service and equipment distribution programs.
2. The council shall consist of:
 - a. Six consumers who have communication impairments.
 - b. Two representatives from telephone companies.
 - c. One representative from the division of deaf services of the department of human rights.
 - d. One representative from the office of the consumer advocate of the department of justice.
 - e. One member of the board or a designee of the board.
3. Council members who are not state or local government officers or employees shall be reimbursed for their necessary and actual expenses incurred in performance of their duties and shall receive a per diem of fifty dollars when the council is meeting, payable from moneys available to the board pursuant to section 477C.7.

Sec. 6. NEW SECTION. 477C.6 BUDGET.

The board shall review and approve the proposed annual budget of the relay service program authorized in section 477C.3 and the equipment distribution program authorized in section 477C.4.

Sec. 7. NEW SECTION. 477C.7 FUNDING.

The board shall impose an annual assessment to fund the programs upon all telephone utilities providing service in the state as follows:

1. The total assessment shall be allocated one-half to local exchange telephone utilities and one-half to the following telephone utilities:
 - a. Interexchange carriers.
 - b. Centralized equal access providers.
 - c. Alternative operator services companies.
2. The assessment shall be levied upon revenues from all intrastate regulated, deregulated services, and exempt telephone services under section 476.1.
3. The telephone utilities shall remit the assessed amounts quarterly to a special fund, as defined under section 8.2, subsection 9. The moneys in the fund are appropriated solely to plan, establish, administer, and promote the relay service and equipment distribution programs.
4. The telephone utilities subject to assessment shall provide the information requested by the board necessary for implementation of the assessment.

5. The local exchange telephone utilities shall not recover from intrastate access charges any portion of such utilities assessment imposed under this section.

Sec. 8. Section 601L.3, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 14. Develop a plan to provide telephone yellow pages information without charge to persons declared to be blind under the standards in section 422.12, subsection 1, paragraph "e". The department may apply for federal funds to support the service. The program shall be limited in scope by the availability of funds.

Approved May 22, 1991

CHAPTER 195

RACING — POSSESSION OF DEVICES FOR USE ON HORSES OR DOGS

H.F. 353

AN ACT relating to the possession or use of a device or appliance to stimulate or depress a race horse or dog and providing penalties.

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

Section 1. Section 99D.24, subsection 5, paragraph a, Code 1991, is amended to read as follows:

a. Uses, ~~possesses~~, or conspires to use or ~~possess~~ a ~~battery, buzzer, electrical, mechanical or other appliance~~ device other than the ordinary whip or spur for the purpose of stimulating or depressing a horse or dog ~~or affecting its speed in~~ during a race or workout.

Approved May 22, 1991

CHAPTER 196

SPECIAL TAX PROVISIONS FOR CERTAIN MILITARY AND OTHER PERSONNEL

H.F. 489

AN ACT relating to providing additional state income tax filing time periods for certain military personnel, exempting from taxation income of persons killed in a combat zone or while serving overseas, exempting from taxation active duty military pay of certain national guard personnel and armed forces reserve personnel, and providing a retroactive applicability date and an effective date.

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

Section 1. Section 422.5, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 10. If an individual's federal income tax was forgiven for a tax year under section 692 of the Internal Revenue Code, because the individual was killed while serving in an area designated by the president of the United States or the United States Congress as a combat zone, the individual was missing in action and presumed dead, or the individual was killed outside the United States in a terroristic or military action while the individual was a military or civilian employee of the United States, the individual's Iowa income tax is also forgiven for the same tax year.

Sec. 2. Section 422.7, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 24. Subtract to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for services performed on or after August 2, 1990, pursuant to military orders related to the Persian Gulf Conflict.

Sec. 3. Section 422.21, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An individual in the armed forces of the United States serving in an area designated by the president of the United States or the United States Congress as a combat zone, or an individual serving in support of those forces, is allowed the same additional time period after leaving the combat zone, or after a period of continuous hospitalization, to file a state income tax return or perform other acts related to the department, as would constitute timely filing of the return or timely performance of other acts described in section 7508(a) of the Internal Revenue Code. For the purposes of this paragraph, "other acts related to the department" includes filing claims for refund for any tax administered by the department, making tax payments other than withholding payments, filing appeals on the tax matters, filing other tax returns, and performing other acts described in the department's rules. The additional time period allowed applies to the spouse of the individual described in this paragraph to the extent the spouse files jointly or separately on the combined return form with the individual or when the spouse is a party with the individual to any matter for which the additional time period is allowed. For the purposes of this paragraph, the Internal Revenue Code shall be interpreted to include the provisions of Pub. L. No. 102-2.

Sec. 4. This Act applies retroactively to August 2, 1990, for tax years ending on or after that date.

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 22, 1991

CHAPTER 197

SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAM

H.F. 589

AN ACT relating to the administration of a voluntary shared work unemployment compensation program administered by the department of employment services, and providing an effective date.

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

Section 1. **NEW SECTION. 96.36 VOLUNTARY SHARED WORK PROGRAM.**

1. An employer who wishes to participate in the shared work unemployment compensation program established under this section shall submit a written shared work plan in a form acceptable to the division for approval.

As a condition for approval by the division, a participating employer shall agree to furnish the division with reports relating to the operation of the shared work plan as requested by the division. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the division and shall report the findings to the division.

2. The division may approve a shared work plan if all of the following conditions are met:

a. The employer has filed all reports required to be filed under this chapter for all past and current periods and has paid all contributions due for all past and current periods.

b. The plan certifies that the aggregate reduction in work hours is in lieu of temporary layoffs which would have affected at least ten percent of the employees in the affected unit or units to which the plan applies and which would have resulted in an equivalent reduction in work hours. "Affected unit" means a specified plant, department, shift, or other definable unit.

c. The employees in the affected unit are identified by name and social security number and consist of at least five individuals.

d. The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than twenty percent and not more than fifty percent with a corresponding reduction in wages. Only full-time employees who normally work between thirty-five and forty hours per week are eligible to participate.

e. The reduction in hours and corresponding reduction in wages must be applied equally to all of the full-time employees in the affected unit.

f. The plan provides that fringe benefits will continue to be provided to employees in affected units as though their workweeks had not been reduced.

g. The plan will not serve as a subsidy of seasonal employment during the off season, nor as a subsidy of temporary part-time or intermittent employment.

h. The employer certifies that the employer will not hire additional part-time or full-time employees for the affected work force while the program is in operation.

i. The duration of the shared work plan will not exceed twenty-six weeks. An employing unit is eligible for approval of only one plan during a twenty-four-month period.

j. The plan is approved in writing by the collective bargaining representative for each employee organization or union which has members in the affected unit.

3. The employer shall submit a shared work plan to the division for approval at least thirty days prior to the proposed implementation date.

4. The division may revoke approval of a shared work plan and terminate the plan if the division determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program, or if it is determined by the division that the approval of the shared work plan was based, in whole or in part, upon information contained in the plan which was either false or substantially misleading.

5. An individual who is otherwise entitled to receive regular unemployment compensation benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the division finds all of the following:

a. The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week.

b. The individual is able to work, available for work, and works all available hours with the participating employer.

c. The individual's normal weekly hours of work have been reduced by at least twenty percent but not more than fifty percent, with a corresponding reduction in wages.

6. The division shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this chapter which relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer under the plan.

7. The division shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment, less any deductible amounts under this chapter except wages received from any employer, multiplied by the full percentage of reduction in the individual's hours as set forth in the employer's shared work plan. If the shared work benefit amount calculated under this subsection is not a multiple of one dollar, the division shall round the amount so calculated to the next lowest multiple of one dollar. An individual shall be ineligible for shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

8. An individual shall not be entitled to receive shared work benefits and regular unemployment compensation benefits in an aggregate amount which exceeds the maximum total

amount of benefits payable to that individual in a benefit year as provided under section 96.3, subsection 5. Notwithstanding any other provisions of this chapter, an individual shall not be eligible to receive shared work benefits for more than twenty-six calendar weeks during the individual's benefit year.

9. Notwithstanding any other provisions of this chapter, all benefits paid under a shared work plan, which are chargeable to the participating employer or any other base period employer of a participating employee, shall be charged to the account of the participating employer under the plan.

10. An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year shall be considered an exhaustee, as defined in section 96.19, subsection 34, for purposes of the extended benefit program administered pursuant to section 96.29.

11. This section is repealed on February 28, 1995.

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

Approved May 22, 1991

CHAPTER 198

QUAD CITIES INTERSTATE METROPOLITAN AUTHORITY

H.F. 690

AN ACT relating to the creation of an interstate metropolitan authority, by specifying the powers and duties of the authority, by authorizing certain counties to join the authority, by providing for the imposition of a sales and services tax, by providing for the issuance of revenue bonds, by authorizing the imposition of fines for certain violations, and by providing an effective date.

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

DIVISION II

QUAD CITIES INTERSTATE METROPOLITAN AUTHORITY

Section 1. **NEW SECTION. 330B.2 CITATION.**

Chapter 330B, division II, may be cited as the "Quad Cities Interstate Metropolitan Authority Act".

Sec. 2. **NEW SECTION. 330B.3 PURPOSES.**

1. Chapter 330B, division II, is enabling legislation for the quad cities interstate metropolitan authority compact, a compact entered into by the states of Illinois and Iowa as provided in section 330B.1.

2. The authority shall engage in operations and services that can best be conducted on an area basis benefiting the entire greater metropolitan area, and at the same time improving the quality of life for the greater metropolitan area. The authority may include the following areas of operation and service:

- a. Intermodal water port operations.
- b. Waste disposal systems.
- c. Mass transit.
- d. Airports.
- e. Bridges.
- f. Parks and recreation.

g. Related facilities, fixtures, equipment, and property necessary, appurtenant, or incidental to the operations and services specified in paragraphs "a" through "g". The authority shall be supportive of, and refrain from unnecessary and unreasonable competition with, private sector operations when possible.

3. The establishment, maintenance, and operation of safe, adequate, and necessary metropolitan facilities, and the creation of the authority having powers necessary or desirable for the establishment, maintenance, and operation of the metropolitan facilities beneficial to the territory of the authority, and the powers and the corporate purposes and functions of the authority are public and governmental in nature and essential to the public interest in the territory of the authority.

Sec. 3. NEW SECTION. 330B.4 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Authority" means the quad cities interstate metropolitan authority created as provided in this division.

2. "Board" means the board of commissioners of the authority.

3. "Cost" of any project for a metropolitan facility includes construction contract costs and the costs 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, if any, and provisions for contingencies.

4. "Greater metropolitan area" means the combined area of Rock Island county, Illinois, and Scott county, Iowa.

5. "Metropolitan area" means Rock Island county, Illinois, as a separate and distinct area, or Scott county, Iowa, as a separate and distinct area, or each as a part of the greater metropolitan area.

6. "Metropolitan facility" means a structure, fixture, equipment, or property of any kind or nature related to or connected with an intermodal water port, waste disposal system, mass transit system, airport, park, recreation, or bridge, which the authority may construct, acquire, own, lease, or operate, including all related facilities necessary, appurtenant, or incidental to the facilities.

7. "Person" means an individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative of any of the entities.

8. "Waste disposal system" means a facility or service for collection, transportation, processing, storage, or disposal of solid waste including a facility or service established pursuant to chapter 28G.

Sec. 4. NEW SECTION. 330B.5 PETITION AND PUBLIC HEARING.

1. Upon petition of eligible electors of a metropolitan area equal in number to at least ten percent of the persons who voted in the last general election held in the metropolitan area for the office of president of the United States or governor, the governing body of the county shall adopt a resolution signifying its intention to initiate the question of participating in the creation of an authority and shall publish the resolution at least once in a newspaper of general circulation in the metropolitan area giving notice of a hearing to be held on the question of the metropolitan area's entry into the authority. The resolution shall be published at least fourteen days prior to the date of hearing, and shall contain all of the following information:

a. Intention to join in the creation of the authority pursuant to this division.

b. That the greater metropolitan area will include Rock Island county, Illinois, and Scott county, Iowa, which have expressed their interest in the creation of the authority.

c. Name of the authority.

d. Place, date, and time of hearing.

2. After the hearing, if the governing body of a metropolitan area wishes to proceed in the creation of or to join the authority, the governing body shall direct the proper election authority to submit the proposition to the electorate of the metropolitan area as provided in section 330B.6.

Sec. 5. NEW SECTION. 330B.6 ELECTION.

1. Upon receipt of the resolution, the county commissioner of elections shall place the proposition on the ballot of a special election but not at a general election, called by the governing body of the metropolitan area. At the election, the proposition shall be submitted in substantially the following form:

"Shall the Quad Cities Interstate Metropolitan Authority be established effective on the _____ day of _____, 19 ____ ?

YES _____

NO _____"

2. Notice of the election shall be given by publication as required in section 49.53 in a newspaper of general circulation in the metropolitan area. At the election, the ballot used for submission of the proposition shall be substantially the form for submitting special questions at general elections.

3. The proposition is approved if the vote in favor of the proposition is a simple majority of the total votes cast on the proposition in the metropolitan area.

4. If the proposition is approved, the governing body of the county shall enact an ordinance authorizing the joining of the authority.

Sec. 6. NEW SECTION. 330B.7 BOARD OF COMMISSIONERS — APPOINTMENT.

1. The authority established under this division shall be governed by a board of commissioners appointed as provided in subsection 2. The appointment of the commissioners shall be made in writing and shall indicate the legal residence of the appointee.

2. The board of commissioners of an authority shall consist of sixteen members, eight members of which shall be residents of the metropolitan area of each state which is a party to the authority. At least four but not more than five members appointed from each metropolitan area shall be elected city or county officers. The mayor of each city having a population of at least eighty thousand within the metropolitan area shall appoint, with the consent of the city council, four members to the board of commissioners. The mayor of each city having a population of at least forty thousand, but less than eighty thousand, within the metropolitan area shall appoint, with the consent of the city council, two members to the board of commissioners. The mayor of each city having a population of at least nineteen thousand, but less than forty thousand, within the metropolitan area shall appoint, with the consent of the city council, one member to the board of commissioners. The remaining members appointed from each state shall be appointed by the chairperson of the governing body of the county within the metropolitan area, with consent of the governing body, from cities having less than nineteen thousand population and areas outside the corporate limits of cities.

3. If a city increases to a population that would enable an additional appointment to be made, a member appointed by the chairperson of the governing body of the county and having the least tenure shall be removed from the board of commissioners. If a city decreases to a population warranting fewer members, the appointee having the least tenure of that city shall be removed from the board of commissioners and the chairperson of the governing body of the county in which that city is located shall make a new appointment as provided in subsection 2. If more members than are required to be removed have the same tenure, the removal shall be determined by lot.

4. The membership of the board of commissioners shall be gender balanced if possible. The appointing authorities shall comply with the requirements of section 69.16A or to similar laws of the state of Illinois as determined by the appointing authorities. The appointing authorities shall also provide representation for racial groups residing in the metropolitan area based on the ratio of the racial population to the population as a whole.

Sec. 7. NEW SECTION. 330B.8 COMMISSIONERS — TERMS OF OFFICE.

1. All initial appointments of commissioners shall be made within thirty days after the establishment of the authority. The authority is considered established when the proposition is approved by the voters under section 330B.6. Each appointment shall be in writing and a certificate of appointment signed by the appointing officer shall be filed and made a matter of record in the office of the county recorder. A commissioner shall be appointed for a term of

two years and shall qualify within ten days after appointment by acceptance and the taking of an oath or affirmation to faithfully perform the duties of office. Members initially appointed to the board of commissioners shall serve from date of appointment until June 30 of one or two years after the date of appointment and shall draw lots to determine the terms for which each shall be appointed. Lots shall be drawn so that four commissioners from the metropolitan area shall serve in each of two classes. Thereafter, commissioners shall be appointed for two-year terms beginning on July 1 of the year of appointment. However, a commissioner who is also an elected officer shall have a term of office that runs concurrent and consistent with the elective office.

2. Within forty-five days after any vacancy occurs on the board by death, resignation, change of residence to outside of the metropolitan area, or for any other cause, a successor shall be appointed in the same manner as the commissioner's predecessor was appointed for the unexpired term of office. Commissioners and board officers of the board shall serve until a successor is appointed and qualifies. A vacancy exists when a commissioner who is also an elected officer leaves elective office and a former city or county elective officer is ineligible to serve as a commissioner for two years after leaving elective office.

Sec. 8. NEW SECTION. 330B.9 ORGANIZATION – OFFICERS – MEETINGS – COMPENSATION.

1. The board of commissioners may exercise all of its legislative and executive powers granted under this division. Within thirty days after the appointment of the initial commissioners, the board shall meet and elect a chairperson from among its members for a term of one year. The chairperson's position shall alternate annually between a commissioner from one state to a commissioner from the other state. The board shall also select a secretary, treasurer, and other officers or employees as necessary for the accomplishment of its corporate objectives, none of whom need be a commissioner. The board, at its first meeting, shall define by ordinance the first and subsequent fiscal years of the authority, and shall adopt a corporate seal and bylaws, which shall determine the times for the annual election of officers and for other regular and special meetings of the board. The bylaws shall contain the rules for the transaction of other business of the authority and for amending the bylaws.

2. Each commissioner of the authority shall devote the amount of time to the duties of office as the faithful discharge of the duties may require. The board shall reimburse a commissioner for actual and necessary expenses incurred in the performance of official duties as approved by the board. A commissioner shall not receive a salary or per diem for the performance of official duties.

3. Each commissioner shall comply with restrictions relating to conflicts of interests or acceptance of gifts as provided in chapter 68B or to similar laws of the state of Illinois as determined by the board.

4. The commissioners shall conduct the meetings as public meetings with appropriate notice pursuant to chapter 21 or to similar laws of the state of Illinois as determined by the board.

5. The board shall keep and maintain its records as public records pursuant to chapter 22 or to similar laws of the state of Illinois as determined by the board.

Sec. 9. NEW SECTION. 330B.10 RIGHTS AND POWERS.

The authority constitutes a municipal corporation and body politic separate from any other municipality, state, or other public or governmental agency. The authority has the following express powers, subject to any restrictions or limitations contained in this division, and all other powers incidental, necessary, convenient, or desirable to carry out and effectuate the express powers to:

1. Sue and be sued.

2. Locate, acquire, own, establish, operate, and maintain one or more metropolitan facilities upon any land or body of water within its corporate limits, and to construct, develop, expand, extend, and improve any metropolitan facility. A new metropolitan facility, such as a sanitary

landfill or infectious waste disposal facility shall not be established without site approval of the city council or board of supervisors which governs the city or county in which the proposed site is to be located.

3. Acquire, within the corporate limits of the authority, and in fee simple, rights in and over land or water, and easements upon, over, or across land or water, and leasehold interests in land or water, and tangible and intangible personal property, used or useful for the location, establishment, maintenance, development, expansion, extension, or improvement of one or more metropolitan facilities. The acquisition may be by dedication, purchase, gift, agreement, lease, or by condemnation if within corporate limits of the authority. The authority may acquire land in fee simple subject to a mortgage and as part of the purchase price may assume the payment of the indebtedness secured by the mortgage. Land may be acquired, possessed, and used for its purposes by the authority, under a written contract for a deed conveying merchantable title and providing that the deed shall be placed in escrow and be delivered upon payment of the purchase price and containing other terms as are reasonably incident to the contract. Personal property may be purchased on an installment contract basis or lease-purchase contract.

4. Operate, maintain, manage, lease with or without a lease-purchase option, sublease, and make and enter into contracts for the use, operation, or management of, and enact regulations for the operation, management, or use of, a metropolitan facility.

5. Fix, charge, and collect reasonable rentals, tolls, fees, and charges for the use of a metropolitan facility or any part of a metropolitan facility. Rentals, tolls, fees, or charges fixed and collected for the use of a metropolitan facility shall be used for the construction, reconstruction, repair, maintenance, or operation of that metropolitan facility or the construction, reconstruction, repair, maintenance, or operation of similar metropolitan facilities.

6. Establish and maintain streets and approaches on property of the authority.

7. Remove and relocate hazards or structures on property of the authority.

8. Restrict and reduce the height of objects or buildings on property of the authority.

9. Accept grants, contributions, or loans from, and enter into contracts, leases, or other transactions with, a city, county, state, or federal government.

10. Borrow money and issue bonds, notes, certificates, or other evidences of indebtedness for the purpose of accomplishing any of the corporate purposes, which obligations may be payable from other sources as provided in this division, and refund or advance refund any of the evidences of indebtedness with bonds, notes, certificates, or other evidences of indebtedness, which refunding or advanced refunding obligations may be payable from taxes or from any other source, subject to compliance with any condition or limitation set forth in this division.

11. Employ or enter into contracts for the employment of any person for professional services, necessary or desirable for the accomplishment of the corporate objectives of the authority or the proper administration, management, protection, or control of its property.

12. Regulate traffic, speed, movement, and mooring of vessels on property of the authority.

13. Regulate traffic, speed, movement, and parking of motor vehicles upon property of the authority and employ parking meters, signs, and other devices in the regulation of the motor vehicles.

14. Contract for police and fire protection.

15. Establish, by ordinance of the board, all regulations for the execution of the powers specified in this division, for the government of the authority, and for the protection of any metropolitan facility within the jurisdiction of the authority, or deemed necessary or desirable to effect its corporate objectives. An ordinance may provide for the revocation, cancellation, or suspension of an existing privilege or franchise as a penalty for a second or subsequent violation by the holder or franchisee of a regulation pertaining to the enjoyment, use, or exercise of the privilege or franchise. The use of a metropolitan facility of the authority shall be subject to the reasonable regulation and control of the authority and upon the reasonable terms and conditions as established by the board.

16. Establish a general operating fund and other funds as necessary.

17. Do all acts and things necessary or convenient for the promotion of its business and the general welfare of the authority, in order to carry out the powers granted to it by this chapter or any other laws. The authority has no power to pledge the taxing power of this state or any political subdivision or agency of this state.

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

Sec. 10. NEW SECTION. 330B.11 REGULATIONS – ORDINANCES.

Regulations adopted pursuant to section 330B.10 shall be contained in an ordinance which shall be placed on file in the office of the authority in typewritten or printed form for public inspection not less than fifteen days before adoption. The ordinance may impose fines as the board deems appropriate of not more than one hundred dollars upon conviction or guilty plea for each violation, and may provide that, in case of continuing violation, each day during which a violation occurs or continues constitutes a separate offense.

Sec. 11. NEW SECTION. 330B.12 EMINENT DOMAIN PROCEDURES.

If land in fee simple, rights in land, air, or water, easements or other interests in land, air, water, property, or property rights are acquired or sought to be acquired by the authority by condemnation, the condemnation procedure shall be in accordance with the eminent domain statutes of the state in which the affected property is located.

Sec. 12. NEW SECTION. 330B.13 AUTHORITY PROCEDURES.

Action of the board of a legislative character, including the adoption of regulations, shall be in the form of an ordinance, and after adoption shall be filed with the secretary and shall be made a matter of public record in the office of the authority. Other action of the board shall be by resolution, motion, or in other appropriate form. Executive or ministerial duties may be delegated to one or more commissioners or to an authorized officer, employee, agent, or other representative of the authority. Ten commissioners, five members from each state within the greater metropolitan area, constitute a quorum to conduct business and an affirmative vote of a majority of the commissioners from each metropolitan area is required to adopt or approve an action of the board. The enacting clause of any ordinance shall be substantially as follows: "Be it ordained by the Board of Commissioners of the Quad Cities Interstate Metropolitan Authority".

Sec. 13. NEW SECTION. 330B.14 OFFICIAL RECORDS AND OFFICER BONDS.

The board shall provide for the safekeeping of its permanent records and for the recording of the corporate action of the authority. The board shall keep a true and accurate account of its receipts and an annual audit shall be made of its books, records, and accounts by state or private auditors. All officers and employees authorized to receive or retain the custody of moneys or to sign vouchers, checks, warrants, or evidences of indebtedness binding upon the authority shall furnish surety bond for the faithful performance of their duties and the faithful accounting for all moneys that may come into their custody in an amount to be fixed and in a form to be approved by the board.

Sec. 14. NEW SECTION. 330B.15 CHANGE OF NAME.

The board may change the name of the authority by ordinance. A certified copy of the ordinance shall be filed with the appropriate state office and the county recorder or equivalent county officer of each county in which the authority or part of the authority is located. The name change shall be effective on the date of the filing.

Sec. 15. NEW SECTION. 330B.16 BUDGET AND APPROPRIATION.

Annually, the board shall prepare and adopt a budget and provide appropriations as follows:

1. The budget shall show the amount required for each class of proposed expenditures, a comparison of the amounts proposed to be expended with the amounts expended for like purposes for the two preceding years, if available, and the sources of revenue.

2. Not less than twenty days before the date that a budget must be certified as determined by the board and not less than ten days before the date set for the hearing under subsection 3, the board shall file the budget with the treasurer of the authority. The treasurer shall post a copy of the budget in the authority offices for public inspection and comment.

3. The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers serving the greater metropolitan area. Proof of publication shall be filed with and preserved by the treasurer.

4. At the hearing, any resident or taxpayer of the greater metropolitan area may present to the board objections to or arguments in favor of any part of the budget.

5. After the hearing, the board shall adopt by resolution a budget and shall direct the treasurer to properly certify and file the budget.

6. The board shall appropriate, by resolution, the amounts deemed necessary for the ensuing fiscal year. All revenue from taxes, fees, tolls, rental, charges, bonds, or any other source shall be appropriated and used for the specific metropolitan facility project for which it was collected or similar metropolitan facility projects. Increases or decreases in these appropriations do not require a budget amendment, but may be provided by resolution at a regular meeting of the board.

Sec. 16. NEW SECTION. 330B.17 LOCAL SALES AND SERVICES TAX.

If an authority is established as provided in section 330B.6 and after approval of a referendum by a simple majority of votes cast in each metropolitan area in favor of the sales and services tax, the governing board of a county in this state within a metropolitan area which is part of the authority shall impose, at the request of the authority, a local sales and services tax at the rate of one-fourth of one percent on gross receipts taxed by this state under chapter 422, division IV, within the metropolitan area located in this state. The referendum shall be called by resolution of the board and shall be held as provided in section 330B.6 to the extent applicable. The ballot proposition shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended and the date of expiration of the tax. The local sales and services tax shall be imposed on the same basis, with the same exceptions, and following the same administrative procedures as provided for a county under sections 422B.8 and 422B.9. The amount of the sale, for the purposes of determining the amount of the local sales and services tax under this section, does not include the amount of any local sales and services tax imposed under sections 422B.8 and 422B.9. The treasurer of state shall credit the local sales and services tax receipts and interest and penalties to the authority's account. Moneys in this account shall be remitted quarterly to the authority. The proceeds of the tax imposed under this section shall be used only for the construction, reconstruction, or repair of metropolitan facilities as specified in the referendum. The local sales and services tax imposed under this section may be suspended for not less than a fiscal quarter or more than one year by action of the board. The suspension may be renewed or continued by the board, but the board shall act on the suspension at least annually. The local sales and services tax may also be repealed by a petition and favorable referendum following the procedures and requirements of sections 330B.5 and 330B.6 as applicable. The board shall give the department of revenue and finance at least forty days' notice of the repeal, suspension, or reinstatement of the tax and the effective dates for imposition, suspension, or repeal of the tax shall be as provided in section 422B.9.

Sec. 17. NEW SECTION. 330B.18 BONDS AND NOTES PAYABLE FROM REVENUE.

1. The bonds issued by the board pursuant to this division shall be authorized by resolution of the board and shall be either term or serial bonds, shall bear the date, mature at the time,

not exceeding forty years from their respective dates, bear interest at the rate, not exceeding the rate permitted under chapter 74A or the rate authorized by another state within the greater metropolitan area, whichever rate is lower, payable monthly or semiannually, be in the denominations, be in the form, either coupon or fully registered, shall carry the registration, exchangeability and interchangeability privileges, be payable in the medium of payment and at the place, within or without the state, be subject to the terms of redemption and be entitled to the priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority as the resolution may provide. The bonds shall be executed either by manual or facsimile signature by the officers as the authority shall determine, provided that the bonds shall bear at least one signature which is manually executed on the bond, and the coupons attached to the bonds shall bear the facsimile signature of the officer as designated by the authority and the bonds shall have the seal of the authority, affixed, imprinted, reproduced, or lithographed on the bond, all as may be prescribed in a resolution. The bonds shall be sold at public sale or private sale at the price as the authority shall determine to be in the best interests of the authority provided that the bonds shall not be sold at less than ninety-eight percent of the par value of the bond, plus accrued interest and provided that the net interest cost shall not exceed that permitted by applicable state law. Pending the preparation of definitive bonds, interim certificates or temporary bonds may be issued to the purchaser of the bonds, and may contain the terms and conditions as the board may determine.

2. The board, after the issuance of bonds, may borrow moneys for the purposes for which the bonds are to be issued in anticipation of the receipt of the proceeds of the sale of the bonds and within the authorized maximum amount of the bond issue. Any loan shall be paid within three years after the date of the initial loan. Bond anticipation notes shall be issued for all moneys so borrowed under this section, and the notes may be renewed, but all the renewal notes shall mature within the time above limited for the payment of the initial loan. The notes shall be authorized by resolution of the board and shall be in the denominations, shall bear interest at the rate not exceeding the maximum rate permitted by the resolution authorizing the issuance of the bonds, shall be in the form and shall be executed in the manner, all as the authority prescribes. The notes shall be sold at public or private sale or, if the notes are renewal notes, they may be exchanged for notes outstanding on the terms as the board determines. The board may retire any notes from the revenues derived from its metropolitan facilities or from other moneys of the authority which are lawfully available or from a combination of revenues and other available moneys, in lieu of retiring them by means of bond proceeds. However, before the retirement of the notes by any means other than the issuance of bonds, the board shall amend or repeal the resolution authorizing the issuance of the bonds, in anticipation of the proceeds of the sale of the notes, so as to reduce the authorized amount of the bond issue by the amount of the notes so retired. The amendatory or repealing resolution shall take effect upon its passage.

3. Any resolution authorizing the issuance of any bonds may contain provisions which shall be part of the contract with the holders of the bonds, as to:

- a. The pledging of all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority derived by the authority from all or any of its metropolitan facilities.
- b. The construction, improvement, operations, extensions, enlargement, maintenance, repair, or lease of metropolitan facilities and the duties of the authority with reference to the facilities.
- c. Limitations on the purposes to which the proceeds of the bonds, or of any loan or grant by the federal government or the state government or the county or any city in the county, may be applied.
- d. The fixing, charging, establishing, and collecting of rates, fees, rentals, or other charges for use of the services and facilities of the metropolitan facilities of an authority, or any part of the facilities.
- e. The setting aside of reserves or sinking funds or repair and replacement funds or other funds and the regulation and disposition of the funds.
- f. Limitations on the issuance of additional bonds.

g. The terms and provisions of any deed of trust, mortgage, or indenture securing the bonds or under which the bonds may be issued.

h. Any other or additional agreements with the holders of the bonds as are customary and proper and which in the judgment of the authority will make the bonds more marketable.

4. The board of the authority may enter into any deeds of trust, mortgages, indentures, or other agreements, with any bank or trust company or any other lender within or without the state as security for the bonds, and may assign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority. The deeds of trust, mortgages, indentures, or other agreements may contain the provisions as may be customary in the instruments, or, as the board may authorize, including, but without limitation, provisions as to:

a. The construction, improvement, operation, leasing, maintenance, and repair of the metropolitan facilities and duties of the board with reference to the facilities.

b. The application of funds and the safeguarding and investment of funds on hand or on deposit.

c. The appointment of consulting engineers or architects and approval by the holders of the bonds.

d. The rights and remedies of the trustee and the holders of the bonds.

e. The terms and provisions of the bonds or the resolution authorizing the issuance of the bonds.

Any of the bonds issued pursuant to this section are negotiable instruments, and have all the qualities and incidents of negotiable instruments and are exempt from state taxation.

Sec. 18. NEW SECTION. 330B.19 EXISTING JURISDICTIONS.

Existing jurisdictions, including those involving airports, mass transit, river bridges, waste disposal systems, and intermodal water ports within their jurisdictional boundaries, are protected from incorporation by the authority and shall not be incorporated in the authority except by their respective governing bodies. However, an existing jurisdiction may negotiate with the authority to take over its entire powers, incomes, and debts. The authority may assume the powers, income, and debts for any type of facility authorized by this division.

Sec. 19. NEW SECTION. 330B.20 COOPERATION WITH OTHER GOVERNMENTS.

The authority may apply for and receive a grant or loan of moneys or other financial aid from the state or federal government or from any state or federal agency, department, bureau, or board, necessary or useful for the undertaking, performance, or execution of any of its corporate objectives or purposes, and the authority may undertake the acquisition, establishment, construction, development, expansion, extension, or improvement of metropolitan facilities within its corporate limits or within or upon any body of water within the corporate limits aided by, in cooperation with, or as a joint enterprise with the state or federal governments or with the aid of, or in cooperation with, or as a joint project with the state and federal governments. The authority shall assure, in compliance with any state or federal requirements or directives, that the proceeds of a state or federal grant, loan, or other financial assistance for the provision of facilities or services are used for the express purpose of the financial assistance and to the specific benefit of service areas or persons as designated by the local, state, or federal funding provider.

Sec. 20. NEW SECTION. 330B.21 TRANSFER OF EXISTING FACILITIES.

1. Any county, city, commission, authority, or person may sell, lease, lend, grant, or convey to the authority, a facility or any part of a facility, or any interest in real or personal property which may be used by an authority in the construction, improvement, maintenance, leasing, or operation of any metropolitan facilities. Any county, city, commission, authority, or person may transfer and assign over to the authority a contract which may have been awarded by the county, city, commission, authority, or person for the construction of facilities not begun or, if begun, not completed.

2. A proposed action of the board, and a proposed agreement to acquire, shall be approved by the governing body of the owner of the facilities. If the governing body of a county, city,

commission, or authority desires to sell, lease, lend, grant, or convey to the authority a facility or any part of a facility, the governing body shall adopt a resolution signifying its intention to do so and shall publish the resolution at least one time in a newspaper of general circulation in the county and in a newspaper or newspapers, if necessary, of general circulation in the area served by the county, city, commission, or authority giving notice of a hearing to be held on the question of the sale, lease, loan, grant, or conveyance. The resolution shall be published at least fourteen days prior to the date of hearing. After the hearing and if in the public interest, the county, city, commission, or authority shall enact an ordinance authorizing the sale, lease, loan, grant, or conveyance.

3. An owner transferring an existing facility to the authority under this section shall notify the board of and make provision in the transfer documents for, where necessary, existing rights, liens, securities, and rights of reentry belonging to the state or federal government.

4. This section, without reference to any other law, shall be deemed complete authority for the acquisition by agreement, of a facility as provided in subsection 1, and no proceedings or other action shall be required except as prescribed in this division.

Sec. 21. NEW SECTION. 330B.22 FUNDS OF THE AUTHORITY.

Moneys of an authority shall be paid to the treasurer of the authority who shall not commingle the moneys with any other moneys, but shall deposit them in a separate account or accounts. Moneys in the accounts shall be paid out on check of the treasurer on requisition of the chairperson of the authority, or of another person as the authority may authorize to make the requisition. An authority may deposit any of its rates, fees, rentals, or other charges, receipts, or income with any bank or trust company that is federally insured and may deposit the proceeds of any bonds issued with any bank or trust company that is federally insured, all as may be provided in any agreement with the holders of bonds issued under this division.

Sec. 22. NEW SECTION. 330B.23 AWARD OF CONTRACTS.

All contracts entered into by an authority for the construction, reconstruction, and improvement of metropolitan facilities shall be entered into pursuant to and shall comply with applicable state laws. However, if an authority determines an emergency exists, it may enter into contracts obligating the authority for not in excess of one hundred thousand dollars per emergency without regard to the requirements of applicable state laws and the authority may proceed with the necessary action as expeditiously as possible to the extent necessary to resolve the emergency.

Sec. 23. NEW SECTION. 330B.24 EXEMPTION FROM TAXATION.

Since an authority is performing essential governmental functions, an authority is not required to pay any taxes or assessments of any kind or nature upon any property required or used by it for its purposes, or any rates, fees, rentals, receipts, or incomes at any time received by it, and the bonds issued by an authority, their transfer, and the income, including any profits made on the sale of the bonds, is deductible in determining net income for the purposes of the state individual and corporate income tax under divisions II and III of chapter 422, and shall not be taxed by any political subdivision of this state.

Sec. 24. NEW SECTION. 330B.25 DISSOLUTION — REFERENDUM.

1. The authority shall be dissolved only by a majority vote in a referendum undertaken in a manner similar to the referendum provided for in section 330B.6. The board shall call, upon its own motion, by petition of the eligible electors as provided in section 330B.5, or by action of the governing body of either metropolitan area, for an election to approve or disapprove the dissolution of the authority.

2. The proposition is approved if the vote in favor of the proposition is a simple majority of the total votes cast on the proposition in either one of the metropolitan areas.

3. The authority shall provide by ordinance for the disposal of any remaining property, the proceeds of which shall first be applied against any outstanding obligation of the authority. The remaining balance shall be divided between the counties included in the authority and credited to the general fund of the respective counties.

Sec. 25. NEW SECTION. 330B.26 SUPREMACY OF COMPACT.

The provisions of this division II are subject to all of the provisions of the quad cities interstate metropolitan authority compact provided for in section 330B.1.

Sec. 26. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 22, 1991

CHAPTER 199

VETERANS OF PERSIAN GULF CONFLICT

H.F. 694

AN ACT including veterans of the Persian Gulf Conflict as veterans eligible to serve on county commissions of veteran affairs, to receive certain veterans benefits, and to be eligible for a property tax exemption, and providing an effective date.

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

Section 1. Section 250.3, Code 1991, is amended to read as follows:

250.3 COUNTY COMMISSION OF VETERAN AFFAIRS.

The county commission of veteran affairs shall consist of three persons, all of whom shall be honorably discharged persons who served in the military or naval forces of the United States in any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; ~~and~~ the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive. However, if congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990. If possible, each member of the commission shall be a veteran of a different war or conflict, so as to divide membership among the persons who served in World War I, World War II, the Korean Conflict, ~~and~~ the Vietnam Conflict, and the Persian Gulf Conflict; however, this qualification does not preclude membership to a veteran who served in more than one of the wars or conflicts.

Sec. 2. Section 250.13, Code 1991, is amended to read as follows:

250.13 BURIAL — EXPENSES.

The commission is responsible for the interment in a suitable cemetery of the bodies of any honorably discharged person who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; ~~and~~ the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive; or the spouse, surviving spouse, or child of the person, if the person has died without leaving sufficient means to defray the funeral expenses. However, if congress enacts a date different from August 2, 1990, as the beginning

of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990. The commission may pay the expenses in a sum not exceeding an amount established by the board of supervisors.

Sec. 3. Section 250.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The board of supervisors of each county may appropriate moneys for the benefit of, and to pay the funeral expenses of honorably discharged, indigent persons who served in the military or naval forces of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; ~~and~~ the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive; and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county. However, if congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.

Sec. 4. Section 250.16, Code 1991, is amended to read as follows:

250.16 MARKERS FOR GRAVES.

The county commission of veteran affairs may furnish a suitable and appropriate metal marker, at a cost not exceeding fifteen dollars each, for the grave of each honorably discharged person, who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; ~~and~~ the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive; and who is buried within the limits of the county, to be placed at the individual's grave to permanently mark and designate the grave for memorial purposes. The expenses shall be paid from any funds raised as provided in this chapter. If congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.

Sec. 5. Section 427.3, subsection 4, Code 1991, is amended to read as follows:

4. The property, not to exceed one thousand eight hundred fifty-two dollars in taxable value of an honorably separated, retired, furloughed to a reserve, placed on inactive status, or discharged soldier, sailor, marine, or nurse of the second World War from December 7, 1941, to December 31, 1946, army of occupation in Germany from November 12, 1918, to July 11, 1923, American expeditionary forces in Siberia from November 12, 1918, to April 30, 1920, second Nicaraguan campaign with the navy or marines in Nicaragua or on combatant ships 1926-1933, second Haitian suppression of insurrections 1919-1920, navy and marine operations in China 1937-1939 and Yangtze service with navy and marines in Shanghai or in the Yangtze Valley 1926-1927 and 1930-1932 or of the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, or those who served on active duty during the Vietnam Conflict beginning December 22, 1961, and ending May 7, 1975, both dates inclusive, or those who served on active duty during the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive. However, if congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether

a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990. For the purposes of this section, "active duty" means full-time duty in the armed forces of the United States, excluding active duty for training purposes only and excluding any period a person was assigned by the armed forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman, however enrolled, at one of the service academies.

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

Approved May 22, 1991

CHAPTER 200

SCHOOL INSTRUCTION AND ATTENDANCE — TRUANCY

H.F. 455

AN ACT relating to school instruction and attendance of children of compulsory school attendance age and providing for mediation of truancy issues and penalties.

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

Section 1. Section 280.2, Code 1991, is amended to read as follows:

280.2 DEFINITIONS.

The term "public school" means any school directly supported in whole or in part by taxation. The term "nonpublic school" means any other school which is accredited or which uses licensed practitioners as instructors.

Sec. 2. Section 280.3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The board of directors of each public school district and the authorities in charge of each nonpublic school shall prescribe the minimum educational program and an attendance policy which shall require each child to attend school for at least one hundred forty-eight days, to be met by attendance for at least thirty-seven days each school quarter, for the schools under their jurisdictions. The minimum educational program shall be the curriculum set forth in section 256.11, except as otherwise provided by law. The board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status or place of national origin.

Sec. 3. Section 299.1, Code 1991, is amended to read as follows:

299.1 ATTENDANCE REQUIREMENTS.

The Except as provided in section 299.2, the parent, guardian, or legal or actual custodian of a child who is over seven and under sixteen years of age by September 15, in proper physical and mental condition to attend school is of compulsory attendance age, shall enroll cause the child in to attend some public school, commencing as provided an accredited nonpublic school, or competent private instruction in accordance with the provisions of chapter 299B, during a school year, as defined under section 279.10. The board of directors of a public school district or the governing body of an accredited nonpublic school shall set the number of days of required attendance for the schools under its control.

The board of directors of a public or the governing body of an accredited nonpublic school may, by resolution, require attendance in the public schools for the entire time when the schools are in session in any school year and adopt a policy or rules relating to the reasons considered to be valid or acceptable excuses for absence from school.

A child shall attend an accredited or approved school for at least one hundred twenty days each school year. The requirement shall be met by attendance for at least thirty days each school quarter, or a similar distribution of attendance throughout the school year.

In lieu of such attendance such child may attend upon equivalent instruction by a licensed teacher elsewhere.

Sec. 4. NEW SECTION. 299.1A COMPULSORY ATTENDANCE AGE.

A child who has reached the age of six and is under sixteen years of age by September 15 is of compulsory attendance age.

Sec. 5. Section 299.2, Code 1991, is amended to read as follows:

299.2 EXCEPTIONS.

Section 299.1 shall not apply to any child:

1. Who is over the age of fourteen and is regularly employed.
2. Whose educational qualifications are equal to those of pupils who have completed the eighth grade.
 1. Who has completed the requirements for graduation in an accredited school or has obtained a high school equivalency diploma under chapter 259A.
 2. Who is excused for sufficient reason by any court of record or judge.
 3. While attending religious services or receiving religious instructions.
 4. Who is attending a private college preparatory school accredited or probationally accredited under section 256.11, subsection 13.
 5. Who has been excused under section 299.22.
 6. Who is exempted under section 299.24.

Sec. 6. Section 299.3, Code 1991, is amended to read as follows:

299.3 REPORTS FROM PRIVATE ACCREDITED NONPUBLIC SCHOOLS.

Within ten days from receipt of notice from the secretary of the school district within which any private an accredited nonpublic school is conducted, the principal of such the accredited nonpublic school shall, once during each school year, and at any time when requested in individual cases, furnish to such the secretary of the public school district, within which the accredited nonpublic school is located, a certificate and report in duplicate on forms provided by the public school district of the names, ages, and number of days attendance of each pupil of such the accredited nonpublic school over seven and under sixteen years of age who is of compulsory attendance age, and the course of study pursued by each such child the pupil, the texts used, and the names of the teachers, during the preceding year and from the time of the last preceding report to the time at which a report is required. The secretary shall retain one of the reports and file the other with the secretary of the area education agency.

Sec. 7. Section 299.4, Code 1991, is amended to read as follows:

299.4 REPORTS AS TO PRIVATE INSTRUCTION.

The parent, guardian, or legal or actual custodian of a child who by September 15 is over seven and under sixteen years of age is of compulsory attendance age, who places the child under competent private instruction under chapter 299B, not in an accredited or approved school, shall furnish a report in duplicate on forms provided by the public school district, to the district by the earliest starting date specified in section 279.10, subsection 1. The secretary shall retain and file one copy and forward the other copy to the district's area education agency. The report shall state the name and age of the child, the period of time during which the child has been or will be under competent private instruction for the school year, an outline of the course of study, texts used, and the name and address of the instructor. The parent, guardian, or legal or actual custodian of a child, who is placing the child under competent private instruction, for the first time, shall also provide the district with evidence that the child has had the immunizations required under section 139.9. The term "outline of course of study" shall include, but is not limited to, subjects covered, weekly lesson plans, and time spent on the areas of study.

Sec. 8. Section 299.5, Code 1991, is amended to read as follows:

299.5 PROOF OF MENTAL OR PHYSICAL CONDITION.

The parent, guardian, or legal or actual custodian of a child who is ~~over seven and under sixteen years of age by September 15 of compulsory attendance age~~, who is physically or mentally unable to attend school, or whose presence in school would be injurious to the health of other pupils, shall furnish proofs by affidavit certificate under sections 281.6 and 281.7 as to the physical or mental condition of the child.

Sec. 9. NEW SECTION. 299.5A MEDIATION.

If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. If the parent, guardian, or legal or actual custodian, or child refuses to accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution.

If the matter is referred for mediation, the county attorney shall cause a notice of the referral to be sent to the parent, guardian, or legal or actual custodian and designate a person to serve as mediator in the matter. If mediation services are available in the community, those services may be used as the designated mediation service. If mediation services are not available in the community, mediation shall be provided by the county attorney or the county attorney's designee. The mediator shall contact the school, the parent, guardian, or legal or actual custodian, and any other person the mediator deems appropriate in the matter and arrange meeting dates and times for discussion of the child's nonattendance. The mediator shall attempt to ascertain the cause of the child's nonattendance, attempt to cause the parties to arrive at an agreement relative to the child's attendance, and initiate referrals to any agencies or counseling that the mediator believes to be appropriate under the circumstances.

If the parties reach an agreement, the agreement shall be reduced to writing and signed by a school officer, parent, guardian, or legal or actual custodian, and the child. The mediator, the school, and the parent, guardian, or legal or actual custodian shall each receive a copy of the agreement, which shall set forth the settlement of the issues and future responsibilities of each party.

The school district shall be responsible for monitoring any agreements arrived at through mediation. If a parent, guardian, or legal or actual custodian refuses to engage in mediation or violates a term of the agreement, the matter shall be rereferred to the county attorney for prosecution under section 299.6. The county attorney's office or the mediation service shall require the parent, guardian, or legal or actual custodian and the school to pay a fee to help defray the administrative cost of mediation services. The county attorney's office or the mediation service shall establish a sliding scale of fees to be charged parents, guardians, and legal or actual custodians based upon ability to pay. A parent, guardian, or legal or actual custodian shall not be denied the services of a mediator solely because of inability to pay the fee.

Sec. 10. Section 299.6, Code 1991, is amended to read as follows:

299.6 VIOLATIONS – COMMUNITY SERVICE IN LIEU OF OR FINE OR IMPRISONMENT.

Any person who ~~shall violate~~ violates a mediation agreement under section 299.5A, who is referred for prosecution under section 299.5A and is convicted of a violation of any of the provisions of sections 299.1 through 299.5, who violates any of the provisions of sections 299.1 to through 299.5, or who refuses to participate in mediation under section 299.5A, inclusive, shall be for a first offense, is guilty of a simple misdemeanor and the court shall.

A first offense conviction is punishable by imprisonment not exceeding ten days or a fine not exceeding one hundred dollars. The court may order the person to perform not more than forty hours of unpaid community service instead of any fine or imprisonment. A person convicted of a second violation is guilty of a serious misdemeanor.

A second offense conviction is punishable by imprisonment not exceeding twenty days or a fine not exceeding five hundred dollars, or both a fine and imprisonment. The court may order the person to perform unpaid community service instead of any fine or imprisonment.

A third or subsequent offense is a serious misdemeanor and a conviction is punishable by imprisonment not exceeding thirty days or a fine not exceeding one thousand dollars, or both a fine and imprisonment. The court may order the person to perform unpaid community service instead of any fine or imprisonment.

If community service is imposed as part of a sentencing order, the court may require that part or all of the service be performed for a public school district or nonpublic school if the court finds that service in the school is appropriate under the circumstances.

If a parent, guardian, or legal or actual custodian of a child who is truant, has made reasonable efforts to comply with the provisions of sections 299.1 through 299.5, but is unable to cause the child to attend school, the parent, guardian, or legal or actual custodian may file an affidavit listing the reasonable efforts made by the parent, guardian, or legal or actual custodian to cause the child's attendance and the parent, guardian, or legal or actual custodian shall not be criminally liable for the child's nonattendance.

Sec. 11. Section 299.8, Code 1991, is amended to read as follows:

299.8 "TRUANT" DEFINED.

Any child over seven and under sixteen years of age, in proper physical and mental condition to attend school, of compulsory attendance age who fails to attend school regularly as provided in this chapter, or as required by the school board's or school governing body's attendance policy, or who fails to attend competent private instruction under chapter 299B, without reasonable excuse for the absence, shall be deemed to be a truant. A finding that a child is truant, however, shall not by itself mean that the child is a child in need of assistance within the meaning of chapter 232 and shall not be the sole basis for a child in need of assistance petition.

Sec. 12. Section 299.9, Code 1991, is amended to read as follows:

299.9 TRUANT SCHOOLS TRUANTS — RULES FOR PUNISHMENT.

The board of directors may provide for the confinement, maintenance, and instruction of truant children and may for that purpose establish truant schools or set apart separate rooms in any public school building; and it of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

Sec. 13. Section 299.10, Code 1991, is amended to read as follows:

299.10 TRUANCY OFFICERS — APPOINTMENT — COMPENSATION.

The board of each school district may, and in school districts having a population of twenty thousand shall, appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant.

In districts having therein a city, the The board may appoint a member of the police force, or marshal, as such officer, and other districts may appoint a constable a teacher, school official, or other suitable person to serve as the district truancy officer.

Such officers shall be paid a reasonable compensation by the board.

Sec. 14. Section 299.11, Code 1991, is amended to read as follows:

299.11 DUTIES OF TRUANCY OFFICER.

The truancy officer shall may take into custody without warrant any apparently truant child and place the child in the charge of the teacher in charge of the public school principal, or the principal's designee, designated by the board of directors of the school district in which said the child resides, or of any private nonpublic school designated by the person having legal control of the child parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child therein shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

The truancy officer shall promptly institute ~~criminal~~ proceedings against any person violating any of the provisions of sections 299.1 to ~~299.5~~ through 299.5A.

Sec. 15. Section 299.16, Code 1991, is amended to read as follows:
299.16 FAILURE TO ATTEND.

School officers shall ascertain the number of children ~~over seven and under sixteen years of age who are of compulsory attendance age~~, in their respective districts, the number of ~~such~~ those children who ~~do not attend school are truant under section 299.8 or who have accumulated fifteen unexcused absences during a three-year period~~, and so far as possible the cause of the failure to attend. School officers shall, until July 1, 1999, biennially report this information to the department of education on forms provided by the department. The department shall attach a summary of the reports, an analysis of the data, and policy recommendations based on the data analysis, along with the department's annual report under section 256.9, subsection 28.

Sec. 16. Section 299.18, Code 1991, is amended to read as follows:
299.18 EDUCATION — STATE SCHOOL.

Children ~~over seven and under nineteen years of~~ who are of compulsory attendance age and who are so deaf or blind or severely handicapped as to be unable to obtain an education in the ~~common~~ public or accredited nonpublic schools shall be sent to the proper appropriate state operated school ~~therefor~~, or shall receive appropriate special education under chapter 281, unless exempted, and any person having such a child under the person's control or custody shall see that ~~such~~ the child attends ~~such~~ the state operated school or special education program during the scholastic year.

Sec. 17. Section 299.19, Code 1991, is amended to read as follows:
299.19 PROCEEDING AGAINST PARENT.

Upon the failure of any a person having the custody and control of ~~such~~ a deaf, blind, or severely handicapped child to require ~~its~~ the child's attendance as provided in section 299.18, the state board of regents may make application to the district court or the juvenile court of the county in which ~~such~~ the person resides for an order requiring ~~such~~ the person to compel the attendance of ~~such~~ the child at the proper state institution operated school.

Sec. 18. Section 299.20, Code 1991, is amended to read as follows:
299.20 ORDER.

Upon the filing of the application mentioned in section 299.19, the time of hearing shall be determined by the juvenile court or the district court. If, upon hearing, the court determines that the person required to appear has the custody and control of a child who should be required to attend a state operated school under section 299.18, the court shall make an order requiring ~~such~~ the person to keep ~~such~~ the child in attendance at ~~such~~ the state operated school.

Sec. 19. Section 299.22, Code 1991, is amended to read as follows:
299.22 WHEN DEAF AND BLIND CHILDREN EXCUSED.

Attendance at the state ~~institution~~ operated school may be excused when the superintendent thereof is satisfied:

1. That the child is in such bodily or mental condition as to prevent or render futile attendance at the school.

2. That the child is so diseased or possesses such habits as to render the child's presence a menace to the health or morals of other pupils.

3. That of the state operated school certifies that an interdisciplinary staffing team has determined, pursuant to the requirements of chapter 281, that the child is efficiently taught for the scholastic year in a private accredited nonpublic or other school devoted to ~~such~~ the instruction, or by a private tutor, in the branches taught in public schools, or is shown to be physically or mentally unable to attend school under section 299.5.

Sec. 20. NEW SECTION. 299B.1 PRIVATE INSTRUCTION.

The parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction shall provide, unless otherwise exempted, competent private instruction in accordance with this chapter. A parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction which is not competent private instruction, or otherwise fails to comply with the requirements of this chapter, is subject to the provisions of sections 299.1 through 299.4 and the penalties provided in section 299.6.

For purposes of this chapter, "competent private instruction" means private instruction provided on a daily basis for at least one hundred forty-eight days during a school year, to be met by attendance for at least thirty-seven days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under section 299B.2, or other person under section 299B.3, which results in the student making adequate progress.

For purposes of this chapter and chapter 299, "private instruction" means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school.

Sec. 21. NEW SECTION. 299B.2 COMPETENT PRIVATE INSTRUCTION BY LICENSED PRACTITIONER.

If a licensed practitioner provides competent instruction to a child of compulsory attendance age, the practitioner shall possess a valid license or certificate which has been issued by the state board of educational examiners under chapter 260 and which is appropriate to the ages and grade levels of the children to be taught. Competent private instruction may include, but is not limited to, instruction or instructional supervision offered through an accredited nonpublic school or public school district by a teacher, who is employed by the accredited nonpublic school or public school district, who assists and supervises a parent, guardian, or legal custodian in providing instruction to a child. If competent private instruction is provided through a public school district, the child shall be enrolled and included in the basic enrollment of the school district. Sections 299B.3 through 299B.7 do not apply to competent private instruction provided by a licensed practitioner under this section.

Sec. 22. NEW SECTION. 299B.3 PRIVATE INSTRUCTION BY NONLICENSED PERSON.

A parent, guardian, or legal custodian of a child of compulsory attendance age providing competent private instruction to the child shall meet all of the following requirements:

1. Complete and send, in a timely manner, the report required under section 299.4 to the school district of residence of the child.
2. Ensure that the child under the parent's, guardian's, or legal custodian's instruction is evaluated annually to determine whether the child is making adequate progress, as defined in section 299B.6.
3. Ensure that the results of the child's annual evaluation are reported to the school district of residence of the child and to the department of education by a date not later than June 30 of each year in which the child is under private instruction.

Sec. 23. NEW SECTION. 299B.4 ANNUAL ACHIEVEMENT TESTS — REQUIREMENTS AND PROCEDURE.

1. Each child of compulsory attendance age who is receiving competent private instruction shall either be evaluated annually by May 1, using a nationally recognized standardized achievement test or other assessment tool developed or recognized by the department of education chosen by the child's parent, guardian, or legal custodian from a list of approved tests or assessment tools provided by the department of education or be evaluated annually in the manner provided in subsection 7. The department shall provide information on the cost of and the administration time required for each of the approved tests. The department shall provide, as part of approval procedures for tests to be used under this section, a mechanism which permits the introduction and approval of new or alternate methods of educational assessment which meet the requirements of this chapter.

2. A child, who is seven years of age and is receiving competent private instruction or who is placed under competent private instruction for the first time, shall be administered a test for purposes of obtaining educational baseline data.

3. The director of the department of education, or the director's designee, which may include a school district or an area education agency, shall conduct the evaluations required under subsections 1 and 2 for children under competent private instruction. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

4. The parent, guardian, or legal custodian of a child receiving competent private instruction may be present when the child is evaluated, but only if both the parent, guardian, or legal custodian and the child are under the supervision of the test administrator.

5. The conducting of evaluations shall include, but is not limited to, purchasing of evaluation materials, giving the evaluations, scoring and interpreting the evaluations, and reporting the evaluation results.

6. Except when a child has been enrolled in a public school district under section 299B.8, the parent, guardian, or legal custodian of the child being evaluated shall reimburse the entity conducting the evaluation for no more than the actual cost of evaluation required by this chapter. However, the parent, guardian, or legal custodian is not required to reimburse the evaluating entity for costs incurred as a result of evaluation under section 299B.9.

7. In lieu of annual achievement tests, a parent, guardian, or legal custodian of a child may submit, as evidence of adequate academic progress, all of the following:

a. A book of lesson plans, a diary, or other written record indicating the subjects taught and activities in which the child has been engaged.

b. A portfolio of the child's work, including but not limited to, an outline of the curriculum used by the child, copies of homework completed in conjunction with the curriculum and instruction, and copies of tests completed by the child which have been produced by the parent, guardian, or legal custodian.

c. Completed assessment tests, other than the annual achievement test, if assessment tests are administered to a pupil as part of the competent private instruction by the parent, guardian, or legal custodian.

If a parent, guardian, or legal custodian submits evidence under this section, the information shall be reviewed by a qualified, licensed, Iowa practitioner selected as the evaluator by the parent, guardian, or legal custodian and approved by the superintendent of the local school district or the superintendent's designee. The evaluator shall prepare a report based on a review of the child's work submitted, which shall include an assessment of the child's achievement or academic progress levels, and submit a copy of the report to the child's parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. If the evidence demonstrates, in the evaluator's opinion, that the child is achieving adequate progress, the report shall create a presumption that the child is making adequate progress.

Sec. 24. NEW SECTION. 299B.5 REPORTING OF TEST RESULTS.

The results of tests administered to children of compulsory attendance age who are under competent private instruction shall be reported by the test administrator to the child's parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. Personally identifiable information relating to or contained in the test scores is confidential and shall not be released without the prior consent of the child's parent, guardian, or custodian except as otherwise permitted by law.

Sec. 25. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE PROGRESS.

If the results of tests, administered to a child of compulsory attendance age who is under competent private instruction, indicate that the student has failed to make adequate progress, the parent, guardian, or legal custodian shall cause the child to attend an accredited public or nonpublic school at the beginning of the next school year unless, before the beginning of

the next school year, the child retakes the same test and the results indicate that adequate progress has been made, the child has demonstrated adequate performance in the opinion of an evaluator and documented in a report under section 299B.4, subsection 7, or the director of the department of education, or the director's designee, grants approval for competent private instruction to continue under a plan for remediation.

A child who is required to attend an accredited public or nonpublic school under this section shall continue attendance at an accredited public or nonpublic school until the child achieves adequate progress.

For purposes of this chapter, "adequate progress" means, for children in all grade levels of competent private instruction, test scores which are above the thirtieth percentile, nationally normed, in each of the areas of reading, mathematics, and language arts, and which indicate either that the child has made six months' progress from the previous test results or that the child is at or above grade level for the child's age. For children in grade levels six and above, "adequate progress" also means that the child has achieved test scores in both science and social studies which are above the thirtieth percentile, nationally normed, and which either indicate that the child has made six months' progress from the previous test results or that the child is at or above grade level for the child's age.

Sec. 26. NEW SECTION. 299B.7 NOTICE TO PARENTS -- REMEDIATION.

If a child is placed under competent private instruction and the child fails to make adequate progress under competent private instruction, the director of the department of education, or the director's designee, shall notify the parent, guardian, or custodian of the child that the child is required to attend an accredited public or nonpublic school, unless approval for competent private instruction under a remediation plan is granted. The director, or the director's designee, may provisionally approve continued competent private instruction under an approved remediation plan designed to improve instruction for up to one year.

Sec. 27. NEW SECTION. 299B.8 DUAL ENROLLMENT.

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under this chapter submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual testing under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under sections 442.4 and 257.6 and shall be counted as one pupil.

Sec. 28. NEW SECTION. 299B.9 CHILDREN REQUIRING SPECIAL EDUCATION.

A child of compulsory attendance age who is identified as requiring special education under chapter 281 is eligible for placement under competent private instruction with prior approval of the placement by the director of special education of the area education agency of the child's district of residence.

A child who has been placed under competent private instruction, whose performance indicates that the child may require special education, shall be referred for evaluation under chapter 281 and the rules of the state board of education. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

Sec. 29. NEW SECTION. 299B.10 RULEMAKING.

The department of education shall develop and recommend and the state board shall adopt rules to implement this chapter.

Sec. 30. ASSESSMENT FOR CERTAIN CHILDREN. The department of education shall develop and recommend and the state board of education shall adopt by July 1, 1993, rules which provide an alternative assessment mechanism for children who meet age and educational development criteria generally accepted for placing a child in third or a lesser grade. Rules adopted shall require that the assessment mechanism utilize observation, anecdotal description of a child's achievement, samples of the child's work, and other samples of data relating to the child's academic performance, and shall include requirements relating to collection and evaluation of the information. In developing the alternative assessment mechanism, the department shall review and consider available home schooling data and shall consult with any available committees, councils, or task forces, and home schooling practitioners or research organizations which are working on or have experience in the assessment of children who have been placed under home instruction. The department shall also develop any recommendations for legislation deemed necessary to implement the alternative assessment mechanism.

Sec. 31. Sections 299.13 and 299.14, Code 1991, are repealed.

Approved May 23, 1991

CHAPTER 201

SCHOOLS — BUS DRIVERS — CHILD ABUSE INVESTIGATION PROCEDURES

H.F. 698

AN ACT relating to school bus driver education and qualifications, establishing a fund for school bus driver and passenger safety programs, and providing for a fee.

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

Section 1. Section 321.376, Code 1991, is amended to read as follows:

321.376 LICENSE — PERMIT — INSTRUCTION REQUIREMENT.

1. The driver of a school bus shall hold a school bus driver's permit issued annually by the department of education and a driver's license issued by the department valid for the operation of the school bus. The department of education shall charge a fee for the issuance of a school bus driver's permit in the amount of five dollars, which shall be deposited in the general fund of the state. A person holding a temporary restricted license issued under chapter 321J shall be prohibited from operating a school bus. The department shall revoke or refuse to issue a permit to any person who, after notice and opportunity for hearing, is determined to have committed any of the acts proscribed under section 321.375, subsection 2. The department of education shall recommend, and the state board of education shall adopt under chapter 17A, rules and procedures for the revocation and issuance of permits to persons. Rules and procedures adopted shall include, but are not limited to, provisions for the revocation of, or refusal to issue, permits to persons who are determined to have committed any of the acts proscribed under section 321.375, subsection 2.

2. A person applying for employment or employed as a school bus driver shall successfully complete a department of education approved course of instruction for school bus drivers before or within the first six months of employment and at least every twenty-four months thereafter. If an employee fails to provide an employer with a certificate of completion of the required school bus driver's course, the driver's employer shall report the failure to the department of education and the employee's school bus driver's permit shall be revoked. The department of education shall send notice of the revocation of the employee's permit to both the employee and the employer. A person whose school bus driver's permit has been revoked under this

section shall not be issued another school bus driver's permit until certification of the completion of an approved school bus driver's course is received by the department of education.

3. The department of education shall submit an annual budget request, separately from the department's annual operating budget request, in an amount not to exceed the amount collected by the department for the issuance of annual school bus driver permits. Funds requested shall be designated for purposes of establishing and conducting approved courses of instruction for school bus drivers and for school bus passenger safety programs. The department shall recommend rules for adoption by the state board of education relating to the assessment and collection of funds from the school bus driver fee and relating to distribution of funds for approved courses of instruction.

Sec. 2. RULEMAKING. The department of education shall recommend, and the state board of education shall adopt under chapter 17A, rules which shall be effective by January 1, 1992, which require local school districts to immediately notify the parent, guardian, or legal custodian of a child, that the child is being questioned as provided under section 280.17 and permit the parent, guardian, or legal custodian to be present during the questioning.

Approved May 23, 1991

CHAPTER 202

OPEN ENROLLMENT — ELIGIBILITY FOR ATHLETICS

S.F. 184

AN ACT relating to open enrollment, permitting students whose former district of residence was dissolved and merged with contiguous districts to participate immediately in athletics, and providing for the Act's applicability.

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

Section 1. Section 282.18, subsection 15, Code 1991, is amended to read as follows:

15. A pupil who participates in open enrollment for purposes of attending a grade in grades ten through twelve in a school district other than the district of residence is not eligible to participate in interscholastic athletic contests and athletic competitions during the first year of enrollment under this section ~~except for the pupil may participate in an interscholastic sport in which the district of residence and the other school district jointly participate, or unless~~ when the sport in which the pupil wishes to participate is not offered in the district of residence, if the pupil chooses to use open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts under section 256.11, subsection 12, if the pupil participates in open enrollment because the pupil's district of residence has entered into a whole grade sharing agreement with another district for the pupil's grade, or if the parent or guardian of the pupil participating in open enrollment is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services. However, a pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year prior to March 10, 1989, is eligible to participate in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that pupil had attended.

Sec. 2. This Act shall apply to pupils participating in open enrollment as a result of whole grade sharing agreements entered into on or after July 1, 1990.

Approved May 28, 1991

CHAPTER 203

PACKAGING AND SALE OF WINE AND OTHER ALCOHOLIC BEVERAGES

S.F. 273

AN ACT relating to the packaging and sale of wine, by authorizing a class "B" wine permittee who also holds a class "E" liquor control license to sell wine to liquor control licensees and by providing for a study of license fees and surcharges.

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

Section 1. Section 123.30, subsection 3, paragraphs a, b, and c, Code 1991, are amended to read as follows:

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

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

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

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

Sec. 2. Section 123.173, unnumbered paragraphs 2 and 3, Code 1991, are amended to read as follows:

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

off the premises. A class "B" wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees for resale for consumption on the premises. A class "B" wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four hour period. A class "B" wine permittee shall not sell wine to other class "B" wine permittees.

A class "A" wine permittee shall be required to deliver wine to a class "B" wine permittee, and a class "B" wine permittee shall be required to accept delivery of wine from a class "A" wine permittee, only at the licensed premise premises of the class "B" wine permittee. Except as specifically permitted by the division upon good cause shown, delivery or transfer of wine from an unlicensed premise premises to a licensed "B" wine permittee's premise premises, or from one licensed "B" wine permittee's premise premises to another licensed "B" wine permittee's premise premises, even where if there is common ownership of all of the premises by one class "B" wine permittee, is prohibited. A class "B" wine permittee who also holds a class "E" liquor control license shall keep and maintain records for each sale of wine to liquor control licensees showing the name of the establishment to which wine was sold, the date of sale, and the brands and number of bottles sold to the liquor control licensee.

Sec. 3. Section 123.173, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a class "B" wine permittee who also holds a class "E" liquor control license sells wine to a class "A", class "B", or class "C" liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class "B" wine permittee who also holds a class "E" liquor control license shall submit to the division, on forms supplied by the division, not later than the tenth of each month a report stating each sale of wine to class "A", class "B", and class "C" liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with each sale. A class "B" permittee who holds a class "E" liquor control license may sell to class "A", class "B", or class "C" liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class "A" wine permittee from which the wine was originally purchased by the class "B" wine permittee.

Sec. 4. **LICENSE FEES AND SURCHARGES STUDY.** The administrator of the alcoholic beverages division of the department of commerce shall conduct a study of the fees and surcharges collected by the division from licensees and permittees for the privilege of selling the various types of alcoholic beverages in this state. The administrator shall review the entire fee and surcharge structure and make recommendations for changes to the general assembly.

The administrator shall complete the study and submit any recommendations to the general assembly not later than January 15, 1992.

Sec. 5. Section 455D.19, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. Packaging or packaging components with a code indicating a date of manufacture prior to July 1, 1990, and packaging or packaging components used by the wine industry prior to July 1, 1992.

Approved May 28, 1991

CHAPTER 204

CAR RENTALS

S.F. 491

AN ACT relating to the rental of motor vehicles for a period of sixty days or less from a location in this state, and providing civil and criminal penalties.

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

Section 1. NEW SECTION. 516D.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Car Rental and Collision Damage Waiver Act".

Sec. 2. NEW SECTION. 516D.2 SCOPE.

This chapter applies to advertising and business practices relating to vehicle rental agreements entered into in this state.

Sec. 3. NEW SECTION. 516D.3 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

1. "Authorized driver" means any of the following:
 - a. A customer to whom a vehicle is rented.
 - b. A person expressly listed by a rental company on a rental agreement as an authorized driver.
 - c. A customer's spouse, if the spouse is a licensed driver and satisfies the rental company's minimum age requirement.
 - d. A customer's employer or coworker, if the employer or coworker is engaged in a business activity with the customer to whom the vehicle is rented, is a licensed driver, and satisfies the rental company's minimum age requirement.
2. "Collision damage waiver" means a contract or contractual provision, whether separate from or a part of a rental agreement, whereby the rental company agrees, for a charge, to waive claims against an authorized driver for all, or any portion of, damages to the rental vehicle, loss due to theft of the rental vehicle, or damages resulting from the loss of use of the rental vehicle.
3. "Customer" means a person entering into a rental agreement and obtaining the use of a rental vehicle from a rental company under the terms of the rental agreement.
4. "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction of an hour, needed to repair a damaged vehicle or damaged vehicle parts.
5. "Estimated time for replacement" means the number of hours of labor, or fraction of an hour, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as crash books.
6. "Mandatory charge" means any charge, fee differential, or surcharge that all or a majority of customers must pay in order to obtain or operate a rental vehicle except as follows:
 - a. Mandatory charge does not include an optional airport imposed fee if the existence and amount of the fee are clearly and conspicuously disclosed immediately adjacent to any advertised rental price. The advertisement must clearly and conspicuously state the method of avoiding the airport access fee and the customer must be informed of the amount of the fee when the reservation is made. When an advertisement encompasses more than one rental location, the fee may be expressed as the maximum fee or range of fees.
 - b. Mandatory charge does not include taxes imposed directly upon the rental transaction by an authorized taxing authority. An airport imposed fee on gross receipts or an airport access fee is not such a tax.
 - c. Mandatory charge does not include mileage fees as long as the existence of any mileage limitation and cost per mile for excess mileage is clearly and conspicuously disclosed immediately adjacent to the advertised price.

7. "Material restriction" means a restriction, limitation, or other requirement which significantly affects the price of, normal anticipated use of, or a consumer's financial responsibility for, a rental vehicle. Restrictions against any or all of the following activities in connection with the acquisition or use of a rental vehicle are not material restrictions:

- a. Obtaining a rental vehicle by use of false or misleading information.
- b. Operating a rental vehicle while intoxicated or under the influence of any drug.
- c. Using a rental vehicle to transport persons or property for hire.
- d. Using a rental vehicle to engage in a race, training activity, contest, or use for an illegal purpose.
- e. Using a rental vehicle to push or tow a vehicle or other object.
- f. Operating a rental vehicle in an abusive or reckless manner.
- g. Operating a rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots. For purposes of this chapter, "hard surface roadways" includes, but is not limited to, all regularly maintained gravel-covered surfaces.
- h. Operating a rental vehicle outside the continental United States unless specifically authorized by the rental agreement.

8. "Placing a block" means any procedure or mechanism which reserves a specified amount of the customer's otherwise available credit on the customer's credit or charge card account so that the amount is not available for future credit purchases.

9. "Rental agreement" means a written contract containing the terms and conditions for the use of a rental vehicle by a customer for a term of sixty days or less.

10. "Rental company" means a person in the business of providing rental vehicles to customers.

11. "Rental vehicle" means a private passenger type vehicle which, upon the execution of a rental agreement, is made available to a customer for the customer's use or other authorized driver's use.

Sec. 4. NEW SECTION. 516D.4 COLLISION DAMAGE AND LOSS.

1. A rental company shall not hold, or attempt to hold, an authorized driver liable for physical damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, unless the rental company offers the customer a collision damage waiver under the terms and conditions described in subsection 2 of this section, or unless one or more of the following applies:

- a. The damage or loss is caused intentionally by an authorized driver or is a result of the authorized driver's willful, abusive, reckless, or wanton misconduct.
- b. The damage or loss arises out of the authorized driver's operation of the rental vehicle while intoxicated or under the influence of a drug.
- c. The damage or loss is caused while the authorized driver is engaged in a race, training activity, contest, or use of the rental vehicle for an illegal purpose.
- d. The rental agreement is based on false or misleading information supplied by the customer or an authorized driver.
- e. The damage or loss is caused by operating the rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots.
- f. The damage or loss arises out of the use of the rental vehicle to transport persons or property for hire or to push or tow anything.
- g. The damage or loss occurs while the rental vehicle is operated by a driver other than an authorized driver.
- h. The damage or loss arises out of the use of the rental vehicle outside the continental United States unless such use is specifically authorized by the rental agreement.
- i. The damage or loss is attributable to theft which occurs with the prior knowledge or knowing participation of an authorized driver, or which is attributable to the authorized driver leaving the rental vehicle unattended with the keys in the rental vehicle.

This section does not alter the liability of a customer or authorized driver for bodily injury or the death of another and for property damage other than to the rental vehicle in accordance

with the rental agreement. This section does not prohibit a rental company from accepting or negotiating master contracts with companies or government entities in advance of need whereby the companies or government entities specifically agree to assume liability in exchange for rate concessions. This section does not prohibit a rental company from entering into agreements with insurance companies to provide replacement vehicles to insurance company customers whereby the insurance company agrees to assume the risk of loss.

If the rental vehicle is not repaired, damages shall not exceed the fair market value of the vehicle, as determined in the customary market for that vehicle, less salvage or actual sale value, plus additional license and tax fees incurred because of the sale, plus administrative fees. A claim shall not be made for loss of use if the rental vehicle is not repaired.

2. A rental company may offer a collision damage waiver under the following terms and conditions:

a. All restrictions, conditions, and exclusions must be printed in the rental agreement, or on a separate sheet or document, in ten-point type, or larger; or written in pen and ink or type-written in or on the face of the rental agreement in a blank space provided for such restrictions, conditions, and exclusions. The rental agreement may provide that the collision damage waiver may be voided under the conditions set forth in subsection 1, paragraphs "a" through "i".

b. The rental agreement, separate sheet, or document must clearly and conspicuously state both the daily and estimated total charge for the collision damage waiver.

c. The rental agreement, separate sheet, or document given to the customer prior to entering into the rental agreement must display in ten-point type, or larger, the following notice:

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER ALL OR PART OF YOUR RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.

BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

The customer must separately acknowledge that the customer received the above notice, that the customer desires to purchase the collision damage waiver, and the terms of the collision damage waiver to which the customer agrees.

d. The car rental company shall not pay commissions to a rental counter agent or representative for selling collision damage waivers and is prohibited from considering volume of sales of collision damage waivers in an employee evaluation or determination of promotion.

However, notwithstanding whether a rental company offers a collision damage waiver under the provisions of this subsection, the rental company shall not hold an authorized driver liable for damage or loss due to theft except where subsection 1, paragraph "i" applies.

Sec. 5. NEW SECTION. 516D.5 RECOVERY FOR DAMAGE OR LOSS.

A claim against an authorized driver resulting from damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, must be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect any claim for physical damage which exceeds the actual cost of the repair, including all discounts or price reductions. Administrative fees shall be limited to the reasonable administrative costs associated with processing the damage claim. A claim made for loss of use shall not exceed the daily rental rate stated in the customer's contract, excluding optional charges, multiplied by the total of the estimated time for replacement and the estimated time for repair, divided by eight.

Sec. 6. NEW SECTION. 516D.6 DISCLOSURES.

1. All material restrictions on an advertised rate or on the use of the rental vehicle must be clearly and conspicuously disclosed in any price advertisement.

2. A rental company shall only advertise, quote, and charge a rental rate that includes all mandatory charges. A rental company shall not impose any mandatory charges in addition to the advertised or quoted rental rate.

Sec. 7. NEW SECTION. 516D.7 PROHIBITIONS.

Unfair or deceptive acts or practices in the advertisement or rental of vehicles are prohibited. Unfair or deceptive acts or practices include, but are not limited to, the following:

1. A representation connected with the advertisement or rental of a vehicle that the purchase of a collision damage waiver is mandatory.

2. Failure to provide disclosures as required by this chapter.

3. Failure to disclose in a manner likely to be noticed and comprehended in an advertisement, as defined in section 714.16, subsection 1, paragraph "a", the availability of a collision damage waiver, and the cost of the waiver.

4. Misrepresentation of a customer's need for a collision damage waiver, personal accident insurance, or personal effects insurance.

5. Misrepresentation of the characteristics or availability of a reserved rental vehicle in order to rent a customer a more expensive vehicle than the one reserved.

6. Failure to provide a vehicle in the class reserved, or, if the reserved vehicle is out of stock, failure to provide another vehicle in the class reserved or a more expensive vehicle. A replacement vehicle for an out of stock reserved vehicle may be provided from the stock of the rental company or from another rental company but, in any event, must be provided at the rate quoted for the vehicle reserved.

7. Failure to disclose the following material restrictions, where applicable, in response to direct consumer inquiries regarding the price of renting a vehicle, when the rental company discloses a vehicle rental rate, and at the time the reservation is accepted:

a. Specific geographic restrictions and limitations, other than travel outside the continental United States.

b. Advance reservation and payment requirements.

c. The existence of penalties or higher rates that may apply for early or late returns.

d. Cost of an additional driver fee.

e. Credit or cash deposit requirements.

f. Extent of liability for damage or loss and price range of collision damage waiver.

g. Mileage limitations and charges.

8. Placement of a block against a customer's credit limit or charge against a customer's credit card in the following manner:

a. Placing a block or charge against a customer's credit limit without disclosing in the rental agreement in a clear and conspicuous manner the fact that a block or charge will be placed against the customer's credit card, and the amount of the block or charge. Such disclosure shall also be made orally whenever possible.

b. Placing a block or charge against a portion or the entirety of the credit limit of the card or otherwise placing a block or charge against the card in excess of the estimated total daily or weekly charges, including taxes and charges of optional services accepted by the customer, stated in the rental agreement multiplied by the number of days of the estimated rental if rented on a daily basis or, if rented on a weekly basis, multiplied by the number of weeks of the estimated rental.

c. Placing a block or charge against a customer's credit card and then failing to clear the unused amount of the block or charge against the consumer's credit card after the customer returns the rental vehicle in the same amount of time, subject to credit card company or charge card company availability, as it took the rental company to place the block or charge against the customer's card when the customer rented the vehicle.

d. Placing or threatening to place a block or charge on a customer's credit card when seeking to recover any portion of a claim arising out of damage to, or loss of use of, the rental vehicle, unless, after the rental vehicle is damaged or lost, the rental company determines the exact amount of the repair or replacement costs and the customer authorizes the charge.

e. Charging an amount to a customer's credit card for damage to, or loss of use of, a rental vehicle after the customer has left the location where the rental vehicle was returned, unless the customer has authorized the specific charge, in a specific amount, to be charged to the customer's credit card. This subsection does not apply to a block in the amount of one dollar obtained for authorized charge amounts.

9. Assessment of additional driver fees for licensed drivers who are spouses or business associates engaged in business activities with the customer to whom the vehicle is rented, other than charges for a person who does not satisfy the rental company's minimum age requirement, if applicable.

Sec. 8. NEW SECTION. 516D.8 RULES.

The attorney general shall prescribe forms and adopt rules pursuant to chapter 17A as necessary to administer this chapter.

Sec. 9. NEW SECTION. 516D.9 ENFORCEMENT.

A violation of this chapter or any rules adopted by the attorney general pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The provisions of section 714.16, including, but not limited to, provisions relating to investigation, injunctive relief, and penalties, apply to violations of this chapter.

Sec. 10. Chapter 516C is repealed.

Approved May 28, 1991

CHAPTER 205

REGULATION OF BUSINESS OPPORTUNITY PROMOTIONS, RETIREMENT COMMUNITIES, AND LOAN BROKERS

S.F. 519

AN ACT relating to entities and subject matter subject to regulation under the regulated industries unit of the division of insurance, including business opportunity promotions, continuing care and senior adult congregate living retirement communities, and loan brokers, establishing certain fees, and making penalties applicable.

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

DIVISION I

Section 1. Section 523B.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.1 DEFINITIONS.

1. "Administrator" means the commissioner of insurance or the deputy appointed under section 502.601.

2. "Advertising" means a circular, prospectus, advertisement, or other material, or a communication by radio, television, pictures, or similar means used in connection with an offer or sale of a business opportunity.

3. a. "Business opportunity" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, at an initial investment exceeding five hundred dollars, where the parties agree that the seller or a person recommended by the seller is to provide to the purchaser any products, equipment, supplies, materials, or services for the purpose of enabling the purchaser to start a business, and the seller represents, directly or indirectly, orally or in writing, any of the following:

(1) The seller or a person recommended by the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices, on premises which are not owned or leased by the purchaser or seller.

(2) The seller or a person recommended by the seller will provide or assist the purchaser in finding outlets or accounts for the purchaser's products or services.

(3) The seller or a person specified by the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser.

(4) The purchaser will derive income from the business which exceeds the price paid to the seller.

(5) The seller will refund all or part of the price paid to the seller, or repurchase any of the products, equipment, or supplies provided by the seller or a person recommended by the seller, if the purchaser is dissatisfied with the business.

(6) The seller will provide a marketing plan.

b. "Business opportunity" does not include any of the following:

(1) An offer or sale of an ongoing business operated by the seller which is to be sold in its entirety.

(2) An offer or sale of a business opportunity to an ongoing business where the seller will provide products, equipment, supplies, or services which are substantially similar to the products, equipment, supplies, or services sold by the purchaser in connection with the purchaser's ongoing business.

(3) An offer or sale of a business opportunity which involves a marketing plan made in conjunction with the licensing of a federally registered trademark or federally registered service mark provided that the seller has a minimum net worth of one million dollars as determined on the basis of the seller's most recent audited financial statement prepared within thirteen months of the first offer in this state. Net worth may be determined on a consolidated basis if the seller is at least eighty percent owned by one person and that person expressly guarantees the obligations of the seller with regard to the offer or sale of a business opportunity claimed to be excluded under this subparagraph.

(4) An offer or sale of a business opportunity by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian, or conservator, or a judicial offer or sale of a business opportunity.

(5) The renewal or extension of a business opportunity contract or agreement entered into under this chapter or prior to July 1, 1981.

4. "Franchise" means a contract or agreement between a seller and a purchaser, express or implied, orally or in writing, where the parties agree to both of the following:

(a) A franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed in substantial part by a franchisor.

(b) The operation of the franchisee's business pursuant to such a plan is substantially associated with the franchisor's business and trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate.

For the purposes of this subsection, "franchisee" means a person to whom a franchise is granted and "franchisor" means a person who grants a franchise.

4A. "Initial investment" means the total amount a purchaser is obligated to pay under the terms of the business opportunity contract either prior to or at the time of the delivery of the merchandise or services or within six months of the purchaser commencing operation of the business opportunity. However, if payment is over a period of time, "initial investment" means the sum of the downpayment and the total monthly payments specified in the contract.

5. "Marketing plan" means advice or training, provided to the purchaser by the seller or a person recommended by the seller, pertaining to the sale of any products, equipment, supplies, or services. The advice or training may include, but is not limited to, preparing or providing any of the following:

a. Promotional literature, brochures, pamphlets, or advertising materials.

b. Training regarding the promotion, operation, or management of the business opportunity.

c. Operational, managerial, technical, or financial guidelines or assistance.

6. "Offer" or "offer to sell" means an attempt to dispose of a business opportunity for value, or solicitation of an offer to purchase a business opportunity.

7. "Ongoing business" means an existing business that for at least six months prior to the offer, has been operated from a specific location, has been open for business to the general public, and has substantially all of the equipment and supplies necessary for operating the business.

8. "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity, provided, however, person does not include a government or governmental subdivision or agency.

9. "Purchaser" means a person who enters into a contract or agreement for the acquisition of a business opportunity or a person to whom an offer to sell a business opportunity is directed.

10. "Sale" or "sell" includes every contract or agreement of sale, contract to sell, or disposition of, a business opportunity or interest in a business opportunity for value.

11. "Seller" means a person who sells or offers to sell a business opportunity or an agent or other person who directly or indirectly acts on behalf of such a person. "Seller" does not include the media in or by which an advertisement appears or is disseminated.

Sec. 2. Section 523B.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.2 REGISTRATION.

1. **REQUIREMENT.** It is unlawful to offer or sell a business opportunity in this state unless the business opportunity is registered under this chapter or is exempt under section 523B.3.

2. **DISCLOSURE.** a. To register a business opportunity, the seller shall file with the administrator one of the disclosure documents as provided in paragraph "b" with the appropriate cover sheet as required by subsection 8, paragraph "b", a consent to service of process as specified in subsection 3, and the appropriate fee as required by subsection 7.

b. The disclosure document required in paragraph "a" shall be in one of the following forms:

(1) A uniform franchise offering circular prepared in accordance with the guidelines adopted by the north American securities administrators association, inc., as amended through September 21, 1983. The administrator may by rule adopt any amendment to the uniform franchise offering circular that has been adopted by the north American securities administrators association, inc.

(2) A disclosure document prepared pursuant to the federal trade commission rule entitled "Disclosure requirements and prohibitions concerning franchising and business opportunity ventures", 16 C.F.R. § 436 (1979). The administrator may by rule adopt any amendment to the disclosure document prepared pursuant to 16 C.F.R. § 436 (1979), that has been adopted by the federal trade commission.

(3) A disclosure document prepared pursuant to subsection 8.

3. **CONSENT TO SERVICE.** A seller shall file, on a form as the administrator may prescribe, an irrevocable consent appointing the administrator or the administrator's successor in office to be the seller's attorney to receive service of any lawful process in a noncriminal suit, action, or proceeding against the seller or the seller's successor, executor, or administrator which arises under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the administrator, but is not effective unless the plaintiff or petitioner, who may be the administrator or the attorney general, in a suit, action, or proceeding, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant's or respondent's address on file with the administrator, and the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return date of the process, if any, or within such further time as the court allows.

4. **EFFECTIVE DATE.** A registration automatically becomes effective upon the expiration of the tenth full business day after the complete filing, provided that no order has been issued or proceeding is pending under subsection 10. The administrator may by order waive

or reduce the time period prior to effectiveness, provided that a complete filing has been made. The administrator may by order defer the effective date until the expiration of the tenth full business day after the filing of an amendment.

5. **PERIOD.** The registration is effective for one year commencing on the date the registration becomes effective and may be renewed annually upon the filing of a current disclosure document accompanied by any documents or information that the administrator may by rule or order require. Failure to renew upon the close of the one-year period of effectiveness will result in expiration of the registration. The administrator may by rule or order require the filing of a sales report.

6. **FILING RULE.** The administrator may by rule require the filing of all proposed literature or advertising prior to its use.

7. **FILING FEE.** The seller shall pay a five hundred dollar filing fee with the initial disclosure statement filed under subsection 2 and a two hundred fifty dollar annual renewal fee. The administrator shall by rule periodically revise these fees to ensure that they defray the costs of administration of this chapter.

8. **DISCLOSURE REQUIREMENTS.**

a. It is unlawful to offer or sell a business opportunity required to be registered pursuant to this chapter unless a written disclosure document as filed under subsection 2 is delivered to each purchaser at least ten business days prior to the earlier of the execution by a purchaser of a contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity.

b. The disclosure document shall have a cover sheet which is entitled, in at least ten-point bold type, "DISCLOSURE REQUIRED BY IOWA LAW." Under the title shall appear the following statement in at least ten-point type: "The registration of this business opportunity does not constitute approval, recommendation, or endorsement by the state of Iowa. The information contained in this disclosure document has not been verified by this state. If you have any questions or concerns about this investment, seek professional advice before you sign a contract or make any payment. You are to be provided ten (10) business days to review this document before signing a contract or agreement or making any payment to the seller or the seller's representative."

The seller's name and principal business address, along with the date of the disclosure document, shall also be provided on the cover sheet. No other information shall appear on the cover sheet.

c. Unless the seller uses a disclosure document as provided in subsection 2, paragraphs "a" and "b", the disclosure document shall contain the following information:

(1) The names and residential addresses of those salespersons who will engage in the offer or sale of the business opportunity in this state.

(2) The name of the seller, whether the seller is doing business as an individual, partnership, corporation, or other entity; the names under which the seller has done, is doing, or intends to do business; and the name of any parent or affiliated company that will engage in business transactions with purchasers or that will take responsibility for statements made by the seller.

(3) The names, addresses, and titles of the seller's officers, directors, trustees, general managers, principal executives, agents, and any other persons charged with responsibility for the seller's business activities relating to the sale of the business opportunity.

(4) Prior business experience of the seller relating to business opportunities including all of the following:

(a) The name, address, and a description of any business opportunity previously offered by the seller.

(b) The length of time the seller has offered each such business opportunity.

(c) The length of time the seller has conducted the business opportunity currently being offered to the purchaser.

(5) With respect to each person identified in subparagraph (3), all of the following:

(a) A description of the person's business experience for the ten-year period preceding the filing date of this disclosure document. The description of business experience shall list principal occupations and employers.

(b) A listing of the person's educational and professional background, including the names of schools attended and degrees received, and any other information that will demonstrate sufficient knowledge and experience to perform the services proposed.

(6) Whether any of the following apply to the seller or any person identified in subparagraph (3):

(a) The seller or other person has been convicted of a felony, pleaded nolo contendere to a felony charge, or has been the subject of a criminal, civil, or administrative proceeding alleging the violation of a business opportunity law, securities law, commodities law, or franchise law, or alleging fraud or deceit, embezzlement, fraudulent conversion, restraint of trade, an unfair or deceptive practice, misappropriation of property, or making comparable allegations.

(b) The seller or other person has filed for bankruptcy, been adjudged bankrupt, or been reorganized due to insolvency, or was an owner, principal officer, or general partner of a person, or any other person that has filed for bankruptcy or was adjudged bankrupt, or been reorganized due to insolvency during the last seven years.

(7) The name of any person identified in subparagraph (6), the nature of and the parties to the action or proceeding, the court or other forum, the date of the institution of the action, the docket references to the action, the current status of the action or proceeding, the terms and conditions of any order or decree, and the penalties or damages assessed and terms of settlement.

(8) The initial payment required, or if the exact amount cannot be determined, a detailed estimate of the amount of the initial payment to be made to the seller.

(9) A detailed description of the actual services the seller agrees to perform for the purchaser.

(10) A detailed description of any training the seller agrees to provide for the purchaser.

(11) A detailed description of services the seller agrees to perform in connection with the placement of equipment, products, or supplies at a location, as well as any agreement necessary in order to locate or operate equipment, products, or supplies on premises which are not owned or leased by the purchaser or seller.

(12) A detailed description of any license or permit that will be necessary in order for the purchaser to engage in or operate the business opportunity.

(13) The business opportunity seller that is required to secure a bond pursuant to section 523B.4 shall include in the disclosure document the following statement: "As required by the State of Iowa, the seller has secured a bond issued by [insert name and address of surety company], a surety company, authorized to do business in this state. Before signing a contract or agreement to purchase this business opportunity, you should check with the surety company to determine the bond's current status."

(14) Any representations made by the seller to the purchaser concerning sales or earnings that may be made from this business opportunity, including, but not limited to the following:

(a) The bases or assumptions for any actual, average, projected, or forecasted sales, profits, income, or earnings.

(b) The total number of purchasers who, within a period of three years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies, or services being offered to the purchaser.

(c) The total number of purchasers who, within three years of the date of the disclosure document, purchased a business opportunity involving the product, equipment, supplies, or services being offered to the purchaser who, to the seller's knowledge, have actually received earnings in the amount or range specified.

(15) A detailed description of the elements of a guarantee made by a seller to a purchaser. The description shall include, but is not limited to, the duration, terms, scope, conditions, and limitations of the guarantee.

(16) A statement including all of the following:

(a) The total number of business opportunities that are the same or similar in nature to those being sold or organized by the seller.

(b) The names and addresses of purchasers who have requested a refund or rescission from the seller within the last twelve months and the number of those who have received the refund or rescission.

(c) The total number of business opportunities the seller intends to sell in this state within the next twelve months.

(d) The total number of purchasers known to the seller to have failed in the business opportunity.

(17) A statement describing any contractual restrictions, prohibitions, or limitations on the purchaser's conduct. Attach a copy of all business opportunities and other contracts or agreements proposed for use or in use in this state including, without limitation, all lease agreements, option agreements, and purchase agreements.

(18) The rights and obligations of the seller and the purchaser regarding termination of the business opportunity contract or agreement.

(19) A statement accurately describing the grounds upon which the purchaser may initiate legal action to terminate the business opportunity contract or agreement.

(20) A copy of the most recent audited financial statement of the seller, prepared within thirteen months of the first offer in this state, together with a statement of any material changes in the financial condition of the seller from that date. The administrator may allow the seller to submit a limited review in order to satisfy the requirements of subparagraph (13).

(21) A list of the states in which this business opportunity is registered.

(22) A list of the states in which this disclosure document is on file.

(23) A list of the states which have denied, suspended, or revoked the registration of this business opportunity.

(24) A section entitled "Risk Factors" containing a series of short concise statements summarizing the principal factors which make this business opportunity a high risk or one of a speculative nature. Each statement shall include a cross-reference to the page on which further information regarding that risk factor can be found in the disclosure document.

(25) Any additional information as the administrator may require by rule or order.

9. CONTRACT OR AGREEMENT PROVISIONS.

a. It is unlawful to offer or sell a business opportunity required to be registered unless the business opportunity contract or agreement is in writing and a copy of the contract or agreement is given to the purchaser at the time the purchaser signs the contract or agreement.

b. The contract or agreement is subject to this chapter and section 714.16.

c. Contracts or agreements shall set forth in at least ten-point type or equivalent size, if handwritten, all of the following:

(1) The terms and conditions of any and all payments due to the seller.

(2) The seller's principal business address and the name and address of the seller's agent in this state authorized to receive service of process.

(3) The business form of the seller, whether corporate, partnership, or otherwise.

(4) The delivery date, or when the contract provides for a periodic delivery of items to the purchaser, the approximate delivery date of the product, equipment, or supplies the seller is to deliver to the purchaser to enable the purchaser to start business.

(5) Whether the product, equipment, or supplies are to be delivered to the purchaser's home or business address or are to be placed or caused to be placed by the seller at locations owned or managed by persons other than the purchaser.

(6) A statement that accurately states the purchaser's right to void the contract under the circumstances and in the manner set forth in section 523B.6.

(7) The cancellation statement appearing in section 82.3.

10. DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION.

a. The administrator may issue an order denying effectiveness to, or suspending or revoking the effectiveness of, any registration if the administrator finds that the order is in the public interest and any of the following:

(1) The registration as of its effective date or as of any earlier date in the case of an order denying effectiveness, any amendment as of its effective date, or any report is incomplete in any material respect or contains any statement which is, in the light of the circumstances under which it was made, determined by the administrator to be false or misleading with respect to any material fact.

(2) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been willfully violated, in connection with the business opportunity, by either of the following:

(a) The person filing the registration.

(b) The seller, any partner, officer, or director of the seller, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the seller, but only if the person filing the registration is directly or indirectly controlled by or acting for the seller.

(3) The business opportunity registered or sought to be registered is the subject of an administrative order denying, suspending, or revoking a registration or a permanent or temporary injunction of any court of competent jurisdiction. However, the administrator shall not do either of the following:

(a) Institute a proceeding against an effective registration under this paragraph more than one year from the date of the order or injunction relied on.

(b) Enter an order under this paragraph on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for an order under this section.

(4) The seller's enterprise or method of business, or that of the business opportunity, includes or would include activities which are or would be illegal where performed.

(5) The business opportunity or the offering of a business opportunity has worked or tended to work a fraud upon purchasers or would operate to work such a fraud.

(6) There has been a failure to file any documents or information required under subsection 2.

(7) The seller has failed to pay the proper filing fee. However, the administrator shall vacate any order issued pursuant to this subparagraph when the deficiency has been corrected.

(8) The seller's literature or advertising is misleading, incorrect, incomplete, or deceptive.

b. The administrator shall not institute a proceeding under this subsection against an effective registration on the basis of a fact or transaction known to the administrator when the registration became effective unless the proceeding is instituted thirty days after the effective date of the registration.

c. (1) The administrator may by order summarily postpone or suspend the effectiveness of the registration pending final determination of a proceeding under this subsection.

(2) Upon the entry of a summary order, the administrator shall promptly notify the seller that the order has been entered and of the reasons for entering the order and that within fifteen days after the receipt of a written request the matter will be set down for hearing.

(3) If no hearing is requested the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator may modify or vacate the order or extend the order until final determination.

d. A summary order shall not be entered under any part of this subsection, except under subparagraph (1) of paragraph "c", without appropriate notice to the seller, an opportunity for hearing, and written findings of fact and conclusions of law in accordance with chapter 17A.

e. The administrator may vacate or modify an order issued under this subsection if the administrator finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

Sec. 3. Section 523B.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.3 EXEMPTIONS FROM REGISTRATION AND DISCLOSURE.

1. **TYPES OF EXEMPTIONS.** The following business opportunities are exempt from the requirements of section 523B.2:

a. The offer or sale of a business opportunity if the purchaser is a bank, savings and loan association, trust company, insurance company, credit union, or investment company as defined by the federal Investment Company Act of 1940, a pension or profit-sharing trust, or other financial institution or institutional buyer, or a dealer registered pursuant to chapter 502, whether the purchaser is acting for itself or in a fiduciary capacity.

b. The offer or sale of a business opportunity which is defined as a franchise under section 523B.1, subsection 4, provided that the seller delivers to each purchaser at the earlier of the first personal meeting between the seller and the purchaser, or ten business days prior to the earlier of the execution by a purchaser of a contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity, one of the following disclosure documents:

(1) A uniform franchise-offering circular prepared in accordance with the guidelines adopted by the north American securities administrators association, inc., as amended through September 21, 1983.

(2) A disclosure document prepared pursuant to the federal trade commission rule entitled "Disclosure requirements and prohibitions concerning franchising and business opportunity ventures", 16 C.F.R. § 436 (1979).

For the purposes of this paragraph, a personal meeting means a face-to-face meeting between the purchaser and the seller or their representatives, which is held for the purpose of discussing the offer or sale of a business opportunity. The administrator may by rule adopt any amendment to the uniform franchise-offering circular that has been adopted by the north American securities administrators association, inc., or any amendment to the disclosure document prepared pursuant to the federal trade commission rule entitled "Disclosure requirements and prohibitions concerning franchising and business opportunity ventures", 16 C.F.R. § 436 (1979), that has been adopted by the federal trade commission.

c. The offer or sale of a business opportunity for which the cash payment made by a purchaser does not exceed five hundred dollars and the payment is made for the not-for-profit sale of sales demonstration equipment, material, or samples, or the payment is made for product inventory sold to the purchaser at a bona fide wholesale price.

d. The offer or sale of a business opportunity which the administrator exempts by order or a class of business opportunities which the administrator exempts by rule upon the finding that the exemption would not be contrary to public interest and that registration would not be necessary or appropriate for the protection of purchasers.

2. **DENIAL OR REVOCATION OF EXEMPTIONS.**

a. The administrator may by order deny or revoke an exemption specified in this section with respect to a particular offering of one or more business opportunities. An order shall not be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law.

b. If the public interest or the protection of purchasers so requires, the administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceedings under this section. Upon entry of the order, the administrator shall promptly notify all interested parties that it has been entered and of the reasons for entering the order and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If a hearing is not requested the order shall remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator shall not modify or vacate the order or extend it until final determination.

c. An order under this section shall not operate retroactively.

d. A person does not violate section 523B.2 by reason of an offer or sale effected after the entry of an order under paragraph "b" if the person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the order.

3. **BURDEN OF PROOF.** In an administrative, civil, or criminal proceeding related to this chapter, the burden of proving an exemption, an exception from a definition, or an exclusion from this chapter, is upon the person claiming it.

Sec. 4. Section 523B.4, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.4 MINIMUM NET WORTH OR BOND REQUIREMENT.

1. In connection with an offer or sale of a business opportunity, a seller shall not make or use any of the representations set forth in section 523B.1, subsection 3, paragraph "a", subparagraphs (4) and (5), unless the seller has at all times a minimum net worth of twenty-five thousand dollars as determined in accordance with generally accepted accounting principles. In lieu of the minimum net worth requirement, the administrator may, by rule or order, require a business opportunity seller to obtain a surety bond issued by a surety company authorized to do business in this state. The surety bond must be in an amount not less than twenty-five thousand dollars and shall be for the benefit of any purchaser. The administrator may by rule or order increase the amount of the bond for the protection of purchasers and may require the seller to file reports of all sales in this state to determine the appropriate amount of bond.

2. If the seller is required to obtain a surety bond, the seller shall maintain a surety bond for the duration of the guarantee or representation giving rise to the surety bond requirement. Upon expiration of the period of the guarantee, the seller may allow the surety bond to lapse if the seller gives notice to the administrator and all business opportunity purchasers in this state at least thirty days prior to the lapse of the bond.

Sec. 5. Section 523B.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.5 ADMINISTRATIVE FILES AND OPINIONS.

1. A document is filed when the document is received by the administrator.

2. The administrator shall keep a register of all applications for registration and disclosure documents which are or have been effective under this chapter and all orders which have been entered under this chapter.

3. Unless otherwise provided by law, a registration statement, filing, application, or report filed with the administrator is open for public inspection.

4. The administrator may honor a written request from an interested person for an interpretative opinion upon the payment of a fee of one hundred dollars.

Sec. 6. Section 523B.7, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.7 LIABILITY — REMEDIES.

1. a. A person who violates section 523B.4 or section 523B.2, subsection 1, 8, or 9, is liable to the purchaser in an action for rescission of the agreement, or for recovery of all money or other valuable consideration paid for the business opportunity, and for actual damages together with interest as determined pursuant to section 668.13 from the date of sale, reasonable attorney's fees, and court costs.

b. A person who violates section 523B.12, subsection 2 or 3, is liable to the purchaser who may sue either at law or in equity for rescission, or for recovery of all money or other valuable consideration paid for the business opportunity, and for the recovery of treble damages together with interest as determined pursuant to section 668.13 from the date of sale, reasonable attorney's fees, and court costs.

c. A person who violates section 523B.2, subsection 8, or section 523B.12, subsection 2 or 3, or who breaches a business opportunity contract or agreement or an obligation arising under the contract or agreement, is liable to the purchaser who may sue the surety of the seller's bond, either at law or in equity, to recover all money or other valuable consideration paid for

the business opportunity and actual damages, together with interest as determined pursuant to section 668.13 from the date of sale, reasonable attorney's fees, and court costs. The liability of the surety shall not exceed the amount of the bond.

2. Every person who directly or indirectly controls a party liable under this section, every partner in a partnership so liable, every principal executive officer or director of a corporation so liable, every person occupying a similar status in, or performing similar functions for, and every employee of, a party so liable who materially aids in the act or transaction constituting the violation is also liable jointly and severally with and to the same extent as the party, unless the person liable as a result of the person's relationship with the liable party as defined under this section proves that the person did not know, and in the exercise of reasonable care could not have known of the existence of the facts giving rise to the alleged liability. Among the persons held liable, a party paying more than the party's percentage share of damages may recover judgment for contribution upon motion to the court or in a separate action.

3. An action shall not be maintained under this section unless commenced within three years after the act or transaction constituting the violation, or within one year after the discovery of the facts constituting the violation, whichever period later expires.

4. The rights and remedies available pursuant to this chapter are in addition to any other rights or remedies that may exist at law or in equity.

Sec. 7. Section 523B.8, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. The administrator may do any of the following:

(1) Make public or private investigations within or outside of this state as the administrator deems necessary to determine whether a person has violated or is about to violate a provision of this chapter or a rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter.

(2) Require or permit a person to file a statement, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning the matter to be investigated.

(3) Publish information concerning a violation of this chapter or a violation of a rule or order under this chapter.

b. For the purpose of an investigation or proceeding under this chapter, the administrator or an officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator deems relevant or material to the inquiry.

c. If a person resists or refuses to obey a subpoena issued to that person, the district court upon application by the administrator may issue to the person an order requiring the person to appear before the administrator, to produce documentary evidence if so ordered, or to give evidence related to the matter under investigation. Failure to obey the order of the court is punishable as a contempt of court.

d. A person is not excused from attending and testifying or from producing a document or record before the administrator or an officer designated by the administrator, on the grounds that the testimony or evidence, documentary or otherwise, required by the administrator may tend to incriminate the person or subject the person to a penalty or forfeiture. However, an individual shall not be prosecuted or subjected to a penalty or forfeiture on account of a transaction, matter, or thing concerning which the person is compelled, after claiming the person's privilege against self-incrimination, to testify or produce, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt related to such testimony.

Sec. 8. Section 523B.11, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. A seller who willfully violates section 523B.4, section 523B.2, subsection 1, 8, or 9, or section 523B.12, subsection 2, who willfully violates a rule under this chapter, who willfully

violates an order of which the person has notice, or who violates section 523B.12, subsection 1, knowing that the statement made was false or misleading in any material respect, upon conviction, is guilty of a class "D" felony. Each of the acts specified constitutes a separate offense and a prosecution or conviction for any one of such offenses does not bar prosecution or conviction for any other offense.

Sec. 9. NEW SECTION. 523B.12 FRAUDULENT PRACTICES.

1. MISLEADING FILINGS. It is unlawful to make or cause to be made, in a document filed with the administrator or in a proceeding under this chapter, a statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in a material respect or, in connection with such a statement, to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading.

2. UNLAWFUL REPRESENTATIONS. The fact that an application for registration has been filed or the fact that a business opportunity is effectively registered does not constitute a finding by the administrator that a document filed under this chapter is true, complete, and not misleading. The fact that an application for registration has been filed, that a business opportunity is effectively registered, or that an exemption or exception is available for a business opportunity does not mean that the administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person or business opportunity. It is unlawful to make, or cause to be made, to a purchaser, any representation inconsistent with this subsection.

3. ADVERTISING. It is unlawful for a seller, in connection with the offer or sale of a business opportunity in this state, to publish, circulate, or use advertising which contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Sec. 10. NEW SECTION. 523B.13 SCOPE — SERVICE OF PROCESS.

1. The provisions of this chapter concerning sales and offers to sell apply to persons who sell or offer to sell a business opportunity when any of the following apply:

- a. An offer to sell is made in this state.
- b. An offer to purchase is made and accepted in this state.
- c. The purchaser is domiciled in this state and the business opportunity is or will be operated in this state.

2. For the purpose of this section, an offer to sell is made in this state, whether or not either party is then present in this state, when either of the following apply:

- a. The offer originates from this state.
- b. The offer is directed by the offeror to this state and received at the place to which the offer is directed or at a post office in this state in the case of a mailed offer.

3. For the purpose of this section, an offer to sell is accepted in this state when both of the following occur:

- a. The acceptance is communicated to the offeror in this state.
- b. The acceptance has not previously been communicated to the offeror, orally, or in writing, outside this state. For the purpose of this section the acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state, and the acceptance is received at the place to which it is directed or at a post office in this state in the case of a mailed acceptance.

4. An offer to sell is not made in this state under either of the following circumstances:

- a. If the offer appears in a bona fide newspaper or other publication of general circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past twelve months.
- b. If the offer is made on a radio or television program originating outside this state which is received in this state.

5. A person who engages in conduct prohibited or made actionable under this chapter and who has not filed a consent to service of process is deemed to have appointed the administrator to be the person's attorney for purposes of service of any lawful process in a noncriminal suit, action, or proceeding against the person or the person's successor, executor, or administrator, which is the result of that conduct and which is brought under this chapter or is pursuant to a rule or order under this chapter. Service shall be made by leaving a copy of the process in the office of the administrator. The service is effective after both of the following have occurred:

a. The plaintiff, who may be the administrator, in a suit, action, or proceeding instituted by the administrator, sends notice of the service and a copy of the process by certified or registered mail to the defendant's or respondent's last known address or takes other steps which are reasonably calculated to give actual notice.

b. The plaintiff's affidavit of compliance with this subsection is filed on or before the return day of the process, if any, or within such further time as the court allows.

6. When process is served under this section, the court, or the administrator in a proceeding before the administrator, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

DIVISION II

Sec. 11. Section 523D.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523D.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the commissioner of insurance or the deputy appointed under section 502.601.

2. "Continuing care" means housing together with supportive services, nursing services, medical services, or other health related services, furnished to a resident, regardless of whether or not the lodging and services are provided at the same location, with or without other periodic charges, and pursuant to one or more contracts effective for the life of the resident or a period in excess of one year, including mutually cancellable contracts, and in consideration of an entrance fee.

3. "Continuing care retirement community" means a facility which provides continuing care to residents other than residents related by consanguinity or affinity to the person furnishing their care.

4. "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified individual in a facility if the amount exceeds either of the following:

a. Five thousand dollars.

b. The sum of the regular periodic charges for six months of residency.

5. "Facility" means the place or places in which a provider undertakes to provide continuing care or senior adult congregate living services to an individual.

6. "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified residents.

7. "New construction" means construction of a new facility or the expansion of an existing facility if the expansion involves an increase in the number of living units in excess of twenty-five percent.

8. "Provider" means a person undertaking through a lease or other type of agreement to provide care in a continuing care retirement community or senior adult congregate living facility, even if that person does not own the facility.

9. "Resident" means an individual, sixty years of age or older, entitled to receive care in a continuing care retirement community or a senior adult congregate living facility.

10. "Senior adult congregate living facility" means a facility which provides senior adult congregate living services to residents other than residents related by consanguinity or affinity to the person furnishing their care.

11. "Senior adult congregate living services" means housing and one or more supportive services furnished to a resident, with or without other periodic charges, in consideration of an entrance fee.

12. "Supportive services" includes but is not limited to one or any combination of the following services: laundry, maintenance, housekeeping, emergency nursing care, activity services, security, dining options, transportation, beauty and barber services, health care, and personal care, including personal hygiene, eating, bathing, dressing, and supervised medication administration.

Sec. 12. Section 523D.3, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. At the time of, or prior to, the execution of a contract to provide continuing care or senior adult congregate living services, or at the time of, or prior to the provider's acceptance of part or all of the entrance fee by or on behalf of a prospective resident, whichever occurs first, the provider shall deliver a disclosure statement to the person, and to the person's personal representative if one is appointed, with whom the contract is to be entered into. Unless incorporated by reference, in whole or in part, the disclosure statement shall not constitute part of the contract between the resident and provider. The disclosure statement shall contain all of the following information unless the information is in the contract, a copy of which must be attached to the statement:

a. The name and business address of the provider and a statement of whether the provider is a partnership, corporation, or other legal entity.

b. The names and business addresses of the officers, directors, trustees, managing or general partners, and any person having a ten percent or greater equity or beneficial interest in the provider and a description of such person's interest in or occupation with the provider.

c. With respect to each person covered by paragraph "b", and if the facility will be managed on a day-to-day basis by a person identified pursuant to paragraph "b", or with respect to the proposed manager, the following information:

(1) A description of the business experience of the person, if any, in the operation or management of similar facilities.

(2) The name and address of any professional service, or other entity in which the person has, or which has in the person, a ten percent or greater interest and which has provided goods, leases, or services to the facility of a value of five hundred dollars or more within the prior twelve months or which has contracted to provide goods, leases, or services to the facility of a value of five hundred dollars or more within a year, including a description of the goods, leases, or services and their actual or anticipated cost to the facility or provider.

(3) A description of any matter resulting in the person's conviction of a felony or a plea of nolo contendere to a felony charge, or a description of any matter where the person was found to be liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, misappropriation of property, or a similar felony involving theft or dishonesty.

(4) A description of any matter in which the person is subject to a currently effective injunctive or restrictive order of a court, or a description of any matter within the past five years where the person has had a state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency of this or any state or the division of insurance, arising out of or relating to business activity or health care, including, without limitation, actions affecting a license to operate a foster care facility, health care facility, retirement home, home for the aged, or facility licensed under this chapter or a similar law of another state.

d. A statement, if applicable, containing the following:

(1) Whether the provider is or ever has been affiliated with a for-profit organization or with a religious, charitable, or other nonprofit organization.

(2) The nature of the affiliation.

(3) The extent to which the affiliate organization is responsible for the financial and contractual obligations of the provider.

(4) The provision of the federal Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of federal income tax.

e. The location and description of the physical property or properties of the facility, existing or proposed, and, to the extent proposed, the estimated completion date or dates, whether or not construction has begun, and the contingencies subject to which construction may be deferred.

f. The services provided or proposed to be provided under contracts for continuing care or senior adult congregate living services at the facility, including the extent to which medical care is furnished. The disclosure statement shall clearly state which services are included in basic contracts and which services are made available at or by the facility at extra charge.

g. A description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include the manner by which the provider may adjust periodic charges or other recurring fees and the limitations on such adjustments, if any.

h. The provisions which have been made or will be made, if any, to provide reserve funding or security to enable the provider to fully perform its obligations under contracts to provide continuing care or senior adult congregate living services at the facility, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which the funds will be invested and the names and experience of persons who will make the investment decisions.

i. Certified financial statements of the provider, for all parts of an operation covered by the contract, including the health center or nursing home portion of the continuing care retirement community, if those services are included in the contract, but the disclosure statement may exclude services or operations not provided to residents as senior adult congregate living services under the contract, which shall include the following:

(1) A balance sheet as of the end of the two most recent fiscal years.

(2) Income statements of the provider for the two most recent fiscal years or the shorter period of time the provider has been in existence.

j. If operation of the facility has not yet commenced, a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility, including the following:

(1) An estimate of the cost of purchasing or constructing and equipping the facility, including related costs such as financing expense, legal expense, land costs, occupancy development costs, and all other similar costs the provider expects to incur or become obligated for prior to the commencement of operations.

(2) A description of any mortgage loan or other long-term financing intended to be used for the financing of the facility, including the anticipated terms and costs of the financing.

(3) An estimate of the total entrance fees to be received from or on behalf of residents at or prior to commencement of operation of the facility.

(4) An estimate of the funds, if any, anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care or senior adult congregate living services.

(5) A projection of estimated income from fees and charges other than entrance fees, showing individual rates presently anticipated to be charged and including a description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect on the income of the facility of government subsidies for health care services, if any, to be provided pursuant to contracts for continuing care or senior adult congregate living services.

(6) A projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses and separate allowances, if any, for the replacement of equipment and furnishings and anticipated major structural repairs or additions.

(7) Identification of any assets pledged as collateral for any purpose.

(8) An estimate of annual payments of principal and interest required by a mortgage loan or other long-term financing.

k. Other material information concerning the facility or the provider required by the division of insurance or which the provider wishes to include.

1. The cover page of the disclosure statement shall state, in a prominent location and type face, the date of the disclosure statement.

m. A copy of the standard form or forms of contract for continuing care or senior adult congregate living services used by the provider, attached as an exhibit to each disclosure statement.

Sec. 13. Section 523D.3, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. In the event an amendment is filed with the division of insurance pursuant to subsection 4, the provider shall deliver a copy of the amendment or the amended disclosure statement to a prospective resident and to a prospective resident's personal representative if one is appointed prior to the provider's acceptance of part or all of the entrance fee or the execution of the continuing care or senior congregate living services contract by the prospective resident.

Sec. 14. Section 523D.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523D.5 NEW CONSTRUCTION.

1. **FILING WITH INSURANCE DIVISION.** A provider shall not enter into a contract to provide continuing care or senior adult congregate living services that applies to a living unit that is part of a new facility or proposed expansion that is or will be located in this state unless the person has submitted an application on a form as required by the division of insurance accompanied by a fee of two hundred fifty dollars. The application at a minimum must include the following information:

a. A description of the new facility or the proposed expansion, including a description of the goods and services that will be offered to prospective residents.

b. A statement of the financial resources of the provider available for this project.

c. A statement of the capital expenditures necessary to accomplish this project.

d. A statement of financial feasibility for the new facility or proposed expansion in a form satisfactory to the commissioner, which includes a statement of future funding sources and shall identify the qualifications of the person or persons preparing the study.

e. A statement of the market feasibility for the new facility or proposed expansion in a form satisfactory to the commissioner, which identifies the qualifications of the person or persons preparing the study.

f. If the new facility or proposed expansion offers a promise to provide nursing or health care services to residents in the future, an actuarial forecast in a form satisfactory to the commissioner, which identifies the qualifications of the actuary or actuaries preparing the forecast.

g. Copies of the escrow agreements executed pursuant to this chapter or proof that an escrow is not required.

2. DETERMINATION OF FEASIBILITY.

a. Existing facilities. If a filing is made under this section for an expansion of an existing facility, the determination of feasibility shall be based on consolidated information for the existing facility and the proposed expansion.

b. New facilities. If a filing is made under this section for a new facility, not part of an existing facility that will be constructed in more than one stage or phase, the initial stage or phase must evidence feasibility independent of any subsequent stage or phase and contain all of the facilities or components necessary to provide residents with all of the services and amenities promised by the provider.

3. **CONSTRUCTION.** New construction shall not begin until the filing required by this section has been made and at least fifty percent of the proposed number of independent living units in the initial stage or phase have been reserved pursuant to executed contracts and at least ten percent of the entrance fees required by those contracts are held in escrow pursuant to this chapter.

4. **ESCROW REQUIREMENTS.** Unless proof has been submitted to the commissioner that conditions for the release of escrowed funds set forth in this section have already been met, the provider shall establish an interest-bearing escrow account at a state or federally

regulated financial institution located within this state to receive any deposits or entrance fees or portions of deposits or fees for a living unit which has not been previously occupied by a resident for which an entry fee arrangement is used. The escrow account agreement shall be entered into between the financial institution and the provider with the financial institution as the escrow agent and as a fiduciary for the resident or prospective resident. The agreement shall state that the purpose of the escrow account is to protect the resident or prospective resident and that the funds deposited shall be kept and maintained in an account separate and apart from the provider's business accounts.

5. **RELEASE OF ESCROWED FUNDS.** Funds held in escrow shall be released only as follows:

a. If the provider fails to meet the requirements for release of funds held in escrow pursuant to this section within a time period specified in the escrow agreement, which shall not exceed thirty-six months, these funds shall be returned by the escrow agent to the persons who have made payment to the provider.

b. Upon notice from the provider that a resident is entitled to a refund, the escrow agent shall refund the amount directly to the resident. The amount of the refund shall be included in the provider's notice to the escrow agent and shall be determined in compliance with this chapter and any applicable terms of the resident's contract.

c. Except as provided by paragraphs "a" and "b", amounts held in escrow shall be released only upon approval of the commissioner. The commissioner shall approve the release of funds only upon a determination that at least one of the following conditions has been satisfied:

(1) The facility has a minimum of fifty percent of the units reserved for which the provider is charging an entrance fee and the aggregate amount of the entrance fees received by or pledged to the provider, plus anticipated proceeds from any long-term financing commitment, plus funds from all other sources in the actual possession of the provider, equal not less than ninety percent of the aggregate cost of constructing or purchasing, equipping, and furnishing the facility.

(2) The resident has moved into the living unit, the cancellation period required by section 523D.6, subsection 2, has expired, construction of the facility or the portion of the facility under construction is complete, the facility has been adequately equipped and furnished, a certificate of occupancy or the equivalent has been issued by the appropriate local jurisdiction, and the provider has been issued all the appropriate licenses or permits needed to operate the facility and provide all of the promised services.

d. Upon receipt by the escrow agent of a request by the provider for the release of these escrowed funds, the escrow agent shall approve release of the funds within five working days unless the escrow agent finds that the requirements of this section have not been met and notifies the provider of the basis for this finding. The request for release of the escrowed funds shall be accompanied by any documentation the escrow agent requires.

Sec. 15. Section 523D.6, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523D.6 **CONTRACTS.**

1. **DISCLOSURE.** In addition to any other provisions prescribed by rules adopted under this chapter, each contract providing for continuing care or senior adult congregate living services by a provider shall be written in nontechnical language easily understood by a lay person and shall include all of the following:

a. The name and business address of the provider.

b. The name and address of the facility or facilities.

c. The identification of the living unit which the prospective resident will occupy.

d. A description of the total consideration paid by the resident, including the value of all property transferred.

e. A list of all of the continuing care or senior adult congregate living services which are to be provided by the provider to each resident. The list shall clearly identify the manner in which continuing care or senior adult congregate living services will be provided, including a statement whether the items will be provided for a designated time period or for life, and

shall indicate which continuing care and senior adult congregate living services, if any, will be provided through an affiliate or third party. The description of any service charges or fees shall, in the event of multiple residents, be provided on an individual basis and shall include a description of any additional charges that will be assessed for occupancy by more than one resident.

f. A statement of the policy of the facility with regard to any health or financial conditions upon which the provider may require the resident to relinquish the resident's space in the designated facility.

g. A statement of the policy of the facility with regard to the health and financial conditions required for a person to continue as a resident.

h. A statement of the policy of the facility with regard to the conditions under which the resident is permitted to remain in the facility in the event of financial difficulties affecting the resident.

i. A statement of the terms concerning the entry of a person to the living unit and the consequences if a person does not meet the requirements for entry.

j. A statement of the policy of the facility with regard to changes in accommodations and a description of the procedures to be followed by the provider when the provider temporarily or permanently changes the resident's accommodations within the facility, transfers the resident from one level of care to another, or transfers the resident to another health facility.

k. A description in clear and understandable language, in at least ten-point type, of the terms governing the refund of any portion of the entrance fee in the event of discharge by the provider, or cancellation by the resident, and a statement that the provider shall not dismiss or discharge a resident from a facility prior to the expiration of a resident contract without just cause and sixty days written notice of intent to cancel. The notice of dismissal or discharge shall only be given upon a good faith determination that just cause exists, and the notice shall be given in writing, signed by the medical director, if any, and the administrator of the facility. In an emergency situation only such notice as is reasonable under the circumstances is required.

l. A description in clear and understandable language, in at least ten-point type, whether monthly fees, if charged, are subject to periodic increases.

m. A description of the facility's policies and procedures for handling grievances between the provider and residents.

n. A statement that residents living in the facility have the right of self-organization.

o. A statement that a prospective resident or resident shall be given the opportunity to appoint a personal representative in the prospective resident's or resident's contract. The personal representative shall receive copies of the contract and all notices, disclosures, or forms required by this chapter to be delivered to a prospective resident or resident. A personal representative appointed under this section has no legal authority to make any decision for the prospective resident appointing the person to be a personal representative. The personal representative may advise the prospective resident or resident as to the materials provided. A personal representative shall not be affiliated or associated with a provider or any person identified in section 523D.3, subsection 1, paragraph "b" or "c", and shall not be a prospective resident or resident.

p. A statement that if a resident dies or through illness, injury, or incapacity is precluded from becoming a resident under the terms of the contract before occupying the living unit, the contract is automatically rescinded and the resident or the resident's legal representative shall receive a full refund of all payments of money or transferred property to the facility, except those costs specifically incurred by the facility at the request of the resident and set forth in writing in a separate addendum, signed by both parties to the contract.

q. A statement that a resident has the right to rescind a contract for continuing care or senior adult congregate living services, without penalty or forfeiture, within three business days of the date the contract was executed or within thirty days after the date the resident received the disclosure statement required by section 523D.3, whichever is later.

2. CANCELLATION. The contract required by this section shall state the terms under which the contract can be canceled by the provider or the resident, including a statement of the refund rights of a resident, and shall include a completed, easily detachable form in duplicate, captioned "Notice of Cancellation", as an attachment, in ten-point boldface type, containing the following information and statements in substantially the following form and language:

NOTICE OF CANCELLATION

Date contract was executed.

Date disclosure statement was provided to resident.

You may rescind and cancel your contract, without any penalty or obligation, within three business days of the date the contract was executed or within thirty days after the date you received the disclosure statement required by Iowa Code section 523D.3, whichever is later. You are not required to move into the facility before the expiration of this cancellation period. However, if you do, the provider may retain the reasonable value of care and services actually provided to you, the resident, prior to your vacating the provider's facility. If you cancel this contract and you have already moved into the provider's facility, you must vacate your living unit within ten days after receipt by the provider of your cancellation notice.

If you cancel this contract, any payments of money or transfers of property you made to the provider must be returned as soon as reasonably possible by the provider following receipt by the provider of your cancellation notice, and any security interest arising out of the transaction is canceled, except that, as stated above, the provider may retain the reasonable value of care and services actually provided to you prior to your vacating the provider's facility.

To cancel this contract, mail by certified mail or hand deliver a signed and dated copy of this cancellation notice or any other written notice clearly indicating your intent to cancel the contract, or send a telegram, to _____ (name of provider) at _____ (address of provider's place of business). Your cancellation is effective upon mailing by certified mail, when transmitted by telegraph, or when actual notice is given to the provider, whichever is earlier.

I hereby cancel this contract.

(Date)

(Resident's signature)

Sec. 16. NEW SECTION. 523D.12 FILINGS AND INVESTIGATIONS.

1. The annual filing, and any amendments to the annual filing, shall be signed by the chief executive officer, stating that to the best of the officer's knowledge and belief, the items are correct.

2. The commissioner or the attorney general may, for the purpose of discovering or investigating violations of this chapter or rules adopted pursuant to this chapter do any or all of the following:

a. Investigate the business and examine the books, accounts, records, and files used by a provider. With the exception of an examination involving new construction, an examination involving a complaint by a resident or a prospective resident or where good cause exists for the lack of prior notice, as determined by the commissioner, the division of insurance shall provide at least seven days' prior notice to the facility before conducting an on-site examination.

b. 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.

c. Apply to the district court for issuance of an order requiring a person's appearance before 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. 17. NEW SECTION. 523D.13 COMPLIANCE ORDERS.

Upon the commissioner's determination that a provider has violated a provision of this chapter or a rule adopted pursuant to this chapter, the commissioner may issue an order requiring a provider to cease and desist from an unlawful practice or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter. The person named in the order may, within fourteen days after receipt of the order, file a written request for a hearing. The hearing shall be held in accordance with chapter 17A. If a hearing is not requested, the order shall become permanent.

Sec. 18. NEW SECTION. 523D.14 INJUNCTIONS.

The attorney general may petition 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 in violation of this chapter or rules adopted pursuant to this chapter. In a 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, or records germane to the hearing upon the petition for an injunction. Upon proof of any of the violations described in the petition for injunction, the court may grant the injunction.

DIVISION III

Sec. 19. Section 535C.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

1. "Administrator" means the commissioner of insurance or the deputy administrator appointed pursuant to section 502.601.

2. "Advance fee" means consideration including a payment, fee, or deposit, which is assessed or collected prior to the closing of a loan. An advance fee includes, but is not limited to, money assessed or collected for processing, for an appraisal, for a credit check, for a consultation, or for expenses.

3. "Bona fide third-party fee" means a fee charged for one or more of the following:

a. A credit report or appraisal.

b. Providing security of title services for a loan secured by real property, including but not limited to a title examination, an abstract of title, title insurance, or a property survey.

4. "Borrower" means a person who seeks the services of a loan broker.

5. "Financial statement" means a document evidencing the financial position of the loan broker as required by section 535C.3A.

6. "Loan" means an agreement to advance property, including but not limited to money, in return for the promise that payment will be made for the use of the property.

7. "Loan broker" or "broker" means a person who in return for an advance fee, promises to obtain a loan or assist in obtaining a loan for another from a third person, or who promises to consider making a loan to a person. A loan broker does not include any of the following:

a. An attorney licensed to practice in this state while engaged in the practice of law.

b. A certified public accountant licensed to practice in this state while engaged in practice as a certified public accountant.

c. An accounting practitioner, while engaged as an accounting practitioner, who procures loans as an incidental part of the accountant's practice.

d. A person whose fee is entirely contingent on the successful procurement of a loan from a third person, if the borrower has not paid a fee prior to the closing of a loan other than a bona fide third-party fee.

e. A financial institution, to the extent the institution's activities or arrangements are expressly approved or regulated by a regulatory body or officer acting under authority of the United States.

f. An insurance company organized under the laws of this state and subject to regulation by the commissioner of insurance.

g. A bank incorporated under chapter 524.

- h. A credit union incorporated under chapter 533.
 - i. A savings and loan association or savings bank incorporated under chapter 534.
 - j. A mortgage broker or mortgage banker licensed under chapter 535B.
 - k. A regulated loan company licensed under chapter 536.
 - l. An industrial loan company licensed under chapter 536A.
8. "Loan brokerage agreement" or "agreement" means an agreement between a loan broker and a borrower in which the loan broker promises to do any of the following:
- a. Obtain a loan for a borrower.
 - b. Assist the borrower in obtaining a loan.
 - c. Consider making a loan to the borrower.
9. "Records" means books, papers, documents, accounts, agreements, memoranda, electronic records of accounts, or correspondence relating to a matter regulated under this chapter.
10. "Successful procurement of a loan" means the receipt by a borrower of the loan proceeds.

Sec. 20. NEW SECTION. 535C.3A FINANCIAL STATEMENT.

A loan broker shall file a financial statement with the administrator. The statement shall be prepared according to generally accepted accounting principles. The statement shall contain all of the following:

- 1. A copy of the loan broker's balance sheet prepared within one hundred twenty days prior to the most recent filing of a disclosure statement as provided in section 535C.5.
- 2. A profit and loss statement, and a statement of changes in the broker's financial position for each fiscal year that the broker and the broker's predecessor were in business. However, the statement of changes need not cover more than the three fiscal years preceding the date that the broker's balance sheet was prepared.
- 3. If prepared, a copy of the broker's most recent audited financial statement.

Sec. 21. Section 535C.5, subsections 1 through 3, Code 1991, are amended to read as follows:

1. Before advertising or making other oral or written representations, or acting as a loan broker in this state, a loan broker shall file with the administrator copies of the all of the following:

- a. The disclosure statement required under section 535C.3, the,
- b. The most recent financial statement of the broker, and either of the following: required under section 535C.3A.
- a c. The Either a bond required under section 535C.4.
- b. The or a formal notification from the financial institution that the trust account required under section 535C.4 is established.
- d. An irrevocable consent, in a form prescribed by the commissioner of insurance, appointing the administrator to be the loan broker's agent to receive service of process in any suit or action against the broker arising from a violation of a provision of this chapter or a rule adopted pursuant to this chapter.

2. The broker shall amend these filings no less than annually and, in addition, shall file amendments within forty-five days of any material change in the following:

- a. The status of the bond or account.
- b. The financial statement of the broker.
- c. Information required by the disclosure statement.

PARAGRAPH DIVIDED. A broker who does not file the copies required is guilty of a serious misdemeanor.

3. In addition to other required filings, an annual filing shall be made not later than July 1. The broker shall pay a one hundred fifty dollar filing fee with the initial disclosure statement filed under subsection 1. The annual filing shall be accompanied by a filing fee of one hundred dollars. A twenty-five dollar fee shall be charged for each amendment under subsection 2.

Sec. 22. Section 535C.7, Code 1991, is amended to read as follows:

535C.7 WRITTEN AGREEMENTS REQUIRED.

A loan brokerage agreement shall be in writing, ~~and contain a description of the services that the broker agrees to perform for the borrower, and the conditions under which the borrower is obligated to pay the broker.~~ The agreement shall be signed by the broker and the borrower. The broker shall give the borrower a copy of the agreement when the borrower signs the agreement.

Sec. 23. Section 535C.11, Code 1991, is amended to read as follows:

535C.11 APPLICABILITY.

This chapter does not apply to ~~any activities or arrangements expressly approved or regulated by any regulatory body or officer acting under authority of this state, other than the administrator, or of the United States the administrator under other law, or the banking division or savings and loan division in the department of commerce.~~

Sec. 24. NEW SECTION. 535C.12 RECORDS.

1. A loan broker shall maintain accurate records, as required by the administrator, relating to transactions regulated under this chapter. The records shall include all of the following:

- a. The accounts of the broker.
- b. A copy of each contract in which the broker is a party, including loan brokerage agreements.
- c. The amount of receipts received by the broker and the date the receipts were received.

2. The broker shall retain each loan brokerage agreement entered into by the broker and records pertaining to each agreement for at least two years after the agreement expires. The agreements and records shall be maintained and made available for examination by the administrator.

Sec. 25. NEW SECTION. 535C.13 ADMINISTRATIVE ACTIONS.

1. The administrator shall implement this chapter, and may take actions which the administrator deems appropriate for the protection of borrowers, including but not limited to conducting an investigation or examination to determine if a violation of this chapter or a rule adopted pursuant to this chapter has been or may be committed.

2. In conducting an investigation or proceeding under this chapter, the administrator or an officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of materials including records which the administrator deems relevant to the inquiry.

3. Notwithstanding chapter 22, information obtained in the course of an investigation or examination shall be kept confidential by the administrator unless any of the following are applicable:

- a. An order of prohibition has been issued pursuant to section 535C.5.
- b. The administrator is called as a witness to testify in a criminal or civil proceeding.

Upon determining that it is necessary or appropriate to the public interest or for the protection of borrowers, the administrator may disseminate information concerning a violation of this chapter or a rule adopted pursuant to this chapter, by publishing the information or sharing the information with the appropriate agency or regulatory authority.

Sec. 26. NEW SECTION. 535C.14 MISREPRESENTATION OF GOVERNMENTAL APPROVAL.

It is unlawful for a loan broker to represent or imply that the broker has been sponsored, recommended, or approved by, or that the broker's abilities or qualifications have been passed upon by the commissioner, the insurance division, the securities bureau, or the state of Iowa.

Sec. 27. NEW SECTION. 535C.16 SCOPE OF THE ACT.

1. The provisions of this Act apply to agreements and offers by any person to act as a loan broker when any of the following apply:

- a. The offer to act as a loan broker is made or accepted in this state.

- b. The agreement is solicited or entered into in this state.
2. For the purpose of this section, an offer is made in this state, whether or not either party is then present in this state, when either of the following apply:
 - a. The offer originates from this state.
 - b. The offer is directed by the offeror to this state and received at the place to which it is directed or at any post office in this state in the case of a mailed offer.
3. For the purpose of this section, an offer is accepted in this state when either of the following occur:
 - a. The acceptance is communicated to the offeror in this state.
 - b. The acceptance has not previously been communicated to the offeror, orally, or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed or at any post office in this state in the case of a mailed acceptance.
4. An offer is not made in this state in either of the following circumstances:
 - a. The offer is in a newspaper which the publisher circulates or is circulated on the publisher's behalf in this state, which is in any other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past twelve months.
 - b. The offer is on a radio or television program originating outside this state and received in this state.

Approved May 28, 1991

CHAPTER 206

SHELBY TENNANT SCHOOL DISTRICT INCOME SURTAX

S.F. 533

AN ACT relating to the rate of the Shelby Tennant community school district income surtax and the refund of any excess income surtax paid and providing effective and applicability dates.

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

Section 1. Notwithstanding the income surtax rate certified by the board of directors of the Shelby Tennant community school district to the department of management, or by the department of management to the department of revenue and finance, or printed in the 1990 state individual income tax booklet, the income surtax rate under the school enrichment tax imposed pursuant to chapter 442 for the Shelby Tennant community school district for the tax year beginning in the 1990 calendar year is five and sixty-five hundredths percent. Any individual subject to the five and sixty-five hundredths percent Shelby Tennant community school district income surtax who pays an amount of income surtax in excess of what was due at the rate of five and sixty-five hundredths percent is entitled to a refund of such excess. The department of revenue and finance shall review all individual income tax returns of those individuals who are subject to the Shelby Tennant community school district income surtax and shall refund any excess income surtax paid. An individual who has paid such excessive income surtax is not required to file a claim for refund. An individual subject to the income surtax who did not pay the income surtax determined at the rate printed in the 1990 state individual income tax booklet shall not be assessed a penalty or interest unless the amount of income surtax paid is less than the amount determined under the five and sixty-five hundredths percent.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and is applicable retroactively to January 1, 1990, for tax years beginning in the 1990 calendar year.

Approved May 28, 1991

CHAPTER 207

PERMITS TO CARRY WEAPONS — FEES

S.F. 535

AN ACT relating to increasing the fees for issuance or replacement or renewal of a permit to carry weapons.

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

Section 1. Section 724.11, Code 1991, is amended to read as follows:

724.11 ISSUANCE OF PERMIT TO CARRY WEAPONS.

Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from persons who are nonresidents of the state, or whose need to go armed arises out of employment by the state, shall be made to the commissioner of public safety. In either case, the issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, determine that the requirements of sections 724.6 to 724.10 have been satisfied. However, the training program requirements in section 724.9 may be waived for renewal permits. The issuing officer shall collect a fee of ~~five~~ ten dollars, except from a duly appointed peace officer or correctional officer, for each permit issued. Renewal permits or duplicate permits shall be issued for a fee of ~~two~~ five dollars. The issuing officer shall notify the commissioner of public safety of the issuance of any permit at least monthly and forward to the director an amount equal to two dollars for each permit issued and one dollar for each renewal or duplicate permit issued. All such fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department of public safety to offset the cost of administering this chapter. Any unspent balance as of June 30 of each year shall revert to the general fund as provided by section 8.33.

Approved May 28, 1991

CHAPTER 208

LEGALIZATION OF PLEASANT VALLEY SCHOOL LEVY

S.F. 544

AN ACT to legalize the proceedings of the board of directors of the Pleasant Valley Community School District concerning voter approval of the levy of a physical plant and equipment tax and the inclusion of funds raised through the levy in the district's budget, and providing an effective date.

WHEREAS, in 1989 during its First Regular Session, the Seventy-third General Assembly enacted legislation which is now included in chapter 298 of the Code of Iowa, to authorize a

physical plant and equipment levy to be used as an alternative to the schoolhouse fund levy then authorized under chapter 278 of the Code of Iowa; and

WHEREAS, the legislation authorizing the physical plant and equipment levy did not take effect until July 1, 1990, for the purpose of computations required for payment of state aid to and levying of property taxes by school districts for the budget year beginning July 1, 1991; and

WHEREAS, the Pleasant Valley Community School District's ten-year schoolhouse fund levy was to expire in September of 1990; and

WHEREAS, on July 17, 1989, the board of directors of the Pleasant Valley Community School District adopted a resolution to submit a proposition to the voters for the levy of a physical plant and equipment tax for a ten-year period; and

WHEREAS, the proposition was included on the ballot for the regular school election held on September 12, 1989, and was approved by the voters; and

WHEREAS, a question has arisen as to whether the timing of the levy was one year premature under the legislation authorizing the physical plant and equipment levy, and it is deemed advisable to remove forever such doubts as to the validity of the board's resolution, approval of the levy, and the budgeting of funds raised by the levy; NOW THEREFORE,

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

Section 1. All proceedings taken by the board of directors of the Pleasant Valley Community School District relating to the 1989 board resolution and all actions pertaining to voter approval of the physical plant and equipment tax levy are hereby legalized and constitute a legal schoolhouse fund levy for the school year beginning July 1990, and constitute a legal and binding physical plant and equipment levy for nine consecutive years commencing with the school year beginning July 1991.

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

Approved May 28, 1991

CHAPTER 209

MOTOR CARRIERS — WORKERS' COMPENSATION INSURANCE PROVISIONS

S.F. 550

AN ACT relating to transportation provided by motor carriers.

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

Section 1. Section 85.61, subsection 13, paragraph c, Code 1991, is amended to read as follows:

c. An owner-operator who, as an individual or partner, or shareholder of a corporate owner-operator, owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:

- (1) The owner-operator is responsible for the maintenance of the vehicle.
- (2) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs, supplies, collision insurance, and personal expenses for the operator while on the road.
- (3) The owner-operator is responsible for supplying the necessary personnel to operate the vehicle, and the personnel are considered the owner-operator's employees.

(4) The owner-operator's compensation is based on factors related to the work performed, including a percentage of any schedule of rates or lawfully published tariff, and not on the basis of the hours or time expended.

(5) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.

(6) The owner-operator enters into a contract which specifies the relationship to be that of an independent contractor and not that of an employee and requires the owner-operator to provide and maintain a certificate of workers' compensation insurance with the carrier.

Sec. 2. Section 87.1, Code 1991, is amended to read as follows:

87.1 INSURANCE OF LIABILITY REQUIRED.

Every employer subject to the provisions of this and chapters 85 and 86, unless relieved therefrom as hereinafter provided, shall insure the employer's liability thereunder in some corporation, association, or organization approved by the commissioner of insurance.

A motor carrier who contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 13, shall not be required to insure the motor carrier's liability for the owner-operator. A motor carrier may procure compensation liability insurance coverage for these owner-operators, and may charge the owner-operator for the costs of the premiums. A motor carrier shall require the owner-operator to provide and maintain a certificate of workers' compensation insurance covering the owner-operator's employees. An owner-operator shall remain responsible for providing compensation liability insurance for the owner-operator's employees.

Every such employer shall exhibit, on demand of the industrial commissioner, evidence of the employer's compliance with this section; and if such employer refuses, or neglects to comply with this section, the employer shall be liable in case of injury to any worker in the employer's employ under the common law as modified by statute.

Sec. 3. **NEW SECTION. 87.23 COMPENSATION LIABILITY INSURANCE NOT REQUIRED.**

A corporation, association, or organization approved by the commissioner of insurance to provide compensation liability insurance shall not require a motor carrier that contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 13, to purchase compensation liability insurance for the employer's liability for the owner-operator or its employees.

Approved May 28, 1991

CHAPTER 210

INCOME TAX — PRIVATE CLUB EXPENSE DEDUCTIONS

H.F. 417

AN ACT relating to private club expense deductions for individual and corporate state income tax purposes.

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

Section 1. Section 422.7, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 24. If the federal adjusted gross income includes income or loss from a business or farm or from an interest in a corporation whose income is taxed to the shareholders, add the expenses otherwise deductible under section 162(a) of the Internal Revenue

Code which were incurred by the business, farm, or corporation, for which the taxpayer was entitled to all or part of the deduction, with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, marital status, race, religion, color, ancestry, or national origin.

A club described in this subsection holding an alcoholic beverage license pursuant to chapter 123, shall provide on each receipt furnished to a taxpayer a printed statement as follows: "The expenditures covered by this receipt are nondeductible for state income tax purposes."

For the purposes of this subsection, a club means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part of a building, membership in which entails the prepayment of regular dues, and which is not operated for a profit other than such profits as would accrue to the entire membership.

Sec. 2. Section 422.9, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Subtract the expenses otherwise deductible under section 162(a) of the Internal Revenue Code which were incurred by a taxpayer with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, marital status, race, religion, color, ancestry, or national origin.

A club described in this lettered paragraph holding an alcoholic beverage license pursuant to chapter 123, shall provide on each receipt furnished to a taxpayer a printed statement as follows: "The expenditures covered by this receipt are nondeductible for state income tax purposes."

For the purposes of this lettered paragraph, a club means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part of a building, membership in which entails the prepayment of regular dues, and which is not operated for a profit other than such profits as would accrue to the entire membership.

Sec. 3. Section 422.35, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Add the expenses otherwise deductible under section 162(a) of the Internal Revenue Code which were incurred by a corporation with respect to expenditures made at, or payments made to, a club which restricts membership or the use of its services or facilities on the basis of age, sex, marital status, race, religion, color, ancestry, or national origin.

A club described in this subsection holding an alcoholic beverage license pursuant to chapter 123, shall provide on each receipt furnished to a taxpayer a printed statement as follows: "The expenditures covered by this receipt are nondeductible for state income tax purposes."

For the purposes of this subsection, a club means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part of a building, membership in which entails the prepayment of regular dues, and which is not operated for a profit other than such profits as would accrue to the entire membership.

Approved May 28, 1991

CHAPTER 211**ELECTRONIC ACCESS TO CORPORATE RECORDS
AND OTHER CORPORATION LAW CHANGES***H.F. 556*

AN ACT relating to corporation law by providing electronic access to corporate records, relating to the removal or resignation of directors, relating to certain notice requirements, and by making certain nonsubstantive corrections.

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

Section 1. **NEW SECTION. 9.7 ACCESS TO CORPORATION RECORDS.**

The secretary of state shall offer to county recorders electronic access to corporation records. The secretary of state shall adopt rules providing for the electronic access and for the dissemination of the information by the county recorders.

Sec. 2. Section 331.602, subsection 27, Code 1991, is amended by striking the subsection.

Sec. 3. Section 490.140, subsection 16, Code 1991, is amended to read as follows:

16. "Person" means a person as defined in section 4.1 ~~and includes an individual and an entity.~~

Sec. 4. Section 490.720, subsection 4, Code 1991, is amended to read as follows:

4. If the corporation refuses to allow a shareholder, or a shareholder's agent or attorney, to inspect the shareholders' list before or at the meeting, or copy the list as permitted by subsection 3 2, the district court of the county where a corporation's principal office or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

Sec. 5. Section 490.803, subsection 3, Code 1991, is amended to read as follows:

3. The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed-range fixed to a variable-range size board or vice versa.

Sec. 6. Section 490.808, subsection 4, Code 1991, is amended to read as follows:

4. A director may be removed by the shareholders only at a meeting called for the purpose of removing the director and after notice stating that the purpose, or one of the purposes, of the meeting is removal of the director. A director shall not be removed pursuant to written consents under section 490.704 unless written consents are obtained from the holders of all the outstanding shares of the corporation entitled to vote on the removal of the director.

Sec. 7. Section 490.843, subsection 1, Code 1991, is amended to read as follows:

1. An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date. A resignation may be orally communicated provided that the resignation is effective only if written notice of the resignation is delivered within twenty-four hours of such oral communication.

Sec. 8. Section 490.1322, subsection 2, Code 1991, is amended to read as follows:

2. The dissenters' notice must be sent no later than ten days after the proposed corporate action by the shareholders was taken is authorized at a shareholders' meeting, or, if the corporate action is taken without a vote of the shareholders, no later than ten days after the corporate action is taken, and must do all of the following:

- a. State where the payment demand must be sent and where and when certificates for certificated shares must be deposited.
- b. Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received.
- c. Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date.
- d. Set a date by which the corporation must receive the payment demand, which date shall not be fewer than thirty nor more than sixty days after the date the ~~subsection 1~~ dissenters' notice is delivered.
- e. Be accompanied by a copy of this division.

Sec. 9. Section 490.1325, subsection 1, Code 1991, is amended to read as follows:

1. Except as provided in section 490.1327, as ~~soon as~~ at the time the proposed corporate action is taken, or upon receipt of a payment demand, ~~whichever occurs later~~, the corporation shall pay each dissenter who complied with section 490.1323 the amount the corporation estimates to be the fair value of the dissenter's shares, plus accrued interest.

Sec. 10. Section 490.1326, subsection 2, Code 1991, is amended to read as follows:

2. If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it must send a new dissenters' notice under section 490.1322 as if the corporate action was taken without a vote of the shareholders and repeat the payment demand procedure.

Sec. 11. Section 524.306, Code 1991, is amended to read as follows:

524.306 ISSUANCE OF CERTIFICATE OF INCORPORATION.

The receipt of the approved articles of incorporation of a state bank by the secretary of state constitutes filing with that office. The secretary of state shall record the articles of incorporation and forward a copy of them to the county recorder of the county in which the state bank is to have its principal place of business. ~~The county recorder shall record the articles, all as provided by section 490.130.~~ The secretary of state upon the filing of the articles of incorporation shall issue a certificate of incorporation and send the certificate to the incorporators.

Sec. 12. Section 558.42, Code 1991, is amended to read as follows:

558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

It shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in this chapter or chapter 77A, except that ~~documents filed and recorded pursuant to section 490.130~~, affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and Uniform Commercial Code financing statements and financing statement changes need not be thus acknowledged.

Sec. 13. Section 490.130, Code 1991, is repealed.

Approved May 28, 1991

CHAPTER 212**ADVERTISEMENT AND SALE OF WOOD PRODUCTS***H.F. 571*

AN ACT relating to the advertisement and sale of wood products and making certain consumer fraud penalties applicable.

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

Section 1. Section 714.16, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. It is an unlawful practice for a person to advertise the sale of wood products without disclosing information which may affect the price of the product.

An advertisement for all plywood and dimension lumber products shall include the grade and species, in accordance with federal products standards 1 and 20, and the measure. The products advertised shall also be labeled according to the federal products standards.

An advertisement for any other wood product shall include the grade and species, according to the applicable federal product standards, and the measure. These products need not be labeled.

An advertisement for any wood products must also include the following:

(1) The condition of the wood product, including but not limited to the following designations:

(a) Green.

(b) Kiln-dried.

(c) Air-dried or partially air-dried.

(2) Whether the wood product consists of seconds, culls, shop grade, or ungraded material.

Use of any contrived or unrecognized grading standard is prohibited, and any factors affecting the final delivered price of the products shall be disclosed and displayed in a conspicuous place.

This paragraph applies only to persons who offer wood products for sale in the ordinary course of business, except that this paragraph does not apply to any person who produces rough-sawed lumber, commonly referred to as native lumber, in this state. For purposes of this paragraph:

"Dimension lumber" means softwood lumber nominally referred to as "two inch by four inch" or greater.

"Labeling" means all labels and other written, printed, branded, or graphic matter upon any building material.

"Plywood" means a structural material consisting of sheets or chips of wood glued or cemented together.

"Wood products" means any wood products derived from trees as a result of any work or manufacturing process upon the wood, and intended primarily for use as a building material.

Approved May 28, 1991

CHAPTER 213**INSURANCE — ADMINISTRATIVE AND REGULATORY PROVISIONS***H.F. 634*

AN ACT relating to the regulation of the business of insurance, amending certain filing requirements, filing fees, and the deposit of those fees by the insurance division, providing for the prior review and approval of certain policy forms and rates prior to issuance or delivery, making modifications to certain meeting and license renewal requirements, providing administrative penalties, and providing for the Act's applicability.

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

Section 1. NEW SECTION. 505.13A AVAILABILITY OF CERTAIN RATING INFORMATION.

1. The division shall provide to any person requesting publicly available information relating to the financial condition of any insurance company licensed to do business in the state, including, but not limited to, the following:

- a. Current ratings issued by a private rating organization.
- b. Information on how to obtain such information from various sources.
- c. Information on the state insurance guaranty funds.

2. The provision of such information by the division shall not be the basis to impose liability upon the division or any employee of the division. Information provided under this section is not an endorsement or guaranty of any insurance company.

Sec. 2. NEW SECTION. 507C.20A REDOMESTICATION OF FOREIGN INSURER.

The commissioner may petition the court for an ancillary receivership or for an order redomesticating a foreign insurer which is the subject of a liquidation or other delinquency order in a reciprocal state. Only the corporate charter and rights to the licenses under such charter shall be redomesticated to Iowa. All claims against the foreign insurer shall remain a part of and be administered through the reciprocal state liquidation or other delinquency proceeding. 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, free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation or other delinquency proceedings, wherever located. The sale may be made on terms and conditions the court deems appropriate. The proceeds of the sale, less court costs, attorney fees, broker's fees, and the commissioner's expenses in effectuating the sale, shall become part of the assets of the liquidation or other estate in the reciprocal state.

Sec. 3. Section 507C.33, subsection 1, Code 1991, is amended by adding the following new paragraph after paragraph a and relettering existing paragraph b:

NEW PARAGRAPH. b. Notwithstanding paragraph "a", the agent, broker, premium finance company, or other person, is not liable for uncollected unearned premium of the insurer. A presumption exists that the premium as shown on the books of the insurer is collected and the burden is upon the agent, broker, premium finance company, or other person to demonstrate by a preponderance of the evidence that the unearned premium was not actually collected. For purposes of this paragraph, "unearned premium" means that portion of an insurance premium covering the unexpired term of the policy or the unexpired period of the policy period.

Sec. 4. Section 508.7, Code 1991, is amended to read as follows:

508.7 LOANS TO OFFICERS.

Except as permitted in ~~section~~ sections 508.8 and 508.8A, the capital or other funds shall not be loaned directly or indirectly to an officer, director, stockholder, or employee of the company or directly or indirectly to a relative of an officer or director of the company.

Sec. 5. NEW SECTION. 508.8A LOANS TO EMPLOYEES.

1. A life insurance company having a ratio of statutory surplus to admitted assets of at least four percent may make, acquire, and hold loans to employees, officers, and directors under the following terms and conditions:

a. The company may make a mortgage loan on real property owned by an employee of the company which is to serve as the employee's dwelling, provided the company is regularly and actively involved in making residential mortgage loans to the public.

b. The company may acquire a mortgage loan on real property owned by an employee of the company which is to serve as the employee's dwelling, provided the company acquiring such loan is regularly and actively involved in acquiring residential mortgage loans not involving employees from sources in the secondary market.

c. The company may acquire a mortgage loan on real property owned by an employee, officer, or director which is included in a portfolio of mortgages initiated by others and acquired by the life insurance company. The mortgage loans in any such acquired portfolio of mortgage loans must satisfy both of the following conditions:

(1) More than seventy-five percent of the dollar value of the mortgage loans must be for real property that is owned by persons who are not employees, officers, or directors of the company.

(2) More than seventy-five percent of the mortgage loans must be for real property that is owned by persons who are not employees, officers, or directors of the company.

d. The company may continue to hold a mortgage loan on real estate which is assumed by an employee, officer, or director if the mortgage was originally properly made or acquired by the life insurance company, provided that all terms and conditions of the mortgage loan remain unchanged and the mortgage loan is serviced in accordance with customary servicing practices of prudent lending institutions.

e. The company may continue to hold a mortgage on real estate owned by an officer or director which was properly made or acquired by the company before the officer or director became an officer or director of the company, provided that all terms and conditions of the mortgage loan remain unchanged and the mortgage loan is serviced in accordance with customary servicing practices of prudent lending institutions.

2. As used in this section, "employee" does not include officers or directors of a life insurance company.

Sec. 6. Section 508.15, Code 1991, is amended to read as follows:

508.15 VIOLATION BY FOREIGN COMPANY.

Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, or failing to timely file any financial statement required by rule of the commissioner of insurance, shall forfeit and pay ~~the sum of three five~~ hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with. The commissioner may give notice to a company which has failed to file within the time fixed that the company is in violation of this section and if the company fails to file the evidence of investment and statement within ten days of the date of the notice the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the state treasurer for deposit in the general fund of the state as provided in section 505.7.

Sec. 7. NEW SECTION. 508.15A SUSPENSION AND SUMMARY SUSPENSION.

The commissioner may do one or more of the following:

1. For a violation of Title XX, after a hearing provided pursuant to chapter 17A, order the suspension of the license or authority to transact the business of insurance within the state.

2. Upon three days' notice, if the commissioner has reason to believe that there is imminent substantial risk to an insurer's solvency, order the insurer to appear before the commissioner

and show cause why its license or authority to do insurance business within the state should not be suspended. At the hearing to show cause, the commissioner may summarily suspend the license or authority of the insurer to do business within the state.

3. Summarily order an insurer to cease and desist from a violation, anticipated violation, or suspected violation of chapter 507B, 510, or 513A, if a hearing is provided pursuant to chapter 17A within thirty days of the summary cease and desist order.

Sec. 8. Section 510.7, subsection 1, as enacted by 1991 Iowa Acts, Senate File 518,* is amended to read as follows:

510.7 PENALTIES AND LIABILITIES.

1. If the commissioner finds, after a hearing conducted in accordance with chapter 17A, that any person has violated one or more provisions of this chapter, the commissioner may ~~order~~ do one or more of the following:

a. For each separate violation, order the imposition of an administrative penalty of not more than ten thousand dollars.

b. ~~Revocation~~ Order the revocation or suspension of the producer's license.

c. ~~Reimbursement~~ Bring a civil suit seeking reimbursement by the managing general agent of the insurer, the rehabilitator, or the liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.

Sec. 9. Section 510A.4, subsection 1, as enacted by 1991 Iowa Acts, Senate File 518,** is amended to read as follows:

1. a. If the commissioner has reason to believe that a controlling producer has committed or is committing an act which could be determined to be a violation, as defined in section 510A.2, the commissioner shall serve upon the controlling producer in the manner provided by chapter 17A, a statement of the charges and notice of a hearing to be conducted in accordance with chapter 17A.

b. ~~At such hearing, the commissioner must establish that the controlling producer engaged in a violation, as defined in section 510A.2. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the charges and to establish that the insolvency of the controlled insurer arose out of events not attributable to the violation. The decision, determination, or order of the commissioner is subject to judicial review pursuant to chapter 17A.~~

b. At such hearing the commissioner shall determine whether the controlling producer engaged in a violation, as defined in section 510A.2. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the alleged violations. The final action of the commissioner is subject to judicial review pursuant to chapter 17A.

c. Upon the commissioner's finding of a violation by a controlling producer, the commissioner may bring a civil suit seeking reimbursement from the controlling producer as provided in paragraph "d". In the suit, the controlling producer shall have the burden of establishing that the insolvency of the controlled insurer arose out of events not attributable to the violation.

d. Upon a finding, pursuant to this section, that the controlling producer committed a violation and the controlling producer failed to establish that the violation did not substantially contribute to the insolvency, the controlling producer shall reimburse the state guaranty funds, created pursuant to chapter 515B for all payments made for losses, loss adjustment, and administrative expenses on the business placed by the producer in excess of gross earned premiums and investment income earned on premiums and loss reserves for such business.

d e. This section does not affect the right of the commissioner to impose any other penalties provided for under Title XX.

Sec. 10. Section 512A.5, Code 1991, is amended to read as follows:

512A.5 FEES TO COMMISSIONER.

~~There~~ The following fees shall be paid to the commissioner for services required under the provisions of this chapter the following fees, which shall be accounted for by the commissioner in the same manner as other fees received in the discharge of the duties of the office:

*Chapter 26, §7, herein

**Chapter 26, §13, herein

1. For filing and examination of amendments to the articles of incorporation for organization in this state and the accompanying general plan of operation of any benevolent association, and the issuing of the permission to do business, ~~ten~~ twenty dollars.

2. For filing an annual statement of a benevolent association, and issuing the renewal of the permission required by law to authorize continuance in business, ~~three~~ twenty-five dollars per existing unit, not to exceed three hundred dollars in the aggregate.

Sec. 11. NEW SECTION. 513A.1 PURPOSE.

The purpose of this chapter is to give the commissioner jurisdiction over third-party payors of health care benefits; to indicate how a third-party payor of health care benefits may show the jurisdiction to which the third-party payor is subject, to allow for examinations by the commissioner if the third-party payor of health care benefits is unable to establish that a third-party payor is subject to another jurisdiction, to make a third-party payor of health care benefits subject to the laws of this state if the third-party payor cannot show that it is subject to another jurisdiction, and to disclose to purchasers of such health care benefits whether or not the plans are fully insured.

Sec. 12. NEW SECTION. 513A.2 AUTHORITY AND JURISDICTION OF COMMISSIONER.

Except as provided in this chapter, a third-party payor providing coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether the coverage is by direct payment, reimbursement, or otherwise, is presumed to be subject to the jurisdiction of the commissioner of insurance, unless the person shows that while providing such services the person is subject to the jurisdiction of another agency of the state or the federal government.

Sec. 13. NEW SECTION. 513A.3 HOW TO SHOW JURISDICTION.

A third-party payor may establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, by providing to the insurance commissioner the appropriate certificate, license, or other document issued by the agency which permits or qualifies the third-party payor to provide those services.

Sec. 14. NEW SECTION. 513A.4 EXAMINATION.

A third-party payor unable to establish under section 513A.3 that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, shall submit to an examination by the insurance commissioner to determine the organization and solvency of the third-party payor or the entity, and to determine whether or not the third-party payor complies with the applicable provisions of state law.

Sec. 15. NEW SECTION. 513A.5 SUBJECT TO STATE LAWS.

A third-party payor unable to establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, is subject to all appropriate provisions of Title XX regarding the conduct of the business of the third-party payor.

Sec. 16. NEW SECTION. 513A.6 DISCLOSURE.

A production agency or administrator which advertises, sells, transacts, or administers the coverage in this state as defined in section 513A.2 and which is required to submit to an examination by the insurance commissioner under section 513A.4, shall, if the coverage is not fully insured or otherwise fully covered by an admitted life or disability insurer, nonprofit hospital service plan, or nonprofit health care plan, advise every purchaser, prospective purchaser, and covered person of the lack of insurance or other coverage.

An administrator which advertises or administers the coverage in this state as defined in section 513A.2 and which is required to submit to an examination by the insurance commissioner under section 513A.4, shall advise any production agency of the elements of the coverage, including the amount of stop-loss insurance in effect.

Sec. 17. NEW SECTION. 514A.13 FILING REQUIREMENT — PRIOR APPROVAL.

A policy of insurance against loss or expense from sickness or from the bodily injury or death by accident of the insured shall not be issued or delivered to any person in this state and an application, rider, or endorsement shall not be used in connection with the policy until a copy of the policy form and of the classification of risks and the premium rates, or, in the case of cooperatives or assessment companies the estimated costs pertaining to the policy have been filed with and approved by the commissioner.

A filing is deemed to be approved unless disapproved by the commissioner within thirty days of receipt of the filing by the commissioner.

Sec. 18. NEW SECTION. 514A.14 DISAPPROVAL OF FILING.

1. The commissioner shall notify an insurer which has filed a policy form pursuant to section 514A.13 that does not comply with this chapter or chapter 514D, or rules adopted pursuant to those chapters. The notice shall inform the insurer that it is unlawful for the insurer to issue the form or use it in connection with any policy, if the commissioner finds upon review of the form, either of the following:

- a. The benefits provided are unreasonable in relation to the premium charged.
- b. The form contains a provision which is unjust, unfair, inequitable, misleading, deceptive, or which encourages misrepresentation of the policy.

2. In a notice provided under subsection 1, the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer.

Sec. 19. NEW SECTION. 514A.15 WITHDRAWAL OF APPROVAL.

The commissioner may at any time, after opportunity for hearing, withdraw the commissioner's previously given approval of any such form on any of the grounds stated in section 514A.14. It shall be unlawful for the insurer to issue a form or use the form in connection with any policy after the effective date of the withdrawal of approval. The notice of any hearing granted under this paragraph shall specify the matters to be considered at the hearing. Any decision affirming disapproval or directing withdrawal of approval under this section shall be in writing and shall specify the reasons for the disapproval or withdrawal of approval.

Sec. 20. NEW SECTION. 514C.6 UNIFORMITY OF TREATMENT — EMPLOYEE WELFARE BENEFIT PLANS.

1. A statutory provision to mandate a health care coverage or service, or to mandate the offering of a health care coverage or service, applies to all state-regulated third-party payors and to employee welfare benefit plans described in 29 U.S.C. § 1001 et seq. However, if an employee welfare benefit plan subject to federal regulation is not subject to a substantially similar requirement, the statutory provision does not apply to a state-regulated third-party payor until the employee welfare benefit plans are subject to a substantially similar standard under federal regulations as determined by the commissioner.

2. For purposes of this section unless the context otherwise requires, a third-party payor means:

- a. An accident and sickness insurer, subject to chapter 509 or 514A.
- b. A nonprofit health service corporation, subject to chapter 514.
- c. A health maintenance organization, subject to chapter 514B.
- d. Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

Sec. 21. Section 514G.7, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Be issued to an individual without obtaining one or more of the following:

- (1) A report of a physical examination.
- (2) An assessment of functional capacity.

- (3) An attending physician's statement.
- (4) Copies of medical records.

Sec. 22. Section 514G.7, subsection 4, paragraph a, subparagraph (1), Code 1991, is amended by adding the following new subparagraph subdivisions:

NEW SUBPARAGRAPH SUBDIVISION. (a) Effective July 1, 1991, any holder of a long-term care insurance policy, which is not noncancelable or guaranteed renewable, was issued before July 1, 1989, and conditions eligibility for benefits on a requirement of prior hospitalization, shall, unless it has previously been offered by the insurer, be offered by the insurer a rider or endorsement that waives the requirement of prior hospitalization. If the rider or endorsement results in a concomitant increase in premium during the policy term, then it must be agreed to in writing and signed by the insured to become effective.

NEW SUBPARAGRAPH SUBDIVISION. (b) The rider or endorsement under subparagraph subdivision (a) shall be subject to the insurer's underwriting guidelines as proof of insurability at the time of application for the rider or endorsement.

NEW SUBPARAGRAPH SUBDIVISION. (c) Effective July 1, 1991, any holder of a non-cancelable or guaranteed renewable long-term care insurance policy issued before July 1, 1989, which conditions eligibility for benefits on a requirement of prior hospitalization, shall, unless the holder has previously been notified by the insurer, be notified by the insurer in writing prior to or at the time of delivery of the next premium statement of the existence of the condition and that new policies issued by any insurance carrier may not condition benefits on a requirement of prior hospitalization. The insurer shall not solicit the replacement of the non-cancelable or guaranteed renewable policy at the same time as the delivery of notice under this subparagraph subdivision.

Sec. 23. Section 514G.7, subsection 4, paragraph d, Code 1991, is amended to read as follows:

d. A long-term care insurance policy ~~which conditions~~ shall not condition eligibility for non-institutional benefits on the prior receipt of institutional care ~~shall not require a prior institutional stay of more than thirty days for which benefits are paid.~~

Sec. 24. NEW SECTION. 514G.10 LONG-TERM CARE CONSUMER GUIDE.

An insurer offering a long-term care insurance policy to any person shall provide to the applicant the current long-term care insurance consumer guide prescribed by the insurance division of the department of commerce. The commissioner of insurance may by reference adopt or permit the use of the long-term care insurance consumer guide developed by the national association of insurance commissioners, the blue cross and blue shield association, or the health insurance association of America. Delivery of the long-term care insurance consumer guide shall be made if a policy is advertised, solicited, or issued as a policy as defined in this chapter, or if it is subject to this chapter, regardless of the label applied by the insurer. Except in the case of direct response insurers, delivery of the long-term care insurance consumer guide shall be made to the applicant at the time of application, and acknowledgement of receipt of the long-term care insurance consumer guide shall be obtained by the insurer. A direct response insurer shall deliver the long-term care insurance consumer guide to the applicant at the time the policy is delivered. An insurance company required to distribute the guide shall reimburse the state for all costs associated with the guide.

Sec. 25. Section 515.26, Code 1991, is amended to read as follows:

515.26 DIRECTORS.

The affairs of a company organized as provided by this chapter shall be managed by a number of directors, of not less than five nor more than twenty-one, all of whom, in case of a stock company, shall be stockholders, or, in case of a mutual company, be policyholders, or before the company shall effect insurance, be subscribers for stock or for insurance as the case may be. ~~When the paid-up capital for a stock company, or the subscriptions for insurance for a mutual company, shall have been obtained, the incorporators or directors in charge of the business shall give at least ten days' written notice by mail to stockholders or subscribers, as the case may be, of a meeting of the stockholders or subscribers, for the election of directors, and such~~

meeting shall be held within thirty days after the paid-up capital or subscriptions have been secured. The directors then elected shall continue in office until their successors have been elected and qualified.

Sec. 26. Section 515.65, Code 1991, is amended to read as follows:

515.65 CERTIFICATE REFUSED — ADMINISTRATIVE PENALTY.

The commissioner of insurance shall withhold the commissioner's certificate or permission of authority to do business from a company neglecting or failing to comply with this chapter. In addition, a company organized or authorized under this chapter which fails to file the annual statement referred to in section 515.63 in the time required shall pay and forfeit an administrative penalty in an amount of ~~three~~ five hundred dollars to be collected in the name of the state for ~~the use of the state deposit in the general fund of the state as provided in section 505.7.~~ The company's right to transact further new business in this state shall immediately cease until the company has fully complied with this chapter. The commissioner may give notice to a company which has failed to file within the time required that the company is in violation of this section and if the company fails to file the evidence of investment and statement within ten days of the date of the notice the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 27. Section 515.77, Code 1991, is amended to read as follows:

515.77 CERTIFICATE TO FOREIGN COMPANY.

When ~~any~~ a foreign company has fully complied with the requirements of law and become entitled to do business, the commissioner of insurance shall issue to ~~such~~ the company a certificate of that fact, which certificate shall be renewed annually on the first day of ~~May~~ June, if the commissioner is satisfied that the capital, securities, and investments of ~~such~~ the company remain unimpaired, and the company has complied with the provisions of law applicable ~~thereto~~ to the company. ~~Provided, however~~ However, the commissioner shall not grant or continue authority to transact insurance in this state as to ~~any~~ an insurer the management of which is found by the commissioner, after a hearing ~~held thereon~~ is provided, in which the commissioner shall establish and consider any prior criminal records or any other matters, to be untrustworthy, or so lacking in insurance experience as to make the proposed operation hazardous to the insurance-buying public; or which, after a hearing ~~held thereon~~ is provided, the commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations, with ~~any~~ a person ~~or persons~~ whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or of the public, by manipulation or dissipation of assets, or manipulation of accounts, or of reinsurance, or by similar injurious actions.

Sec. 28. Section 515.89, Code 1991, is amended to read as follows:

515.89 REVOCATION OF CERTIFICATE OF FOREIGN COMPANY.

The commissioner of insurance ~~shall be authorized to~~ may examine ~~into~~ the condition and affairs of any insurance company, as provided for in this chapter, doing business in this state, not organized under its laws, or cause such examination to be made by ~~some~~ a person ~~or persons~~ appointed by the commissioner having no interest in any insurance company; and ~~when it shall appear~~ appears to the commissioner's satisfaction that the affairs of ~~any~~ such a company are in an unsound condition or that a company has failed to maintain the capital and surplus required by section 515.69, the commissioner shall revoke or suspend the certificates granted in its behalf, and cause a notification thereof ~~to be published in some newspaper of general circulation, published at the seat of government, and no agent or agents of such company after such notice shall issue policies or renew any previously issued.~~

Sec. 29. NEW SECTION. 515.89A SUSPENSION AND SUMMARY SUSPENSION.

The commissioner may do one or more of the following:

1. For a violation of Title XX, after a hearing provided pursuant to chapter 17A, order the suspension of the license or authority to transact the business of insurance within the state.

2. Upon three days' notice, if the commissioner has reason to believe that there is imminent substantial risk to an insurer's solvency, order the insurer to appear before the commissioner and show cause why its license or authority to do insurance business within the state should not be suspended. At the hearing to show cause, the commissioner may summarily suspend the license or authority of the insurer to do business within the state.

3. Summarily order an insurer to cease and desist from a violation, anticipated violation, or suspected violation of chapter 507B, 510, or 513A, if a hearing is provided pursuant to chapter 17A within thirty days of the summary cease and desist order.

Sec. 30. Section 516A.2, Code 1991, is amended to read as follows:

516A.2 CONSTRUCTION — MINIMUM COVERAGE.

1. Except with respect to a policy containing both underinsured motor vehicle coverage and uninsured or hit-and-run motor vehicle coverage, nothing contained in this chapter shall be construed as requiring forms of coverage provided pursuant hereto, whether alone or in combination with similar coverage afforded under other automobile liability or motor vehicle liability policies, to afford limits in excess of those that would be afforded had the insured thereunder been involved in an accident with a motorist who was insured under a policy of liability insurance with the minimum limits for bodily injury or death prescribed in subsection 10 of section 321A.1. Such forms of coverage may include terms, exclusions, limitations, conditions, and offsets which are designed to avoid duplication of insurance or other benefits.

To the extent that Hernandez v. Farmers Insurance Company, 460 N.W.2d 842 (Iowa 1990), provided for interpolicy stacking of uninsured or underinsured coverages in contravention of specific contract or policy language, the general assembly declares such decision abrogated and declares that the enforcement of the antistacking provisions contained in a motor vehicle insurance policy does not frustrate the protection given to an insured under section 516A.1.

2. Pursuant to chapter 17A, the commissioner of insurance shall, by January 1, 1992, adopt rules to assure the availability, within the state, of motor vehicle insurance policies, riders, endorsements, or other similar forms of coverage, the terms of which shall provide for the stacking of uninsured and underinsured coverages with any similar coverage which may be available to an insured.

3. It is the intent of the general assembly that when more than one motor vehicle insurance policy is purchased by or on behalf of an injured insured and which provides uninsured, underinsured, or hit-and-run motor vehicle coverage to an insured injured in an accident, the injured insured is entitled to recover up to an amount equal to the highest single limit for uninsured, underinsured, or hit-and-run motor vehicle coverage under any one of the above described motor vehicle insurance policies insuring the injured person which amount shall be paid by the insurers according to any priority of coverage provisions contained in the policies insuring the injured person.

Sec. 31. Section 521C.11, subsection 1, paragraph c, as enacted by 1991 Iowa Acts, Senate File 518,* is amended to read as follows:

c. If a violation was committed by the reinsurance intermediary, a civil action brought by the commissioner seeking restitution by the reinsurance intermediary to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.

Sec. 32. 1991 Iowa Acts, Senate File 518,** section 63, is amended to read as follows:

SEC. 33.*** Sections 10 through 13, the producer controlled property and casualty insurer Act, division II of this Act, take effect July 1, 1991. An insurer or producer subject to division II of this Act shall not continue, renew, or initiate a contract, or place business on or after July 1, 1991, unless in compliance with division II of this Act, regardless of the date on which the original contract was entered into between the parties. The commissioner shall have the authority to suspend enforcement of sections 10 through 13 of this Act until the earlier of

*Chapter 26, section 29, herein

**Chapter 26 herein

***SEC. 63 probably intended

July 1, 1992, or affirmative action of the national association of insurance commissioners to require enforcement of the Act as a condition of accreditation. If the national association of insurance commissioners rescinds the model producer controlled property and casualty insurer Act or materially amends the Act, the commissioner shall submit the repeal or revisions in a division prefiled bill for consideration by the general assembly.

Sec. 33. Section 682.11, subsection 1, Code 1991, is amended to read as follows:

1. Any company engaged in the business of becoming surety upon bonds The commissioner of insurance shall annually file, with the clerk of the district court of any each county in which the company will do business, a certificate from the commissioner of insurance that the company has complied with the law and is authorized to do business a complete list of the corporate sureties to whom the commissioner has issued a current certificate of authority to transact the business of a surety in this state.

Sec. 34. Section 682.13, Code 1991, is amended to read as follows:

682.13 RECORD BY CLERK.

The clerk shall keep a book, properly indexed, in which shall be recorded all such certificates annual lists from the commissioner of insurance and subsequent notices of revocations.

Sec. 35. 1990 Iowa Acts, chapter 1234, section 76, is amended to read as follows:

SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, ~~1992~~ 1993.

Sec. 36. Section 515.23, Code 1991, is repealed.

Sec. 37. APPLICABILITY. Section 3 of this Act applies to any insurer subject to an order under section 507C.18 issued on or after the effective date of this Act.

Sec. 38. Section 1 of this Act is effective upon the enactment by the Seventy-fourth General Assembly of an appropriation of \$10,000 to the insurance division of the department of commerce for the implementation of that section.

Sec. 39. Section 30 of this Act applies to all causes of action accruing on or after July 1, 1991, and to those accruing before July 1, 1991, which are filed on or after September 15, 1991.

Sec. 40. The Code editor shall remove all references to chapter 513A in this Act and make other related conforming changes, if chapter 513A in this Act is not enacted by the general assembly during the 1991 regular session.

Approved May 28, 1991

CHAPTER 214

URBAN RENEWAL AND URBAN REVITALIZATION AUTHORITY TO COUNTIES

H.F. 704

AN ACT granting urban renewal and urban revitalization authority to counties.

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

Section 1. Section 403.15, subsections 2 and 5, Code 1991, are amended to read as follows:

2. If the urban renewal agency is authorized to transact business and exercise powers ~~hereunder pursuant to the chapter~~, the mayor or chairperson of the board, as applicable, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency, which board shall consist of five commissioners. The term of office of each such commissioner shall be one year.

5. The mayor or chairperson of the board, as applicable, shall designate a chairperson and vice chairperson from among the commissioners. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and the agency may determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before September 30 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the ~~community~~ city or county, as applicable, a notice to the effect that such report has been filed with the municipality, and that the report is available for inspection during business hours in the office of the city clerk or county auditor, as applicable, and in the office of the agency.

Sec. 2. Section 403.17, subsections 2, 4, and 17, Code 1991, are amended to read as follows:

2. "Municipality" ~~shall mean~~ means any city or county in the state.

4. "Local governing body" ~~shall mean~~ means the council, board of supervisors, or other legislative body charged with governing the municipality.

17. "Area of operation" ~~shall mean of a city means~~ the area within the corporate limits of the municipality and the area within ~~five~~ two miles of such limits, except that it ~~shall does~~ not include any area which lies within the territorial boundaries of another incorporated city, unless a resolution ~~shall have~~ has been adopted by the governing body of ~~such other~~ the city declaring a need ~~therefor to be included in the area~~. The "area of operation" of a county means an area outside the corporate limits of a city. However, in that area outside a city's boundary but within two miles of the city's boundary, a joint agreement between the city and the county is required allowing the county to proceed with the activities authorized under this chapter. In addition, a county may proceed with activities authorized under this chapter in an area inside the boundaries of a city, provided a joint agreement is entered into with respect to such activities between a city and a county.

Sec. 3. Section 403.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 21. "Chairperson of the board" means the chairperson of the board of supervisors or other legislative body charged with governing a county.

Sec. 4. Section 403.19, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. For the purposes of this section, a county shall include taxes levied on industrial property within an urban renewal area only.

Sec. 5. Section 404.2, subsection 2, paragraph f, Code 1991, is amended to read as follows:

f. A statement specifying whether the revitalization is applicable to none, some, or all of the property assessed as residential, agricultural, commercial or industrial property within

the designated area or a combination thereof and whether the revitalization is for rehabilitation and additions to existing buildings or new construction or both. If revitalization is made applicable only to some property within an assessment classification, the definition of that subset of eligible property must be by uniform criteria which further some planning objective identified in the plan. The city shall state how long it is estimated that the area shall remain a designated revitalization area which time shall be longer than one year from the date of designation and shall state any plan by the city to issue revenue bonds for revitalization projects within the area. For a county, a revitalization area shall include only property which will be used as industrial property only.

Sec. 6. Section 404.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The governing body of a city may, by ordinance, designate an area of the city or the governing body of a county may, by ordinance, designate an area of the county outside the boundaries of a city, as a revitalization area, if that area is any of the following:

Sec. 7. Section 404.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An area which is appropriate as an economic development area as defined in section 403.17.

Sec. 8. Section 404.2, subsection 1, Code 1991, is amended to read as follows:

1. The governing body has adopted a resolution finding that the rehabilitation, conservation, redevelopment, economic development, or a combination thereof of the area is necessary in the interest of the public health, safety, or welfare of the residents of the city, or county as applicable, and the area substantially meets the criteria of section 404.1.

Sec. 9. Section 404.2, subsection 2, paragraph h, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In the case of a county, the tax schedules used shall only be applicable to property of the type for which the revitalization area is zoned for at the time the county designates the area a revitalization area.

Sec. 10. Section 404.2, subsections 3 and 6, Code 1991, are amended to read as follows:

3. The city or county has scheduled a public hearing and notified all owners of record of real property located within the proposed area and the tenants living within the proposed area in accordance with section 362.3 or 331.305, as applicable. In addition to notice by publication, notification shall also be given by ordinary mail to the last known address of the owners of record. The city or county shall also send notice by ordinary mail addressed to the "occupants" of ~~city~~ addresses located within the proposed area, unless the city council or board of supervisors, by reason of lack of a reasonably current and complete address list, or for other good cause, shall have waived the notice. Notwithstanding section 362.3 or 331.305, as applicable, the notice shall be given by the thirtieth day prior to the public hearing.

6. The city or county has adopted the proposed or amended plan for the revitalization area after the requisite number of hearings. The city or county may subsequently amend this plan after a hearing. Notice of the hearing shall be published as provided in section 362.3 or 331.305, except that at least seven days' notice must be given and the public hearing shall not be held earlier than the next regularly scheduled city council or board of supervisors meeting following the published notice.

Sec. 11. Except as otherwise provided in this Act, sections 404.2 through 404.7, Code 1991, are amended by striking the word "city" and* where it appears in those sections and inserting in lieu thereof the words "city or county".

Approved May 28, 1991

*According to enrolled Act

CHAPTER 215**INCOME TAX WITHHOLDING, CREDITS, AND OTHER PROVISIONS***S.F. 83*

AN ACT relating to the updating of the references to the federal Internal Revenue Code, adopting revisions in the research activities credit and the earned income credit, and providing applicability and effective dates.

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

Section 1. Section 422.3, subsection 5, Code 1991, is amended to read as follows:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, ~~1990~~ 1991, whichever is applicable.

Sec. 2. Section 422.10, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, estate, or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1990~~ 1991.

Sec. 3. Section 422.12B, subsection 1, Code 1991, is amended to read as follows:

1. The taxes imposed under this division, less credits allowed under sections 422.10 through 422.12, shall be reduced by an earned income credit equal to six and one-half percent of the federal basic earned income credit received by the taxpayer under and the health insurance credit provided in section 32(b) of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable.

Sec. 4. Section 422.16, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this subsection, state income tax shall be withheld from pensions, annuities, other similar periodic payments, and other income payments of those persons whose primary residence is in Iowa in those circumstances in which those persons have federal income tax withheld from pensions, annuities, other similar periodic payments, and other income payments under sections 3402(o), 3402(p), 3402(s), 3405(a), and 3405(b) of the Internal Revenue Code at a rate to be specified by the department.

Sec. 5. Section 422.33, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research

activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1990~~ 1991.

Sec. 6. Sections 1, 2, and 5 of this Act are retroactive to January 1, 1990, for tax years beginning on or after that date.

Sec. 7. Section 3 of this Act is retroactive to January 1, 1991, for tax years beginning on or after that date.

Sec. 8. Section 4 of this Act takes effect January 1, 1992, for tax years beginning on or after that date.

Sec. 9. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1991

CHAPTER 216

FINANCIAL TRANSACTIONS — ELECTRONIC TRANSFERS — CREDIT CARD ISSUERS *S.F. 311*

AN ACT relating to the machines and access devices utilized to perform electronic transfer of funds, requiring registration of persons located outside of this state who issue credit cards, providing an examination fee, and providing a penalty.

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

Section 1. Section 527.2, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 18. "Electronic personal identifier" means a personal and confidential code or other security mechanism which has been designated by a financial institution issuing an access device to a customer to serve as a supplemental means of access to a customer's account that may be used by the customer in conjunction with an access device for the purpose of initiating a transaction by means of a satellite terminal.

NEW SUBSECTION. 19. "Limited-function terminal" means an on-line point-of-sale terminal or an off-line point-of-sale terminal which satisfies the requirements of section 527.4, subsection 3, paragraph "d", or a multiple use terminal, which is not operated in a manner to accept an electronic personal identifier, and which is not operated to distinguish between transactions which affect a customer asset account and transactions which do not affect a customer asset account. Except as otherwise provided, a limited-function terminal shall not be subject to the requirements imposed upon other satellite terminals pursuant to sections 527.4 and 527.5, subsections 1, 2, 3, 7, and 9.

NEW SUBSECTION. 20. "Customer asset account" or "account" means a demand deposit, share, checking, savings, or other customer account, other than an occasional or incidental credit balance in a credit plan, which represents a liability of the financial institution which maintains such account at a business location or office located in this state, either directly or indirectly for the benefit of a customer.

Sec. 2. Section 527.2, subsections 5, 10, and 14, Code 1991, are amended to read as follows:

5. "Financial institution" means and includes any bank incorporated under the provisions of ~~chapter 524~~ any state or federal law, any savings and loan association incorporated under the provisions of ~~chapter 534~~ any state or federal law, any credit union organized under the provisions of ~~chapter 533~~ any state or federal law, any corporation licensed as an industrial loan company under chapter 536A, and any affiliate of a bank, savings and loan association,

or credit union incorporated under federal law or the laws of a state other than Iowa which has an office located within this state, or industrial loan company.

10. "Satellite terminal" means and includes any machine or device located off the premises of a financial institution, and any machine or device located on the premises of a financial institution only if the machine or device is available for use by customers of other financial institutions, whether attended or unattended, by means of which the financial institution and its customers utilizing an access device may engage through either the immediate transmission of electronic impulses to or from the financial institution or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the financial institution, in transactions which are incidental to the conduct of the business of the financial institution affect a customer asset account and which otherwise are specifically permitted by applicable law. "Satellite terminal" also includes any machine or device located on the premises of a financial institution only if the machine or device is available for use by customers of other financial institutions. However, the term "satellite terminal" does not include any such machine or device, wherever located, if that machine or device is not generally accessible to persons other than employees of a financial institution or an affiliate of a financial institution.

14. "Access device" means a card, code, or other means of access to a customer's account mechanism, or any combination thereof, that may be used by the a customer for the purpose of initiating a transaction by means of a satellite terminal which will affect a customer asset account.

Sec. 3. Section 527.2, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. The machine or device is established and owned or operated by a person who primarily engages in a service, business or enterprise, including but not limited to the retail sale of goods or services, but who is not organized under the laws of this state or under federal law as a bank, savings and loan association, or credit union;

Sec. 4. Section 527.3, subsection 2, Code 1991, is amended to read as follows:

2. The administrator shall have the authority to examine any person who operates a multiple use terminal, limited-function terminal, or other satellite terminal, and any other device or facility with which such terminal is interconnected, as to any transaction by, with, or involving a financial institution which affects a customer asset account. Information obtained in the course of such an examination shall not be disclosed, except as provided by law.

Sec. 5. Section 527.3, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The authority of an administrator pursuant to section 527.5, subsection 2, paragraph "a", to approve access cards issued by a financial institution for use as an access device includes the requirement that a registration statement shall be filed with the administrator and be maintained on a current basis by each financial institution issuing access cards within the state. The registration statement shall be in writing on a form prescribed by the administrator, and contain the name and address of the registrant, a depiction of both sides of the access card, and any other information the administrator deems relevant relating to the access card and transactions utilizing the access card which affect a customer asset account.

NEW SUBSECTION. 7. A financial institution shall not be required to join, be a member or shareholder of, or otherwise participate in, any corporation, association, partnership, cooperative, or other enterprise as a condition of the financial institution's utilization of any satellite terminal located within this state.

Sec. 6. Section 527.4, subsection 3, paragraph d, Code 1991, is amended to read as follows:

d. At any retail sales location in this state off the premises of the financial institution if all of the following apply:

(1) The satellite terminal is not designed, configured, or operated to accept deposits or to dispense scrip or other negotiable instruments.

(2) The satellite terminal is not ~~designed, configured, or operated to dispense cash except when operated by the retailer as part of a retail sales a person other than the customer initiating the transaction.~~

(3) The satellite terminal is utilized for the purpose of making payment to the ~~retailer for provider of goods or services purchased or provided~~ at the location of the satellite terminal.

Sec. 7. Section 527.5, subsection 2, paragraph b, Code 1991, is amended by striking the paragraph.

Sec. 8. Section 527.5, subsection 6, Code 1991, is amended to read as follows:

6. The charges required to be paid by any financial institution which utilizes the satellite terminal for transactions involving an access device shall not exceed a pro rata portion of the costs, determined in accordance with generally accepted accounting principles, of establishing, operating and maintaining the satellite terminal, plus a reasonable return on these costs to the owner of the satellite terminal.

Sec. 9. Section 527.5, subsection 8, Code 1991, is amended to read as follows:

8. a. A satellite terminal in this state shall not be operated in a manner to permit a person to credit deposit funds into a demand deposit account, savings account, share account, or any other account representing a liability of a financial institution, if that the business location of the financial institution where the original records pertaining to the person's account are maintained is located outside of this state.

b. Paragraph "a" of this subsection does not apply to a corporation licensed under chapter 536A. A satellite terminal shall not be operated in any manner to permit a person to credit deposit funds into an account representing a liability of a corporation licensed under chapter 536A, if the business location of the corporation where the original records pertaining to the person's account are maintained is located outside of this state.

Sec. 10. Section 527.5, subsection 9, paragraph b, subparagraph (2), Code 1991, is amended to read as follows:

(2) The transaction does not affect a deposit customer asset account held by a financial institution.

Sec. 11. Section 527.5, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 11. Any person, as defined in section 4.1, subsection 13, establishing a limited-function terminal within this state, except for a multiple use terminal, which is utilized to initiate transactions affecting a customer asset account shall file with the administrator and shall maintain on a current basis a registration statement on a form prescribed by the administrator containing the name and address of the registrant, the location of the limited-function terminal, and any other information the administrator deems relevant. All limited-function terminals established in this state prior to July 1, 1991, shall be registered in a similar manner by the establishing person no later than July 1, 1992.

NEW SUBSECTION. 12. If at any time, a limited-function terminal is upgraded, altered, or modified to be operated in a manner to accept the use of an electronic personal identifier or to distinguish between transactions which affect customer asset accounts and transactions which do not affect customer asset accounts, all requirements of a satellite terminal in this chapter apply. A financial institution not eligible to establish satellite terminals within this state, which has established a limited-function terminal which is subsequently upgraded, altered, or modified as contemplated in this subsection, shall enter into an agreement with a financial institution which is authorized to establish a satellite terminal within this state to comply with the requirements of section 527.4 and this subsection.

NEW SUBSECTION. 13. Effective July 1, 1993, any transaction engaged in with a retailer through a satellite terminal located in this state by means of an access device which results in a debit to a customer asset account shall be cleared and paid at par to the retailer during the settlement of such transaction to the retailer. Processing fees and charges for such transactions to the retailer shall not be based on a percentage of the amount of the transaction. All

accounting documents reflecting such fees and charges shall separately identify transactions which have resulted in a debit to a customer asset account and the charges imposed. The provisions of this subsection shall apply to all satellite terminals, including limited-function terminals and multiple use terminals.

Sec. 12. Section 527.7, subsection 2, Code 1991, is amended to read as follows:

2. In any transaction where the total ~~account~~ amount involved is deducted from funds in a customer's account and is simultaneously paid either directly or indirectly by the financial institution to the account of a third party, any portion of the transaction amount which represents a sales or other tax imposed upon or included within the transaction and collected by that third party from the customer, or any portion of the transaction amount which represents interest paid to the third party by the customer.

Sec. 13. NEW SECTION. 527.8A EXEMPTIONS.

Transactions initiated at a satellite terminal which do not involve the use of an access device to directly or indirectly affect a customer asset account are not governed by this chapter.

Sec. 14. Section 527.9, subsection 2, paragraphs e and f, Code 1991, are amended to read as follows:

e. An agreement by the applicant that the proposed central routing unit will be capable of accepting and routing, and will be operated to accept and route, transmissions of data originating at any satellite terminal located in this state, except limited-function terminals, whether receiving from that terminal or from a data processing center or other central routing unit.

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. This representation and undertaking is not required of a central routing unit with respect to limited-function terminals.

Sec. 15. NEW SECTION. 536C.1 TITLE.

This chapter shall be known and may be cited as the "Lender Credit Card Act".

Sec. 16. NEW SECTION. 536C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the superintendent of banking, the superintendent of savings and loan associations or the superintendent's successor, or the superintendent of credit unions. However, the powers of administration and enforcement of this chapter are to be exercised pursuant to section 536C.14.

2. "Agreement" means agreement as defined in section 537.1301, subsection 3.

3. "Cardholder" means cardholder as defined in section 537.1301, subsection 7.

4. "Consumer credit transaction" means consumer credit transaction as defined in section 537.1301, subsection 11.

5. "Credit card" means a card or device issued by a financial institution under an arrangement pursuant to which a card issuer gives a cardholder the privilege of purchasing or leasing property, or purchasing services, obtaining loans, or otherwise obtaining credit from at least one hundred persons not related to the card issuer.

6. "Financial institution" means a bank incorporated under the provisions of any state or federal law, a savings and loan association incorporated under the provisions of any state or federal law, a credit union organized under the provisions of any state or federal law, and any affiliate of such bank, savings and loan association, or credit union.

7. "Person" means any individual, firm, corporation, partnership, joint venture, or association, and any other organization or group, however organized.

Sec. 17. NEW SECTION. 536C.3 EXEMPTIONS.

This chapter does not apply to a bank chartered under chapter 524 or a bank chartered under federal law which has its principal place of business located in this state, a savings and loan association chartered under chapter 534 or a savings and loan association chartered under federal law which has its principal place of business located in this state, a credit union chartered under chapter 533 or a credit union chartered under federal law which has its principal place of business located in this state, regulated loan companies licensed under chapter 536, or industrial loan companies licensed under chapter 536A.

Sec. 18. NEW SECTION. 536C.4 NOTIFICATION.

1. A person shall file a registration statement annually with the administrator before conducting the business of issuing credit cards in this state, and annually thereafter on or before January 31 of each year. The registration statement shall be in writing on a form prescribed by the administrator, and contain the name and address of the registrant, the name and address of a designated agent upon whom service of process may be made in this state, and any other information the administrator deems relevant.

2. At the time of filing a registration statement the person shall provide the administrator with a copy of the credit agreement and billing statement being used by the card issuer.

3. If information in a filing statement becomes inaccurate after filing, the person shall notify the administrator in writing of the changes within sixty days of such change.

Sec. 19. NEW SECTION. 536C.5 FEES.

A person required to file a registration statement pursuant to this chapter shall pay to the administrator an annual fee of fifty dollars. The fee shall be paid at the time the person files the registration statement.

Sec. 20. NEW SECTION. 536C.6 APPLICABILITY OF IOWA CONSUMER CREDIT CODE.

1. The terms and conditions of a credit card agreement shall conform to the provisions of chapter 537, the Iowa consumer credit code.

2. A provision of the Iowa consumer credit code applicable to credit cards regulated by this chapter supersedes a conflicting provision of this chapter.

3. A person who is in full compliance with the provisions of this chapter is considered a supervised financial organization under the Iowa consumer credit code for purposes of contracting for finance charges authorized for credit card issuers under section 537.2402.

Sec. 21. NEW SECTION. 536C.7 BOOKS AND RECORDS.

A person who issues credit cards shall keep such books, accounts, and records as will enable the administrator to determine whether or not the person is complying with the provisions of this chapter and chapter 537. The person shall not be required to preserve or keep their records or files for a longer period than three years following the date of the final payment.

Sec. 22. NEW SECTION. 536C.8 INVESTIGATIONS.

1. The administrator may investigate at any time the business of a credit card issuer subject to the provisions of this chapter. The administrator may examine the books, records, accounts, and files pertaining to the business of issuing credit cards subject to the provisions of this chapter.

2. The administrator may accept a copy of an examination conducted by a state or federal regulator in lieu of an investigation or examination by the administrator.

3. If an investigation or examination is performed by the administrator under this section, the credit card issuer shall pay to the administrator a fee based on the actual cost of such investigation or examination as determined by the administrator.

4. Upon completion of an investigation or examination by the administrator, the examiner shall render a billing in triplicate, with one copy to be delivered to the credit card issuer and two copies to be delivered to the administrator. Failure to pay the fee to the administrator

within thirty days after the billing for the investigation of examination is delivered shall subject the credit card issuer to an additional fee of five percent of the amount of the original fee for each day the payment is delinquent.

Sec. 23. NEW SECTION. 536C.9 CEASE AND DESIST ORDERS.

1. If the administrator has reasonable cause to believe a person who issues credit cards is violating any provision of this chapter, or rules adopted pursuant to this chapter, the administrator may enter a written order requiring the person to cease, desist, and refrain from an act constituting a violation. A copy of the order shall be sent to the person by certified mail. The person may file with the administrator a written notice of appeal within fifteen days of receipt of the order. The person may also request that the order be stayed pending resolution of the appeal. The appellant shall be entitled to prompt consideration of the request to stay the order.

2. Within thirty days after receipt of a notice of appeal the administrator shall hold a hearing to consider the appeal. The appellant shall be informed regarding the time and place of the hearing not later than ten days prior to the hearing. The administrator's decision shall be provided, in writing, to the appellant within thirty days of the completion of the hearing.

Sec. 24. NEW SECTION. 536C.10 INJUNCTIONS.

The administrator may commence an action in the district court to restrain and enjoin any person from violating this chapter, or to restrain and enjoin any person from engaging in the business of issuing credit cards without filing a registration statement as required by this chapter.

Sec. 25. NEW SECTION. 536C.11 WAIVER UNENFORCEABLE.

A waiver of the provisions of this chapter or chapter 537 is not valid.

Sec. 26. NEW SECTION. 536C.12 PENALTY.

If an officer, director, or agent of a corporation engaged in the business of issuing credit cards violates any of the provisions of this chapter which are not also violations of the Iowa consumer credit code; or if a person individually or as a partner, or officer, director, or agent of a corporation engages in the business of issuing credit cards without filing the registration statement required by section 536C.4, the person is guilty of a serious misdemeanor. Violations of this chapter which are also violations of the Iowa consumer credit code shall be subject to the penalties provided in the Iowa consumer credit code.

Sec. 27. NEW SECTION. 536C.13 RULES.

The administrator may adopt such rules pursuant to chapter 17A, as may be necessary for the enforcement and administration of this chapter.

Sec. 28. NEW SECTION. 536C.14 ENFORCEMENT.

1. The superintendent of banking shall enforce the provisions of this chapter with respect to banks not exempt from the provisions of this chapter under section 536C.3.

2. The superintendent of credit unions shall enforce the provisions of this chapter with respect to credit unions not exempt from the provisions of this chapter under section 536C.3.

3. The superintendent of savings and loan associations or the superintendent's successor shall enforce the provisions of this chapter with respect to savings and loan associations not exempt from the provisions of this chapter under section 536C.3.

Approved May 29, 1991

CHAPTER 217**FRANCHISE TAX ON FINANCIAL INSTITUTIONS***S.F. 350*

AN ACT relating to the franchise tax on financial institutions and providing an effective date.

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

Section 1. Section 422.61, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Net income" means the net income of the financial institution computed in accordance with section 422.35, with the following adjustments:

a. Federal income taxes paid or accrued shall not be subtracted.

b. Notwithstanding sections 262.41 and 262.51, or any other provisions of law, income from obligations of the state and its political subdivisions and franchise taxes paid or accrued under this division during the taxable year shall be added.

c. Interest and dividends from federal securities shall not be subtracted.

d. Interest and dividends derived from obligations of United States possessions, agencies, and instrumentalities, including bonds which were purchased after January 1, 1991, and issued by the governments of Puerto Rico, Guam, and the Virgin Islands shall be added, to the extent they were not included in computing federal taxable income.

e. A deduction disallowed under section 265(b) or section 291(e)(1)(B) of the Internal Revenue Code shall be subtracted.

Sec. 2. This Act applies to interest received on or after July 1, 1991.

Approved May 29, 1991

CHAPTER 218**DOMESTIC ABUSE AND RELATED PROVISIONS***S.F. 444*

AN ACT relating to law enforcement, victim services, and domestic abuse, establishing certain training requirements, establishing and increasing certain criminal penalties, imposing mandatory minimum sentences, establishing an income tax checkoff for domestic abuse, increasing certain court costs and fees, requiring batterers' treatment by offenders, and containing effective date and applicability provisions.

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

Section 1. **NEW SECTION. 13.11 INVESTIGATIONS OF LAW ENFORCEMENT OFFICERS INVOLVED IN PUBLIC OFFENSES.**

The attorney general shall conduct investigations of law enforcement officers who have been convicted or received a deferred judgment for an indictable misdemeanor in a domestic abuse assault case, and shall make recommendations to the Iowa law enforcement academy as to whether an officer's certification should be revoked under the criteria established by the academy.

Sec. 2. Section 80B.11, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Minimum entrance requirements, course of study, attendance requirements, and equipment and facilities required at approved law enforcement training schools. Minimum age

requirements for entrance to approved law enforcement training schools shall be eighteen years of age. Minimum course of study requirements shall include a separate domestic abuse curriculum, which may include, but is not limited to, outside speakers from domestic abuse shelters and crime victim assistance organizations.

2. Minimum basic training requirements law enforcement officers employed after July 1, 1968, must complete in order to remain eligible for continued employment and the time within which such basic training must be completed. Minimum requirements shall mandate training devoted to the topic of domestic abuse.

Sec. 3. Section 135B.6, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules requiring hospitals to establish and implement protocols for responding to the needs of patients who are victims of domestic abuse, as defined in section 236.2.

Sec. 4. Section 236.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 4A. "Pro se" means a person proceeding on the person's own behalf without legal representation.

Sec. 5. Section 236.3, subsection 1, Code 1991, is amended to read as follows:

1. Name of the plaintiff and the name and address of the plaintiff's attorney, if any. If the plaintiff is proceeding pro se, the petition shall state a mailing address for the plaintiff.

Sec. 6. NEW SECTION. 236.3A PLAINTIFFS PROCEEDING PRO SE – PROVISION OF FORMS AND ASSISTANCE.

1. The department shall prescribe standard forms to be used by plaintiffs seeking protective orders by proceeding pro se in actions under this chapter. The standard forms shall include language in fourteen-point boldface type, with a box which may be checked by the plaintiff, indicating that the plaintiff wishes to proceed by filing an affidavit pursuant to section 236.3, because the plaintiff does not have sufficient funds to pay the cost of filing and service. Standard forms prescribed by the department shall be the exclusive forms used by plaintiffs proceeding pro se, and may be used by other plaintiffs. The department shall distribute the forms to the clerks of the district courts.

2. The clerk of the district court shall furnish the required forms to persons seeking protective orders through pro se proceedings pursuant to this chapter.

Sec. 7. Section 236.5, subsection 2, paragraph d, Code 1991, is amended to read as follows:

d. The awarding of temporary custody of or establishing temporary visitation rights with regard to children under eighteen. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also investigate whether any other existing orders awarding custody or visitation rights should be modified.

Sec. 8. Section 236.5, subsection 4, Code 1991, 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 the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the law enforcement agencies county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and agencies the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff by telephone or otherwise within six hours of filing the order, approved consent agreement, amendment, or revocation. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour

dispatcher for the law enforcement agencies upon notification by the clerk. The clerk shall send or deliver a written copy of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.

Sec. 9. Section 236.8, Code 1991, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order or 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. Any jail sentence imposed under this section shall be served on consecutive days.

Sec. 10. Section 236.11, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A peace officer shall use every reasonable means to enforce an order or court-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 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 reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated 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 a peace officer has probable cause to believe that a person has violated 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, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

Sec. 11. Section 236.12, subsection 1, paragraph c, Code 1991, is amended by adding the following new unnumbered paragraph after subparagraph (4):

NEW UNNUMBERED PARAGRAPH. You have the right to seek help from the court to seek a protective order with or without the assistance of legal representation. You have the right to seek help from the courts without the payment of court costs if you do not have sufficient funds to pay the costs.

Sec. 12. Section 236.14, subsection 2, unnumbered paragraphs 3 and 4, Code 1991, are amended to read as follows:

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. The clerk of the district court shall also provide oral or other notice and copies of the no-contact order

to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications or vacations of these orders in the same manner.

Violation of this no-contact order is punishable by summary contempt proceedings. If held in contempt for violation of a no-contact order, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this paragraph shall be served on consecutive days.

Sec. 13. Section 236.15, Code 1991, is amended to read as follows:

236.15 APPLICATION FOR DESIGNATION AND FUNDING AS A PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE.

Upon receipt of state or federal funding designated for victims of domestic abuse by the department, a public or private nonprofit organization may apply to the department for designation and funding as a provider of emergency shelter services and support services to victims of domestic abuse or sexual assault. The application shall be submitted on a form prescribed by the department and shall include, but not be limited to, information regarding services to be provided, budget, and security measures.

Sec. 14. NEW SECTION. 236.15A INCOME TAX CHECKOFF FOR DOMESTIC ABUSE SERVICES.

A person who files an individual or a joint income tax return with the department of revenue and finance under section 422.13 may designate any amount to be paid to the general fund of the state and used for the purposes of providing emergency shelter services, support services, and other services to victims of domestic abuse or sexual assault. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to be used for the purposes of providing services to victims of domestic abuse or sexual assault, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return.

It is the intent of the general assembly that the funds generated from the checkoff be appropriated and used for the purposes of providing services to victims of domestic abuse or sexual assault.

The director of revenue and finance shall draft the income tax form to allow the designation of contributions to be used for the purposes of providing services to victims of domestic abuse or sexual assault on the tax return.

The department of revenue and finance on or before January 31 of the year following the preceding calendar year shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the treasurer of state.

The department of revenue and finance shall consult the crime victim assistance board concerning the adoption of rules to implement this section. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 15. Section 236.16, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. Designate and award moneys for publicizing and staffing a statewide, toll-free telephone hotline for use by victims of domestic abuse. The department may award a grant to a public agency or a private, nonprofit organization for the purpose of operating the hotline. The operation of the hotline shall include informing victims of their rights and of various community services that are available, referring victims to service providers, receiving complaints concerning misconduct by peace officers and encouraging victims to refer such complaints to the office of citizens' aide, providing counseling services to victims over the telephone, and providing domestic abuse victim advocacy.

NEW PARAGRAPH. d. Advertise the toll-free telephone hotline through the use of public service announcements, billboards, print and broadcast media services, and other appropriate means, and contact media organizations to encourage the provision of free or inexpensive advertising concerning the hotline and its services.

NEW PARAGRAPH. e. Develop, with the assistance of the entity operating the telephone hotline and other domestic abuse victim services providers, brochures explaining the rights of victims set forth under section 236.12 and the services of the telephone hotline, and distribute the brochures to law enforcement agencies, victim service providers, health practitioners, charitable and religious organizations, and other entities that may have contact with victims of domestic abuse.

Sec. 16. NEW SECTION. 236.17 DOMESTIC ABUSE TRAINING.

The department, in cooperation with victim service providers, may work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of domestic abuse prevention and services. Domestic abuse training may include, but is not limited to, the following areas:

1. The enforcement of both civil and criminal remedies in domestic abuse matters.
2. The nature, extent, and causes of domestic abuse.
3. The legal rights and remedies available to domestic abuse victims, including crime victim compensation.
4. Services available to domestic abuse victims and their children, including the domestic abuse telephone hotline.
5. The mandatory arrest provisions of section 236.12, and other duties of peace officers pursuant to this chapter.
6. Techniques for intervention in domestic abuse cases.

Sec. 17. NEW SECTION. 236.18 REFERENCE TO CERTAIN CRIMINAL PROVISIONS.

In addition to the criminal penalties contained in this chapter, certain criminal penalties and provisions pertaining to domestic abuse assaults are set forth in sections 708.2A and 708.2B.

Sec. 18. Section 246.108, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. p. Adopt rules subject to the approval of the board, requiring the establishment and implementation of batterers' support groups in all of the institutions under the jurisdiction of the department.

NEW PARAGRAPH. q. Adopt rules subject to the approval of the board, requiring special training for employees of the Iowa correctional institution for women who serve as counselors to female inmates who are victims of domestic abuse or sexual assault. The rules shall require that these employees receive training concerning the needs of female inmates. The rules shall mandate that the training include, but is not limited to, problems associated with battered spouse syndrome. As used in this paragraph, "battered spouse syndrome" means the psychological condition of a victim of repeated physical and psychological abuse by a spouse, former spouse, cohabitant, or former cohabitant, which is also recognized in the medical and scientific community as the "battered women's syndrome." The rules shall require new employees to receive the training during the employees' initial orientation to the institution.

Sec. 19. Section 279.50, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Each school board shall provide instruction in human growth and development including instruction regarding human sexuality, self-esteem, stress management, interpersonal relationships, domestic abuse, and acquired immune deficiency syndrome as required in section 256.11, in grades one through twelve. Each school board shall annually provide to a parent or guardian of any pupil enrolled in the school district, information about the human growth and development curriculum used in the pupil's grade level and the procedure for inspecting the instructional materials prior to their use in the classroom. A pupil shall not be required

to take instruction in human growth and development if the pupil's parent or guardian files with the appropriate principal a written request that the pupil be excused from the instruction. Notification that the written request may be made shall be included in the information provided by the school district.

Sec. 20. NEW SECTION. 598.42 NOTICE OF CERTAIN ORDERS BY CLERK OF COURT.

The clerk of the district court shall provide oral or other notice and copies of temporary or permanent protective orders and orders to vacate the homestead entered pursuant to this chapter to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications or vacations of these orders in the same manner.

Sec. 21. Section 602.8105, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. For filing and docketing a petition other than for modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of the modification, or an appeal or writ of error, ~~forty-five~~ fifty dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and forty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 22. Section 602.8105, subsection 1, paragraph l, Code 1991, is amended to read as follows:

l. In criminal cases, the same fees for the same services as in civil cases, and an additional five dollar fee to be remitted to the treasurer of state by the clerk of the district court for deposit in the general fund of the state, 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 actions or appeals from the judgments in those actions are waived.

Sec. 23. Section 602.8105, subsection 1, paragraph m, Code 1991, is amended to read as follows:

m. For filing an application for a license to marry, ~~fifteen~~ thirty dollars. The clerk of the district court shall remit to the treasurer of state ~~five~~ twenty dollars for each marriage license application filed. The treasurer of state shall deposit the funds received in the general fund of the state. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars. The court shall authorize the issuance of a marriage license without the payment of any fees imposed by this paragraph upon a showing that the applicant is unable to pay the fees.

Sec. 24. Section 602.8105, subsection 1, paragraph n, Code 1991, is amended to read as follows:

n. For entering a final decree of dissolution of marriage, ~~fifteen~~ thirty dollars. The fees shall be deposited in the general fund of the state. It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

Sec. 25. Section 602.8106, subsection 1, Code 1991, is amended to read as follows:

1. Notwithstanding section 602.8105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor is ~~twenty~~ twenty-five dollars except that the filing and docketing of a complaint or information for a nonscheduled simple misdemeanor under chapter 321 is ~~fifteen~~ twenty dollars. The fee for filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361 is one dollar, effective January 1, 1991. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint are eight dollars per information or complaint or per uniform citation and complaint, effective January 1, 1991.

Sec. 26. Section 631.6, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The clerk shall collect an additional fee of five dollars upon docketing a small claims action, and shall remit the fee to the treasurer of state for deposit in the general fund.

Sec. 27. Section 708.2A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

708.2A DOMESTIC ABUSE ASSAULT — MANDATORY MINIMUMS, PENALTIES ENHANCED.

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault is committed without the intent to inflict a serious injury upon another, and the assault causes bodily injury or disabling mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

3. Except as otherwise provided in subsection 2, on a second or subsequent domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or 708.2A, which were issued on domestic abuse assaults, and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the offense charged shall be considered and counted as a separate previous offense. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

4. A person convicted of violating this section shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3.

5. The clerk of the district court shall provide oral or other notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications of the judgment in the same manner.

6. In addition to the mandatory minimum term of confinement imposed by this section, the court may order the defendant to participate in a batterers' treatment program as required under section 708.2B. However, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 28. NEW SECTION. 708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

As used in this section, "district department" means a judicial district department of correctional services, established pursuant to section 905.2. A person convicted of, or receiving a deferred judgment for, domestic abuse assault shall report to the district department in order to participate in a batterers' treatment program for domestic abuse offenders, if ordered to do so by the court pursuant to section 708.2A. Participation in the batterers' treatment program shall not require a person to be placed on probation, but a person on probation may participate in the program. The district departments may contract for services in completing the duties relating to the batterers' treatment programs. The district departments shall assess the fees for participation in the program, and shall either collect or contract for the collection of the fees to recoup the costs of treatment, but may waive the fee or collect a lesser amount upon a showing of cause. The fees shall be used by each of the district departments or contract service providers for the establishment, administration, coordination, and provision of direct services of the batterers' treatment programs.

Sec. 29. Section 905.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Administer the batterers' treatment program for domestic abuse offenders required in section 708.2B.

Sec. 30. Section 907.3, subsection 3, Code 1991, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A.

Sec. 31. Section 910A.11, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A temporary restraining order may be issued under this subsection without written or oral notice to the adverse party or the party's attorney in a civil action under this section or in a criminal case if the court finds, upon written certification of facts, that the notice should not be required and that there is a reasonable probability that the party will prevail on the merits. The temporary restraining order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the act or acts being restrained.

Sec. 32. Section 910A.11, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Violation of a restraining or protective order issued under this section constitutes contempt of court, and may be punished by contempt proceedings.

NEW SUBSECTION. 4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

NEW SUBSECTION. 5. The clerk of court shall provide oral or other notice and copies of restraining orders issued pursuant to this section in a criminal case involving an alleged violation of section 708.2A to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide oral or other notice and copies of modifications or vacations of these orders in the same manner.

Sec. 33. **RESTITUTION PLAN.** The department of justice shall develop a plan for the enforcement and collection of victim restitution required under chapter 910, and shall submit a report detailing the plan to the general assembly by January 1, 1992.

Sec. 34. **RETROACTIVE APPLICABILITY PROVISION.** Section 14 of this Act is retroactively applicable to January 1, 1991, for tax years beginning on or after that date.

Sec. 35. **IMPLEMENTATION OF SPECIAL TRAINING AT MITCHELLVILLE — APPLICABILITY PROVISIONS — EXISTING EMPLOYEES.** Persons employed at the Iowa correctional institution for women prior to July 1, 1991, who serve as counselors to female inmates who are victims of domestic abuse or sexual assault, shall receive the training required for new employees pursuant to the changes creating a new paragraph "q" to section 246.108, subsection 1, of section 18 of this Act, prior to January 1, 1992.

Sec. 36. **IMPLEMENTATION AND EFFECTIVE DATE OF BATTERERS' TREATMENT PROGRAMS.**

1. The portion of section 27 of this Act which enacts new subsection 6 of section 708.2A takes effect on January 1, 1992, in order to permit the judicial district departments of correctional services to establish batterers' treatment programs. The district departments shall establish at least one program in each district by January 1, 1992, and shall establish programs throughout the district so that the programs are readily accessible to offenders by January 1, 1993.

2. From July 1, 1991, through December 31, 1992, the court may order a defendant who is convicted of, or who receives a deferred judgment for, a violation of section 708.2A to participate in a batterers' treatment program through other treatment or counseling services, until the programs are established by the judicial district departments of correctional services, to the extent that the court has the authority under existing sentencing procedures. The court shall order the defendant to pay for the treatment, unless just cause is demonstrated for waiving the fee.

3. Notwithstanding any other provision of this Act to the contrary, the portion of section 27 of this Act which enacts new subsection 6 of section 708.2A, and sections 28, 29, and subsections 1 and 2 of this section of this Act shall only take effect upon enactment of a provision by the Seventy-fourth General Assembly during the 1991 regular session specifically appropriating funds for the particular purposes expressed in those sections.

Sec. 37. **EFFECTIVENESS CONTINGENT UPON SEPARATE FUNDING.** Sections 18 and 35 of this Act take effect upon enactment of a provision by the Seventy-fourth General Assembly during the 1991 regular session specifically appropriating funds for the particular purposes expressed in those sections.

Approved May 29, 1991

CHAPTER 219**CORRECTIONS***S.F. 496*

AN ACT relating to persons convicted of public offenses, relating to the department of corrections and its programs and facilities, relating to treatment, prevention, prosecution, and sentencing concerning domestic abuse cases, and establishing additional public offenses and criminal penalties.

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

Section 1. Section 80B.11, subsection 2, Code 1991, as amended by 1991 Iowa Acts, Senate File 444,* section 2, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

2. Minimum basic training requirements law enforcement officers employed after July 1, 1968, must complete in order to remain eligible for continued employment and the time within which such basic training must be completed. Minimum requirements shall mandate training devoted to the topic of domestic abuse. The council shall submit an annual report to the general assembly by January 15 of each year relating to the continuing education requirements devoted to the topic of domestic abuse, including the number of hours required, the substance of the classes offered, and other related matters.

Sec. 2. Section 229.14, subsection 4, Code 1991, is amended to read as follows:

4. The respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further treatment in a hospital. If the report so states, the chief medical officer shall recommend an alternative placement for the respondent and the court shall enter an order which may direct the respondent's transfer to the recommended placement. A respondent who is an inmate in the custody of the department of corrections may, as a court-ordered alternative placement, receive mental health services in a correctional program. If the court or the respondent's attorney consider the placement inappropriate, an alternative placement may be arranged upon consultation with the chief medical officer and approval of the court.

Sec. 3. Section 236.5, subsection 4, Code 1991, as amended by 1991 Iowa Acts, Senate File 444,* section 8, if enacted by the 1991 Session of the Seventy-fourth General Assembly, 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 the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff by telephone or otherwise in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk. The clerk shall send or deliver a written copy of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.

Sec. 4. Section 236.14, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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 of the alleged victim, persons residing with the alleged victim, or

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members of the alleged victim's immediate family, the magistrate shall enter an order which shall require the alleged abuser to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's relatives immediate family, in addition to any other conditions of release determined and imposed by the magistrate under section 811.2. A no-contact order requiring the alleged abuser to have no contact with the alleged victim's children shall prevail over any existing order awarding custody or visitation rights, which may be in conflict with the no-contact order.

Sec. 5. Section 246.108, subsection 1, paragraph p, Code 1991, as enacted by 1991 Iowa Acts, Senate File 444,* section 18, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

p. Adopt rules subject to the approval of the board, requiring the establishment and implementation of batterers' support groups programs in all of the institutions under the jurisdiction of the department.

Sec. 6. Section 246.206, subsection 1, Code 1991, is amended to read as follows:

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

Sec. 7. NEW SECTION. 246.207 VIOLATOR FACILITY.

The director shall establish a violator facility as a freestanding facility, or designate a portion of an existing correctional facility, for the purpose. A violator facility is for the confinement of offenders, for no longer than sixty days, who have violated conditions of release under work release, parole, or probation, or who are sentenced to the custody of the director for assignment to a treatment facility under section 246.513. The director shall adopt rules pursuant to chapter 17A, subject to the approval of the board, to implement this section.

Sec. 8. Section 246.508, Code 1991, is amended to read as follows:

246.508 PROPERTY OF INMATE — INMATE SAVINGS FUND.

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

2. The director shall establish and maintain an inmate savings fund in an interest-bearing account for the deposit of all or part of an inmate's allowances, as provided in section 246.702. All or part of an inmate's allowances shall be deposited into the savings fund, until the inmate's deposit is equal to the amount due the inmate upon discharge, parole, or placement on work release, as provided in section 906.9. If an inmate's deposits equal this amount, the inmate may voluntarily withdraw from the savings fund. The director shall notify the inmate of this right to withdraw and shall provide the inmate with a written request form to facilitate the withdrawal. If the inmate withdraws and the inmate's deposits exceed the amount due as provided in section 906.9, the director shall disburse the excess amount as provided for allowances under section 246.702, except the director shall not deposit the excess amount in the inmate savings fund. If the inmate chooses to continue to participate in the savings fund, the inmate's deposits shall be returned to the inmate upon discharge, parole, or placement

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on work release. Otherwise, the inmate's deposits shall be disposed of as provided in subsection 3. An inmate's deposits into the savings fund may be used to provide the money due the inmate upon discharge, parole, or placement on work release, as required under section 906.9. Interest earned from the savings fund shall be placed in a separate account, and may be used for purchases approved by the director to directly and collectively benefit inmates.

3. Upon the death of an inmate, the superintendent of the institution shall immediately take possession of the decedent's property left at the institution, including the inmate's deposits into the inmate savings fund, and shall deliver the property to the person designated by the inmate to be contacted in case of an emergency. However, if the property left by the decedent cannot be delivered to the designated person, delivery may be made to the surviving spouse or an heir of the decedent. If the decedent's property cannot be delivered to the designated person and no surviving spouse or heir is known, the superintendent shall deliver the property to the treasurer of state for disposition as unclaimed property pursuant to chapter 556, after deducting expenses incurred in disposing of the decedent's body or property.

Sec. 9. Section 246.513, Code 1991, is amended to read as follows:

246.513 ASSIGNMENT OF OWI VIOLATORS TO TREATMENT FACILITIES.

1. a. The department of corrections in cooperation with judicial district departments of correctional services shall establish in each judicial district ~~bed space~~ a continuum of programming, including residential facilities and institutions, for the confinement supervision and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The department of corrections shall develop standardized assessment criteria for the assignment of offenders to a facility established pursuant to this section chapter. The offender shall be assigned by the director to a facility pursuant to section 321J.2, subsection 2, paragraph "b" or "c", unless initial medical treatment is necessary or there is insufficient space to accommodate the person. The offenders shall be assigned to the Iowa medical classification facility at Oakdale for classification if medical treatment is necessary or if the offender fails to satisfactorily perform in a treatment program conducted in a residential facility operated by a judicial district department of correctional services. The offender shall be assigned to an institution following classification. The facilities established shall meet all the following requirements:

a. (1) Is a treatment facility meeting the licensure standards of the division of substance abuse of the department of public health.

b. (2) Is a facility meeting applicable standards of the American corrections association.

c. (3) Is a facility which meets any other rule or requirement adopted by the department pursuant to chapter 17A.

b. Except as otherwise provided in this section, the offender shall be assigned to a community-based correctional program. If medical treatment is necessary, the offender may be assigned to the Iowa medical and classification center at Oakdale for treatment and assignment, until the offender's health status permits placement in a community-based correctional program.

c. If there is insufficient space in a community-based correctional program to accommodate the offender, the court may order the offender to be released on personal recognizance or bond, released to the supervision of the judicial district department of correctional services, or held in jail. If the offender is ordered to the supervision of a judicial district department of correctional services, the district director may request, and the director of the department may approve, the transfer of the offender to the Iowa medical and classification center at Oakdale for classification and assignment, until space is available in a community-based correctional program.

d. If an offender fails to satisfactorily perform in a program conducted by a community-based correctional program, the offender shall be transferred to the Iowa medical and classification facility at Oakdale for classification and assignment.

e. A program established under this section shall operate in accordance with the rules and requirements adopted by the department pursuant to chapter 17A.

2. The assignment of an offender pursuant to subsection 1 shall be for purposes of risk management, substance abuse treatment, and education, and may include work programs for

the offender at times when the offender is not participating in substance abuse treatment or education other program components.

3. ~~Offenders assigned to a facility pursuant to this section shall not be included in calculations used to determine the existence of a prison overcrowding state of emergency.~~

4.3. 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. A county holding offenders ordered to jail pursuant to subsection 1 due to insufficient space in a community-based correctional program shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director.

5.4. ~~The director department shall prepare proposed administrative adopt rules for the consideration of the administrative rules review committee for the funding of the program by means of self-contribution by the offenders, insurance reimbursement on behalf of offenders, or other forms of funding, program structure, criteria for the evaluation of facilities and offenders for participation in the programs, and all other issues the director shall deem appropriate. Proposed rules prepared pursuant to this subsection shall be submitted to the administrative rules review committee on or before September 15, 1986.~~

Sec. 10. Section 246.702, Code 1991, is amended to read as follows:

246.702 DEDUCTION TO PAY COURT COSTS, INDUSTRIES PROGRAM COSTS, INCARCERATION COSTS, OR DEPENDENTS — DEPOSITS — SAVINGS FUND.

If allowances are paid pursuant to section 246.701, the director may deduct an amount established by the inmate's restitution plan of payment or an amount sufficient to pay all or part of the court costs taxed as a result of the inmate's commitment. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund established in section 246.508. However, if the inmate's deposit in the inmate savings fund is sufficient to pay the amount due the inmate upon discharge, parole, or placement on work release pursuant to section 906.9, and the inmate has voluntarily withdrawn from the savings fund, the director shall not make further deposits from the inmate's allowances into the savings fund unless the inmate chooses to participate in the savings fund. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 246.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 11. Section 246.901, Code 1991, is amended to read as follows:

246.901 WORK RELEASE 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. This work release program is in addition to the institutional work release program established in section 246.910.

Sec. 12. Section 246.909, Code 1991, is amended to read as follows:

246.909 WORK RELEASE AND OWI VIOLATORS — REIMBURSEMENT TO THE DEPARTMENT OF CORRECTIONS FOR TRANSPORTATION COSTS.

The department of corrections shall arrange for the return of a work release client or offender convicted of violating chapter 321J who escapes or participates in an act of absconding from the facility to which the client is assigned. The client or offender shall reimburse the department of corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the billing occurred. The director of the department of corrections shall recommend rules pursuant to chapter 17A, subject to approval by the board of corrections pursuant to section 246.105, subsection 7, to implement this section.

Sec. 13. NEW SECTION. 246.910 INSTITUTIONAL WORK RELEASE PROGRAM.

1. In addition to the work release program established in section 246.901, the department of corrections shall establish an institutional work release program for each institution. The program shall provide that the department may grant inmates sentenced to an institution under its jurisdiction 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 or 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.

2. A committee shall be established by the department for the work release program at each institution to review applications for participation in the program.

3. An inmate who is eligible to participate in the work release program may apply to the superintendent of the institution for permission to participate in the program. The application shall include a statement that, if the application is approved, the inmate agrees to abide by all terms and conditions of the inmate's work release plan adopted by the committee. In addition, the application shall state the name and address of the proposed employer, if any, and shall contain other information as required by the committee. The committee may approve, disapprove, or defer action on the application. If the application is approved, the committee shall adopt an institutional work release plan for the applicant. The plan shall contain the elements required by this section and other conditions as the committee deems necessary and proper. The plan shall be signed by the inmate prior to participation in the program. Approval of a plan may be revoked at any time by the superintendent or the committee.

4. The department may contract with a judicial district department of correctional services for the housing and supervision of an inmate in local facilities as provided in section 246.904. The institutional work release plan shall indicate the place where the inmate is to be housed when not on work assignment. The plan shall not allow for placement of an inmate on work release for more than six months in any twelve-month period without unanimous committee approval to do so. However, an inmate may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic, and recreational activities when the committee determines that the participation will directly facilitate the release of the inmate from the institution to the community. The department shall provide a copy of the work release plan and a copy of any restitution plan of payment to the judicial district department of correctional services housing and supervising the inmate.

5. An inmate employed in the community under an institutional work release plan approved pursuant to this section shall surrender the inmate's total earnings less payroll deductions required by law to the superintendent, or to the judicial district department of correctional services if it is housing or supervising the inmate. The superintendent or the judicial district

department of correctional services shall deduct from the earnings in the priority established in section 246.905.

6. The department of corrections shall adopt rules for the implementation of this section.

Sec. 14. Section 321.1, subsection 43, unnumbered paragraph 3, Code 1991, is amended to read as follows:

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

Sec. 15. Section 602.8105, subsection 1, paragraph m, Code 1991, as amended by 1991 Iowa Acts, Senate File 444,* section 23, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

m. For filing an application for a license to marry, thirty dollars. ~~The clerk of the district court shall remit to the treasurer of state twenty dollars for each marriage license application filed. The treasurer of state shall deposit the funds received in the general fund of the state.~~ For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars. The court shall authorize the issuance of a marriage license without the payment of any fees imposed by this paragraph upon a showing that the applicant is unable to pay the fees.

Sec. 16. Section 602.8105, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph after paragraph u:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of law to the contrary, including but not limited to the other provisions of this section, five dollars of the fees imposed pursuant to paragraph "a", the five dollar additional fee imposed pursuant to paragraph "l", and fifteen dollars of the fees imposed pursuant to paragraphs "m" and "n" shall be remitted to the treasurer of state for deposit into the general fund of the state, and shall not be deposited in the court revenue distribution account, and shall not be deposited in the judicial retirement fund.

Sec. 17. Section 602.8106, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding any other provision of law to the contrary, including but not limited to the other provisions of this section, five dollars of the fee for filing and docketing of a complaint or information for a simple misdemeanor and five dollars of the fee for filing and docketing of a complaint or information for a nonscheduled simple misdemeanor imposed pursuant to subsection 1 shall be remitted to the treasurer of state for deposit into the general fund of the state, and shall not be deposited in the court revenue distribution account, and shall not be deposited in the judicial retirement fund.

Sec. 18. Section 663A.5, Code 1991, is amended to read as follows:

663A.5 PAYMENT OF COSTS.

1. If the applicant is unable to pay court costs and expenses of legal representation, including stenographic, printing, and or other legal services or consultation, these costs and expenses shall be made available to the applicant in the preparation of the application, in the trial court, and on review. However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate.

2. If an applicant confined in a state institution seeks relief under section 663A.2, subsection 6, and the court finds in favor of the applicant, or the postconviction proceedings fail when relief is denied and costs and expenses referred to in unnumbered paragraph subsection 1 cannot be collected from the applicant, these costs and expenses initially shall be paid by the county in which the state institution is located application was filed. The facts of payment and the proceedings on which it is based, with a statement of the amount of costs and expenses incurred, shall be submitted to the county in a timely manner with approval in writing by the presiding

*Chapter 218 herein

or district judge appended to the statement or endorsed on it, and shall be certified by the clerk of the district court under seal to the state executive council. The executive council shall review the proceedings and authorize reimbursement for the costs and expenses or for that part which the executive council finds justified, and shall notify the director of revenue and finance to draw a warrant to the county treasurer on the state general fund for the amount authorized.

Sec. 19. Section 708.2A, subsection 4, Code 1991, as amended by 1991 Iowa Acts, Senate File 444,* section 27, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

4. A person convicted of violating this section shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

Sec. 20. Section 708.2A, subsection 6, Code 1991, as amended by 1991 Iowa Acts, Senate File 444,* section 27, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

6. In addition to the mandatory minimum term of confinement imposed by this section, the court ~~may~~ shall order the defendant to participate in a batterers' treatment program as required under section 708.2B. ~~However~~ In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 21. NEW SECTION. 709.15 SEXUAL MISCONDUCT WITH OFFENDERS.

An officer, employee, contractor, vendor, volunteer, or agent of the department of corrections, or an officer, employee, or agent of a judicial district department of correctional services, who engages in a sex act with an individual committed to the custody of the department of corrections or a judicial district department of correctional services commits an aggravated misdemeanor.

Sec. 22. Section 719.1, Code 1991, is amended to read as follows:

719.1 INTERFERENCE WITH OFFICIAL ACTS.

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. However, if a person commits an interference with official acts, as defined in this ~~section~~ subsection, and in so doing inflicts bodily injury other than serious injury, that person commits a serious misdemeanor. If a person commits an interference with official acts, as defined in this ~~section~~ subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits an aggravated misdemeanor.

2. A person under the custody, control, or supervision of the department of corrections who knowingly resists, obstructs, or interferes with a correctional officer, agent, employee, or contractor, whether paid or volunteer, in the performance of the person's official duties, commits a serious misdemeanor. If a person violates this subsection and in so doing commits an assault,

*Chapter 218 herein

as defined in section 708.1, the person commits an aggravated misdemeanor. If a person violates this subsection and in so doing inflicts or attempts to inflict bodily injury other than serious injury to another, displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, the person commits a class "D" felony. If a person violates this subsection and uses or attempts to use a dangerous weapon, as defined in section 702.7, or inflicts serious injury to another, the person commits a class "C" felony.

3. The terms "resist" and "obstruct", as used in this section, do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

Sec. 23. Section 901.3, subsection 7, Code 1991, is amended by striking the subsection.

Sec. 24. Section 906.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When an inmate is discharged, paroled, or placed on work release, 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. When an inmate is discharged, paroled, or placed on work release, the warden or superintendent shall provide the inmate, at state expense or through inmate savings as provided in section 246.508, money in accordance with the following schedule:

Sec. 25. Section 907.3, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Prior to the commission of the offense the defendant had been granted a deferred judgment or deferred sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or was granted similar relief anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A, and the current offense is a violation of section 708.2A.

Sec. 26. Section 907.3, subsection 2, Code 1991, is amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 27. Section 907.9, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A probation officer or the director of the judicial district department of correctional services who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from probation by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

Sec. 28. Section 908.9, Code 1991, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR.

If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. The violator may be placed in a violator facility established pursuant to section 246.207 if the parole revocation officer or board panel determines that placement in a violator facility is necessary. If the parole of a parole violator is not revoked, the parole revocation officer or board panel shall

order the person's release subject to the terms of the person's parole with any modifications that the parole revocation officer or board panel determines proper.

Sec. 29. Section 908.11, Code 1991, is amended to read as follows:

908.11 VIOLATION OF PROBATION.

A probation officer or the judicial district department of correctional services having probable cause to believe that any person released on probation has violated the conditions of probation shall proceed by arrest or summons as in the case of a parole violation. The functions of the liaison officer and the board of parole shall be performed by the judge or magistrate who placed the alleged violator on probation if that judge or magistrate is available, otherwise by another judge or magistrate who would have had jurisdiction to try the original offense. If the probation officer proceeds by arrest, any magistrate may receive the complaint, issue an arrest warrant, or conduct the initial appearance and probable cause hearing if it is not convenient for the judge who placed the alleged violator on probation to do so. The initial appearance, probable cause hearing, and probation revocation hearing, or any of them, may at the discretion of the court be merged into a single hearing when it appears that the alleged violator will not be prejudiced thereby. If the violation is established, the court may continue the probation with or without an alteration of the conditions of probation. If the defendant is an adult the court may hold the defendant in contempt of court and sentence the defendant to a jail term while continuing the probation, order the defendant to be placed in a violator facility established pursuant to section 246.207 while continuing the probation, or may revoke the probation and require the defendant to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

Sec. 30. Section 910.3, Code 1991, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

~~The court shall require the county attorney to promptly shall prepare a statement of pecuniary damages to victims of the defendant and shall require the, if applicable, any award by the crime victim assistance programs and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court to shall prepare a statement of court-appointed attorney's fees, the expense of a public defender and court costs, which shall be promptly provided to the presentence investigator or submitted to the court at the time of sentencing. These~~ If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. This If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for pecuniary damages incurred up to that time, any award by the crime victim assistance programs, court-appointed attorney's fees or the expense of a public defender, and court costs. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

Sec. 31. NEW SECTION. 910.10 RESTITUTION LIEN.

1. The state or a person entitled to restitution under a court order may file a restitution lien.
2. The restitution lien shall set forth all of the following information, if known:

- a. The name and date of birth of the person whose property or other interests are subject to the lien.
 - b. The present address of the residence and principal place of business of the person named in the lien.
 - c. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number.
 - d. The name and business address of the attorney representing the state in the proceeding pursuant to which the lien is filed or the name and residence and business address of each person entitled to restitution pursuant to a court order.
 - e. A statement that the notice is being filed pursuant to this section.
 - f. The amount of restitution the person has been ordered to pay or is likely to be ordered to pay.
3. A restitution lien may be filed by either of the following:
- a. A prosecuting attorney in a criminal proceeding in which restitution is likely to be sought after the filing of an information or indictment. At the time of arraignment, the prosecuting attorney shall give the defendant notice of any restitution lien filed.
 - b. A victim in a criminal proceeding after restitution is determined and ordered by the trial court following pronouncement of the judgment and sentence.
4. The filing of a restitution lien in accordance with this section creates a lien in favor of the state and the victim in any personal or real property identified in the lien to the extent of the interest held in that property by the person named in the lien.
5. This section does not limit the right of the state or any other person entitled to restitution to obtain any other remedy authorized by law.

Sec. 32. Section 910A.11, subsection 4, Code 1991, as enacted by 1991 Iowa Acts, Senate File 444,* section 32, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

4. An application may be made pursuant to this section in a criminal case, and if made, a district associate judge or magistrate having jurisdiction of the highest offense charged in the criminal case or a district judge shall have jurisdiction to enter an order under this section.

Sec. 33. 1991 Iowa Acts, Senate File 444,* section 16, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

SEC. 16. NEW SECTION. 236.17 DOMESTIC ABUSE TRAINING REQUIREMENTS.

The department, in cooperation with victim service providers, may shall work with various professional organizations to encourage organizations to establish training programs for professionals who work in the area of domestic abuse prevention and services. Domestic abuse training may include, but is not limited to, the following areas:

1. The enforcement of both civil and criminal remedies in domestic abuse matters.
2. The nature, extent, and causes of domestic abuse.
3. The legal rights and remedies available to domestic abuse victims, including crime victim compensation.
4. Services available to domestic abuse victims and their children, including the domestic abuse telephone hotline.
5. The mandatory arrest provisions of section 236.12, and other duties of peace officers pursuant to this chapter.
6. Techniques for intervention in domestic abuse cases.

Sec. 34. 1991 Iowa Acts, Senate File 444,* section 26, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

SEC. 26. Section 631.6, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The clerk shall collect an additional fee of five dollars upon docketing a small claims action, and shall remit the fee to the treasurer of state for deposit in the general fund of the state. Notwithstanding any provision of law to the contrary, including but not limited to the other provisions of this section, the additional fee of five

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dollars imposed in this paragraph shall not be deposited in the court revenue distribution account, and shall not be deposited in the judicial retirement fund.

Sec. 35. 1991 Iowa Acts, Senate File 444,* section 28, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

SEC. 28. NEW SECTION. 708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

As used in this section, "district department" means a judicial district department of correctional services, established pursuant to section 905.2. A person convicted of, or receiving a deferred judgment for, domestic abuse assault shall report to the district department in order to participate in a batterers' treatment program for domestic abuse offenders, ~~if ordered to do so by the court pursuant to section 708.2A.~~ Participation in the batterers' treatment program shall not require a person to be placed on probation, but a person on probation may participate in the program. The district departments may contract for services in completing the duties relating to the batterers' treatment programs. The district departments shall assess the fees for participation in the program, and shall either collect or contract for the collection of the fees to recoup the costs of treatment, but may waive the fee or collect a lesser amount upon a showing of cause. The fees shall be used by each of the district departments or contract service providers for the establishment, administration, coordination, and provision of direct services of the batterers' treatment programs.

Sec. 36. 1991 Iowa Acts, Senate File 444,* section 36, subsection 2, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

2. From July 1, 1991, through December 31, 1992, the court ~~may~~ shall order a defendant who is convicted of, or who receives a deferred judgment for, a violation of section 708.2A to participate in a batterers' treatment program through other treatment or counseling services, until the programs are established by the judicial district departments of correctional services, to the extent that the court has the authority under existing sentencing procedures. The court shall order the defendant to pay for the treatment, unless just cause is demonstrated for waiving the fee.

Sec. 37. 1991 Iowa Acts, Senate File 444,* section 1, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is repealed.

Sec. 38. PILOT PROGRAM FOR DOMESTIC ABUSE PROSECUTION PLANS AND PROCEDURES.

1. The prosecuting attorneys training coordinator shall establish a pilot program pertaining to the prosecution of domestic abuse assaults. For the purposes of this section, "domestic abuse assault" means an assault, as defined in section 708.1 which is domestic abuse as defined in section 236.2. The prosecuting attorneys training coordinator, in consultation with the criminal and juvenile justice planning council, shall select county attorneys whose jurisdictions have a high dismissal rate in domestic abuse assault cases and where there are more than a de minimus number of cases. A minimum number of five county attorneys shall participate in the pilot program.

2. The coordinator shall notify the county attorneys who shall develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse matters in their respective jurisdictions. The county attorneys shall solicit input from the chief judge of the judicial district in which their county is located and law enforcement agencies within their jurisdictions in developing the written plan. The program participants shall seek assistance from domestic abuse advocates and other interested members of the public in the development of a model plan and in the development or adaptation of the plans in each of the jurisdictions represented by the five county attorneys. Once a model plan is developed, the prosecuting attorneys training coordinator shall make it available to all prosecuting attorneys, regardless of whether the prosecuting attorneys are participants in the pilot program. All plans must state goals and contain policies and procedures to address the following matters:

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a. The early assignment of a prosecuting attorney, who has the responsibility of handling a domestic abuse assault matter through disposition, and who is also responsible for establishing early contact with the victim.

b. The facilitation of the earliest possible contact between the prosecuting attorney's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, a victim's rights under chapter 236, and available domestic abuse and victim services.

c. The coordination of the prosecuting attorney's efforts with those of a domestic abuse advocate or victim advocate, where available, and to facilitate the early provision of victim advocacy services.

d. Methods that will be used to identify, gather, and preserve evidence, in addition to the victim's testimony, that will enhance the ability to prosecute a case when a victim is reluctant to assist, including, but not limited to, physical evidence of the victim's injury, evidence relating to the scene of the crime, eye witness testimony, and statements of the victim made at or near the time of injury.

e. The education of local law enforcement agencies about the contents of the plan and their role in assisting with its implementation.

f. The use of subpoenas of victims and witnesses, where appropriate.

g. Annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed.

h. A timetable for implementation.

3. A copy of each plan shall be filed with the prosecuting attorneys training coordinator by July 1, 1992. The county attorneys selected for the pilot program shall file a status report on the pilot program by July 1, 1993. The pilot program shall terminate on July 1, 1994. The status report must contain information on the number of prosecutions and dismissals of domestic abuse cases in the county attorney's office.

Approved May 29, 1991

CHAPTER 220
BANKING REGULATION
S.F. 507

AN ACT relating to limiting the aggregate amount of cash value life insurance a state bank may purchase, amending the date by which the superintendent must file an annual report, providing certain regulatory authority over certain persons associated with a state bank, suspending certain laws, authorizing certain investments by a state bank, and providing an effective date.

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

Section 1. Section 17.8, Code 1991, is amended to read as follows:

17.8 SUPERINTENDENT OF BANKING.

The annual report of the superintendent of banking shall cover the year ending June 30 of each year, and shall be filed as soon as practicable after said date and not later than September 1 December 31.

Sec. 2. NEW SECTION. 524.228 INTERIM CEASE AND DESIST ORDER — SUSPENSION.

1. If it appears to the superintendent that a state bank, or any director, officer, employee, or substantial shareholder of the state bank is engaging in or is about to engage in an unsafe

or unsound practice or dishonest act in conducting the business of the state bank that is likely to cause insolvency or substantial dissipation of assets or earnings of the state bank, or is likely to seriously weaken the condition of the state bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to section 524.223, 524.606, subsection 2, or 524.707, subsection 2, the superintendent may issue an interim order requiring the bank, director, officer, employee, or substantial shareholder to cease and desist from any such practice or act, and to take affirmative action, including suspension of the director, officer, or employee to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings. The interim order becomes effective upon service upon the state bank, or upon the director, officer, employee, or substantial shareholder of the state bank and, unless set aside, limited, or suspended by a court as provided in this chapter, remains effective and enforceable pending the completion of the administrative proceedings pursuant to the interim order and until such time as the superintendent dismisses the charges specified in the interim order, or, if a final cease and desist order is issued against the state bank or the director, officer, employee, or substantial shareholder until the effective date of the final order.

2. Within ten days after the state bank concerned or any director, officer, employee, or substantial shareholder is served with an interim order, the bank or such director, officer, employee, or substantial shareholder may apply to the district court in the county in which the bank has its principal place of business, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such interim order pending the completion of the administrative proceedings. If serious prejudice to the interests of the superintendent, the state bank, the officer, director, employee, or substantial shareholder would result from such hearing, the court may order the judicial proceeding to be conducted in camera.

3. The interim order shall contain a concise statement of the facts constituting the alleged unsafe or unsound practice or alleged dishonest act, and shall fix a time and place at which a hearing will be held to determine whether a final order to cease and desist should issue against the state bank or any director, officer, employee, or substantial shareholder. The hearing shall be fixed for a date not later than thirty days after service of the interim order unless a later date is set at the request of the party so served. If the state bank, or the director, officer, employee, or substantial shareholder fails to appear at the hearing, the state bank, or the director, officer, employee, or substantial shareholder is deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if upon the record made at the hearing the superintendent finds that any unsafe or unsound practice or dishonest act specified in the interim order has been established, the superintendent may issue and serve upon the bank, or the director, officer, employee, or substantial shareholder a final order to cease and desist from any such practice or act. The order may require the state bank, or the director, officer, employee, or substantial shareholder to cease and desist from any such practice or act and, further, to take affirmative action, including suspension of the director, officer, or employee.

4. A hearing provided for in this section shall be presided over by an administrative law judge appointed in accordance with section 17A.11. The hearing shall be private, unless the superintendent determines after full consideration of the views of the party afforded the hearing, that a public hearing is necessary to protect the public interest. After the hearing, and within thirty days after the case has been submitted for decision, the superintendent shall review the proposed order of the administrative law judge and render a final decision, including findings of fact upon which the decision is predicated, and issue and serve upon each party to the proceeding an order consistent with this section.

5. Any final order issued by the superintendent pursuant to subsection 3 becomes effective upon service of the final order on the state bank, director, officer, employee, or substantial shareholder and shall remain effective except to the extent that it is stayed, modified, terminated, or set aside by action of the superintendent or of the district court of the county in which the state bank has its principal place of business in accordance with the terms of chapter 17A.

6. In the case of violation or threatened violation of, or failure to obey, an interim order issued pursuant to subsection 1 or a final order issued pursuant to subsection 3, the superintendent may apply to the district court of the county in which the state bank has its principal place of business for the enforcement of the order and such court shall have jurisdiction and power to order and require compliance with the interim order or final order.

7. For purposes of this section, "substantial shareholder" means a shareholder exercising a controlling influence over the management or policies of a state bank as determined by the superintendent.

Sec. 3. Section 524.606, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When, in the opinion of the superintendent any director of a state bank ~~shall have continued to violate~~ has violated any law relating to such state bank or ~~shall have continued~~ has engaged in unsafe or unsound practices in conducting the business of such state bank, ~~after having been warned by the superintendent to discontinue or correct such violations of law or such unsafe or unsound practices,~~ the superintendent may cause notice to be served upon such director, to appear before the superintendent to show cause why the director should not be removed from office. A copy of such notice shall be sent to each director of the state bank affected, by registered or certified mail. If, after granting the accused director a reasonable opportunity to be heard, the superintendent finds that the director ~~continued to violate~~ violated any law relating to such state bank or ~~continued engaged in~~ engaged in unsafe or unsound practices in conducting the business of such state bank ~~after having been warned by the superintendent to discontinue or correct such violations of law or such unsafe or unsound practices,~~ the superintendent, in the superintendent's discretion, may order that such director be removed from office. A copy of the order shall be served upon such director and upon the state bank of which the person is a director at which time the person shall cease to be a director of the state bank.

Sec. 4. Section 524.707, subsection 2, Code 1991, is amended to read as follows:

2. Subsection 2 of section 524.606 providing for the removal of directors by the superintendent, shall have equal application to officers and employees.

Sec. 5. Section 524.901, subsection 3, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Shares in a federal home loan bank.

Sec. 6. Section 524.901, subsection 6, Code 1991, is amended to read as follows:

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 and in the aggregate from all companies, shall not exceed twenty-five percent of total equity capital of the state bank unless the state bank has obtained the approval of the superintendent prior to the purchase of any cash value life insurance contract in excess of this limitation.

Sec. 7. 1990 Iowa Acts, chapter 1274, unnumbered paragraph 1 after the enacting clause, is amended to read as follows:

That the banking laws contained in Code chapter 524, as identified by the superintendent of banking, are suspended to the extent that the laws restrict any state or nationally chartered bank located in Iowa or bank holding company owning a bank located in Iowa in the acquisition of savings associations eligible for assistance or their assets or liabilities. Such suspension shall remain in effect until July 1, ~~1991~~ 1992. On and after July 1, ~~1991~~ 1992, the restrictions in Code chapter 524 shall be applied as though acquisitions made pursuant to this resolution had not been made.

Sec. 8. This Act, being deemed of immediate importance, is effective upon enactment.

CHAPTER 221**STATE INCOME TAX REFUNDS***S.F. 536*

AN ACT relating to the limitation period for filing for an Iowa income tax credit or refund.

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

Section 1. Section 422.73, subsection 2, Code 1991, is amended to read as follows:

2. If it appears that an amount of tax, penalty, or interest has been paid which was not due under division II, III or V of this chapter, then that amount shall be credited against any tax due on the books of the department by the person who made the excessive payment, or that amount shall be refunded to the person or with the person's approval, credited to tax to become due. A claim for refund or credit that has not been filed with the department within three years after the return upon which a refund or credit claimed became due, or within one year after the payment of the tax upon which a refund or credit is claimed was made, whichever time is the later, shall not be allowed by the director. If, as a result of a carryback of a net operating loss or a net capital loss, the amount of tax in a prior period is reduced and an overpayment results, the claim for refund or credit of the overpayment shall be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter between the taxpayer and the internal revenue service with respect to the particular tax year to claim an income tax refund or credit, ~~provided the taxpayer has notified the department in writing no later than six months after the expiration of the three-year limitations period of the existence of this income tax matter.~~

Sec. 2. Section 422.73, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall enter into an agreement with the Internal Revenue Service for the transmission of federal income tax reports on individuals required to file an Iowa income tax return who have been involved in an income tax matter with the Internal Revenue Service. After final disposition of the income tax matter between the taxpayer and the Internal Revenue Service, the department shall determine whether the individual is due a state income tax refund as a result of final disposition of such income tax matter. If the individual is due a state income tax refund, the department shall notify the individual within thirty days and request the individual to file a claim for refund or credit with the department.

Approved May 29, 1991

CHAPTER 222**BANKING DAYS***H.F. 20*

AN ACT to exclude Sunday and all legal public holidays as banking days for purposes of determining a bank's midnight deadline.

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

Section 1. Section 554.4104, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions but for the purposes of determining a bank's midnight deadline, shall not include Saturday, Sunday, or any holiday when the federal reserve banks are not performing check clearing functions;

Approved May 29, 1991

CHAPTER 223**CONGRESSIONAL AND LEGISLATIVE REDISTRICTING***S.F. 546*

AN ACT providing for congressional and legislative redistricting effective for the 1992 general election and providing an effective date.

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

Section 1. Section 40.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

40.1 CONGRESSIONAL DISTRICTS.

The state of Iowa is hereby organized and divided into five congressional districts, which shall be composed, respectively, of the following counties:

1. The first district shall consist of the counties of Cedar, Clinton, Johnson, Jones, Linn, Louisa, Scott, and Muscatine.

2. The second district shall consist of the counties of Worth, Mitchell, Howard, Winneshiek, Allamakee, Cerro Gordo, Floyd, Chickasaw, Butler, Bremer, Fayette, Clayton, Grundy, Black Hawk, Buchanan, Delaware, Dubuque, Jackson, Tama, Benton, and Iowa.

3. The third district shall consist of the counties of Story, Marshall, Jasper, Poweshiek, Warren, Marion, Mahaska, Keokuk, Washington, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Des Moines, Lee, Van Buren, Davis, Appanoose, Wayne, Decatur, Ringgold, Taylor, and Page.

4. The fourth district shall consist of the counties of Harrison, Shelby, Audubon, Guthrie, Dallas, Polk, Pottawattamie, Cass, Adair, Madison, Mills, Montgomery, and Fremont.

5. The fifth district shall consist of the counties of Lyon, Osceola, Dickinson, Emmet, Kossuth, Winnebago, Hancock, Palo Alto, Clay, O'Brien, Sioux, Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Hardin, Hamilton, Webster, Calhoun, Sac, Ida, Woodbury, Monona, Crawford, Carroll, Greene, and Boone.

Sec. 2. Section 41.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

41.1 REPRESENTATIVE DISTRICTS.

The state of Iowa is hereby divided into one hundred representative districts, as follows:

1. The first representative district shall consist of that portion of the city of Sioux City bounded by a line commencing at the point Hamilton boulevard intersects the north corporate limit of the city of Sioux City, then proceeding southerly along Hamilton boulevard until it intersects Buckwalter drive, then proceeding first easterly then southerly along Buckwalter drive until it intersects Forty-first street, then proceeding west along Forty-first street until it intersects Cheyenne boulevard, then proceeding southerly along Cheyenne boulevard until it intersects Thirty-seventh street, then proceeding westerly along Thirty-seventh street until it intersects Thirty-eighth street, then proceeding west along Thirty-eighth street until it intersects Jones street, then proceeding south along Jones street until it intersects Twenty-ninth street, then proceeding east along Twenty-ninth street until it intersects Court street, then proceeding south along Court street until it intersects Twenty-eighth street, then proceeding east along Twenty-eighth street until it intersects Court street, then proceeding south along Court street until it intersects Twenty-sixth street, then proceeding west along Twenty-sixth street until it intersects Jones street, then proceeding south along Jones street until it intersects Twenty-fourth street, then proceeding west along Twenty-fourth street until it intersects East Solway street, then proceeding southerly along East Solway street until it intersects West Solway street, then proceeding west and northwest along West Solway street until it intersects West Twenty-fourth street, then proceeding west along West Twenty-fourth street until it intersects Hamilton boulevard, then proceeding south along Hamilton boulevard until it intersects West Nineteenth street, then proceeding east along West Nineteenth street until it intersects Omaha street, then proceeding south along Omaha street until it intersects West Seventeenth street, then proceeding east along West Seventeenth street until it intersects Cook street, then proceeding south along Cook street until it intersects West Sixteenth street, then proceeding east along West Sixteenth street until it intersects Main street, then proceeding south along Main street until it intersects Fourteenth street, then proceeding east along Fourteenth street until it intersects Summit street, then proceeding south along Summit street until it intersects Bluff street, then proceeding south along Bluff street until it intersects West Eighth street, then proceeding southeast along West Eighth street until it intersects Perry street, then proceeding southwest along Perry street until it intersects Wesley way, then proceeding southerly along Wesley way until it intersects the south corporate limit of the city of Sioux City, then proceeding first west and then in a clockwise manner along the corporate limits of the city of Sioux City to the point of origin.

2. The second representative district shall consist of that portion of the city of Sioux City bounded by a line commencing at the point Hamilton boulevard intersects the north corporate limit of the city of Sioux City, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Sioux City until it intersects Correctionville road, then proceeding westerly along Correctionville road until it intersects Westcott street, then proceeding southerly along Westcott street until it intersects Gordon drive, then proceeding westerly along Gordon drive until it intersects Court street, then proceeding south along Court street and its extension until it intersects the southwesterly corporate limit of the city of Sioux City, then proceeding westerly along the corporate limits of the city of Sioux City until it intersects Wesley way, then proceeding first north and then in a counterclockwise manner along the boundary of the first representative district to the point of origin.

3. The third representative district shall consist of:

a. That portion of the city of Sioux City not contained in the first, second, or fourth representative district.

b. In Woodbury county, Woodbury, Liberty, Grange, and Lakeport townships.

4. The fourth representative district shall consist of:

a. In Woodbury county:

(1) Concord, Banner, Floyd, and Arlington townships.

(2) That portion of the city of Sioux City bounded by a line commencing at the point Correctionville road intersects the east corporate limit of the city of Sioux City, then proceeding south along the corporate limits of the city of Sioux City until it intersects Stone avenue, then proceeding west along Stone avenue until it intersects South Royce street, then proceeding south along South Royce street until it intersects Vine avenue, then proceeding west along Vine avenue until it intersects South Paxton street, then proceeding north along South Paxton street until it intersects Stone avenue, then proceeding west along Stone avenue until it intersects South Cecelia street, then proceeding northerly along South Cecelia street until it intersects South Alice street, then proceeding north along South Alice street until it intersects Correctionville road, then proceeding easterly along Correctionville road to the point of origin.

b. Plymouth county, except for the following:

(1) Fredonia, Meadow, Henry, and Garfield townships.

(2) That portion of Remsen township lying outside the corporate limits of Remsen.

(3) The cities of Kingsley and Oyens.

5. The fifth representative district shall consist of Sioux county except Sheridan, Grant, and Lynn townships.

6. The sixth representative district shall consist of:

a. Lyon county.

b. Osceola county.

c. In Sioux county, Sheridan, Grant, and Lynn townships.

d. In O'Brien county:

(1) Lincoln, Floyd, and Carroll townships.

(2) That portion of Franklin township lying outside the corporate limits of the city of Sanborn.

(3) That portion of Hartley township lying outside the corporate limits of the city of Hartley.

(4) The city of Archer.

7. The seventh representative district shall consist of:

a. Dickinson county.

b. Emmet county.

c. In Palo Alto county, Lost Island and Walnut townships.

8. The eighth representative district shall consist of:

a. Palo Alto county, except Lost Island and Walnut townships.

b. Clay county, except Herdland and Garfield townships.

c. In Kossuth county, Garfield, Whittemore, and Lotts Creek townships.

9. The ninth representative district shall consist of:

a. That portion of O'Brien county not contained in the sixth representative district.

b. That portion of Plymouth county not contained in the fourth representative district.

c. Cherokee county.

d. In Buena Vista county, Nokomis township.

10. The tenth representative district shall consist of:

a. Buena Vista county, except Nokomis township.

b. Pocahontas county.

c. In Clay county, Herdland and Garfield townships.

11. The eleventh representative district shall consist of:

a. Sac county.

b. Ida county.

c. That portion of Woodbury county not contained in the first, second, third, fourth, or twelfth representative district.

12. The twelfth representative district shall consist of:

a. Crawford county.

b. Monona county.

c. In Woodbury county, Sloan township.

13. The thirteenth representative district in Webster county shall consist of:

a. Jackson, Deer Creek, and Douglas townships.

- b. The city of Fort Dodge.
 - c. That portion of Cooper township which lies west of the Des Moines river.
14. The fourteenth representative district shall consist of:
- a. Calhoun county.
 - b. That portion of Webster county not contained in the thirteenth representative district.
 - c. In Hamilton county, Webster, Hamilton, Marion, and Clear Lake townships.
 - d. In Boone county, Pilot Mound, Dodge, and Harrison townships and the city of Fraser.
15. The fifteenth representative district shall consist of:
- a. Humboldt county.
 - b. That portion of Kossuth county not contained in the eighth representative district.
16. The sixteenth representative district shall consist of:
- a. Winnebago county.
 - b. Hancock county.
 - c. In Wright county, Boone, Norway, and Belmond townships, and the city of Belmond.
17. The seventeenth representative district shall consist of:
- a. That portion of Wright county not contained in the sixteenth representative district.
 - b. That portion of Hamilton county not contained in the fourteenth representative district.
 - c. In Hardin county, Sherman, Tipton, Grant, and Concord townships.
 - d. That portion of the city of Dows which lies in Franklin county.
18. The eighteenth representative district shall consist of:
- a. That portion of Franklin county not contained in the seventeenth representative district.
 - b. That portion of Hardin county not contained in the seventeenth representative district.
19. The nineteenth representative district shall consist of that portion of Cerro Gordo county which is not contained in the twentieth representative district.
20. The twentieth representative district shall consist of:
- a. Worth county.
 - b. In Mitchell county, Otranto and Newburg townships.
 - c. In Cerro Gordo county:
 - (1) Grant, Lincoln, Lime Creek and Falls townships.
 - (2) That portion of the city of Mason City and Mason township bounded by a line commencing at the point U.S. highway 18 intersects the west corporate limit of the city of Mason City, then proceeding east along U.S. highway 18 until it intersects South Pierce avenue, then proceeding north along South Pierce avenue until it intersects Second street southwest, then proceeding east along Second street southwest until it intersects South Jackson avenue, then proceeding north along South Jackson avenue until it intersects First street southwest, then proceeding east along First street southwest until it intersects the first railroad track of the Chicago and Northwestern Transportation Company, then proceeding south along said railroad track until it intersects Second street southwest, then proceeding east along Second street southwest until it intersects South Federal avenue, then proceeding south along South Federal avenue until it intersects Sixth street, then proceeding east along Sixth street southeast until it intersects South Kentucky avenue, then proceeding north along South Kentucky avenue until it intersects U.S. highway 18, then proceeding east along U.S. highway 18 until it intersects the east corporate limit of the city of Mason City, then proceeding first north and then west along the corporate limits of the city of Mason City until it intersects the east boundary of Mason township, then proceeding first north and then west along the boundary of Mason township until it intersects the north corporate limit of the city of Mason City, then proceeding first west and then in a counterclockwise manner along the corporate limits of the city of Mason City to the point of origin.
21. The twenty-first representative district shall consist of:
- a. Grundy county.
 - b. Butler county.
22. The twenty-second representative district shall consist of:
- a. Bremer county.

b. In Black Hawk county:

(1) Union, Washington, and Bennington townships.

(2) That portion of Mt. Vernon township lying outside the corporate limits of the city of Cedar Falls.

(3) That portion of East Waterloo township not contained in the twenty-fourth or twenty-sixth representative districts.

(4) That portion of Poyner township not contained in the twenty-sixth or twenty-seventh representative districts.

23. The twenty-third representative district in Black Hawk county shall consist of:

a. Black Hawk township and that portion of Cedar Falls township which lies to the west of the corporate limits of the city of Cedar Falls.

b. That portion of the city of Cedar Falls bound by a line commencing at the point East Ridgeway avenue intersects the east corporate limit of the city of Cedar Falls, then proceeding west along East Ridgeway avenue until it intersects South Main street, then proceeding north along South Main street until it intersects Oregon road, then proceeding easterly along Oregon road until it intersects Dallas drive, then proceeding north along Dallas drive until it intersects Utah road, then proceeding east along Utah road until it intersects Tuscon drive, then proceeding north along Tuscon drive until it intersects Idaho road, then proceeding east along Idaho road until it intersects Boulder drive, then proceeding south along Boulder drive until it intersects Lilac lane, then proceeding east along Lilac lane until it intersects Woodridge drive, then proceeding south along Woodridge drive until it intersects Orchard drive, then proceeding east along Orchard drive until it intersects Carlton drive, then proceeding southeasterly along Carlton drive until its second intersection with Maryhill drive, then proceeding northerly along Maryhill drive until it intersects Primrose drive, then proceeding east along Primrose drive until it intersects Rownd street, then proceeding north along Rownd street until it intersects Orchard drive, then proceeding west along Orchard drive until it intersects McClain drive, then proceeding north along McClain drive until it intersects University avenue, then proceeding northwesterly along University avenue until it intersects Waterloo road, then proceeding northwesterly along Waterloo road until it intersects Elmwood avenue, then proceeding north along Elmwood avenue until it intersects Rainbow drive, then proceeding west along Rainbow drive until it intersects Schreiber street, then proceeding north along Schreiber street until it intersects Newman avenue, then proceeding east along Newman avenue until it intersects Birch street, then proceeding north along Birch street until it intersects Grand boulevard, then proceeding southeasterly along Grand boulevard until it intersects Belle avenue, then proceeding north along Belle avenue (and its extension) until it intersects the Iowa Northern Railway Company railroad track, then proceeding northwesterly along the Iowa Northern Railway Company railroad track until it intersects Dry run, then proceeding northeasterly along Dry run until it intersects the middle of the main channel of the Cedar river, then proceeding first north and then northwesterly along the middle of the main channel of the Cedar river until it intersects Center street, then proceeding northerly along Center street until it intersects West Lone Tree road, then proceeding easterly along West Lone Tree road until it intersects East Lone Tree road, then proceeding easterly along East Lone Tree road until it intersects Big Woods road, then proceeding south along Big Woods road until it intersects East Lake street, then proceeding east along East Lake street until it intersects the east corporate limit of the city of Cedar Falls, then proceeding first north and then in a counterclockwise manner along the corporate limits of the city of Cedar Falls to the point of origin.

24. The twenty-fourth representative district in Black Hawk county shall consist of:

a. Orange township.

b. Those portions of Cedar Falls and East Waterloo townships and the cities of Cedar Falls and Waterloo bounded by a line commencing at the point East Ridgeway avenue intersects the west corporate limit of the city of Waterloo, then proceeding first south then in a counterclockwise manner along the corporate limits of the city of Waterloo until it intersects Hawkeye road, then proceeding north along Hawkeye road until it intersects East San Marnan road,

then proceeding west along East San Marnan road until it intersects an extension of Kimball avenue, then proceeding north along Kimball avenue (and its extension) until it intersects West Park lane, then proceeding westerly along West Park lane until it intersects Colby road, then proceeding south along Colby road until it intersects Rachael street, then proceeding west along Rachael street until it intersects South Hill drive, then proceeding north along South Hill drive until it intersects Rachael street, then proceeding west along Rachael street until it intersects Loralin drive, then proceeding south along Loralin drive until it intersects Ridgemont road, then proceeding west along Ridgemont road until it intersects Ansborough avenue, then proceeding north along Ansborough avenue until it intersects West Ridgeway avenue, then proceeding west along West Ridgeway avenue until it intersects Ansborough avenue, then proceeding north along Ansborough avenue until it intersects Martin road, then proceeding west along Martin road until it intersects Sergeant road, then proceeding northeasterly along Sergeant road until it intersects Carrington avenue, then proceeding easterly along Carrington avenue until it intersects Ansborough avenue, then proceeding north along Ansborough avenue (and its extension) until it intersects Black Hawk creek, then proceeding northeasterly along Black Hawk creek until it intersects Westfield avenue, then proceeding northwesterly along Westfield avenue until it intersects West Conger street, then proceeding northeasterly along West Conger street until it intersects the middle of the main channel of the Cedar river, then proceeding southeasterly along the middle of the main channel of the Cedar river until it intersects the extension of Burton avenue, then proceeding north along Burton avenue (and its extension) until it intersects Conger street, then proceeding east along Conger street until it intersects Avon avenue, then proceeding north along Avon avenue until it intersects Dawson street, then proceeding west along Dawson street until it intersects Burton avenue, then proceeding north along Burton avenue until it intersects West Parker street, then proceeding west along West Parker street until it intersects Longfellow avenue, then proceeding north along Longfellow avenue until it intersects Northey street, then proceeding west along Northey street until it intersects Normandy street, then proceeding north along Normandy street until it intersects West Donald street, then proceeding west along West Donald street until it intersects Cedar Bend street, then proceeding north along Cedar Bend street until it intersects Broadway street, then proceeding northwesterly along Broadway street until it intersects Wagner street, then proceeding north along Wagner street until it intersects the north corporate limit of the city of Waterloo, then proceeding first westerly and then in a counterclockwise manner along the corporate limits of the city of Waterloo until it intersects the east corporate limit of the city of Cedar Falls, then proceeding first south and then in a clockwise manner along the boundary of the twenty-third representative district to the point of origin.

25. The twenty-fifth representative district in Black Hawk county shall consist of that portion of the city of Waterloo bounded by a line commencing at the point West Ridgeway avenue intersects Ansborough avenue, then proceeding east along West Ridgeway avenue until it intersects Hillcrest road, then proceeding north along Hillcrest road until it intersects Midlothian boulevard, then proceeding easterly along Midlothian boulevard until it intersects Ivanhoe road, then proceeding east along Ivanhoe road until it intersects Kimball avenue, then proceeding north along Kimball avenue until it intersects Terrace drive, then proceeding east along Terrace drive until it intersects Sioux street, then proceeding north along Sioux street until it intersects Cornwall avenue, then proceeding east along Cornwall avenue until it intersects Baltimore street, then proceeding north along Baltimore street until it intersects Mitchell avenue, then proceeding east along Mitchell avenue until it intersects West Ninth street, then proceeding north along West Ninth street until it intersects Johnson street, then proceeding southeast along Johnson street until it intersects Williston avenue, then proceeding east along Williston avenue until it intersects West Eighteenth street, then proceeding northeasterly along West Eighteenth street until it intersects Vinton street, then proceeding north along Vinton street until it intersects Franklin street, then proceeding east along Franklin street until it intersects Dubuque road, then proceeding southeast along Dubuque road until it intersects Colorado street, then proceeding north along Colorado street until it intersects Madison

street, then proceeding west along Madison street until it intersects Nevada street, then proceeding north along Nevada street until it intersects Independence avenue, then proceeding west along Independence avenue until it intersects the Chicago, Central and Pacific Railroad Company railroad track, then proceeding northwest along the Chicago, Central and Pacific Railroad Company railroad track until it intersects Glenwood street, then proceeding east along Glenwood street until it intersects Steely street, then proceeding north along Steely street (and its extension) until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding easterly along the Chicago and Northwestern Transportation Company railroad track until it intersects the Chicago, Central and Pacific Railroad Company railroad track, then proceeding southerly along the Chicago, Central and Pacific Railroad Company railroad track until it intersects Independence avenue, then proceeding easterly along Independence avenue until it intersects the east corporate limit of the city of Waterloo, then proceeding first north and then in a counterclockwise manner along the corporate limits of the city of Waterloo until it intersects Wagner street, then proceeding first south and then in a clockwise manner along the boundary of the twenty-fourth representative district to the point of origin.

26. The twenty-sixth representative district in Black Hawk County shall consist of:

a. That portion of the city of Waterloo not contained in the twenty-fourth or twenty-fifth representative district.

b. The cities of Evansdale and Elk Run Heights.

c. Cedar township.

27. The twenty-seventh representative district shall consist of:

a. In Black Hawk county:

(1) That portion of Poyner township bounded by a line commencing at the point Gilbertville road intersects the east corporate limit of the city of Evansdale immediately to the south of Interstate 380, then proceeding southeasterly along Gilbertville road until it intersects Indian Creek road, then proceeding east along Indian Creek road until it intersects the east boundary of Poyner township, then proceeding first south and then in a clockwise manner along the boundary of Poyner township to the point of origin.

(2) Lester, Barclay, Fox, Spring Creek, and Big Creek townships.

b. In Buchanan county, Perry, Westburg, Jefferson, Homer, Liberty, Cono, Middlefield, Newton, and Fremont townships, and that portion of Sumner township lying outside the corporate limits of the city of Independence.

c. In Delaware county, Richland, Honey Creek, Elk, Coffins Grove, Delaware, Oneida, Prairie, Milo, Adams, and Hazel Green townships and the city of Delaware.

28. The twenty-eighth representative district shall consist of:

a. That portion of Buchanan county not contained in the twenty-seventh representative district.

b. That portion of Fayette county not contained in the thirty-second representative district.

29. The twenty-ninth representative district shall consist of:

a. Floyd county.

b. Mitchell county, except Newburg and Otranto townships.

c. In Howard county, that portion of the city of Riceville which lies in Howard county.

30. The thirtieth representative district shall consist of:

a. Howard county, except the city of Riceville.

b. Chickasaw county.

c. In Winneshiek county, Fremont, Burr Oak, Orleans, Bluffton, Lincoln, Madison, Sumner, Calmar, and Jackson townships and the city of Calmar.

31. The thirty-first representative district shall consist of:

a. That portion of Winneshiek county not contained in the thirtieth representative district.

b. Allamakee county, except Linton and Fairview townships and that portion of the city of Postville which lies in Allamakee county.

32. The thirty-second representative district shall consist of:

a. In Allamakee county, Linton and Fairview townships and that portion of the city of Postville which lies in Allamakee county.

b. Clayton county.

c. In Fayette county, Clermont, Pleasant Valley, Union, Westfield, and Illyria townships and the cities of Fayette and West Union.

33. The thirty-third representative district shall consist of:

a. That portion of Delaware county not contained in the twenty-seventh representative district.

b. That portion of Dubuque county not contained in the thirty-fourth, thirty-fifth, or thirty-sixth representative district.

34. The thirty-fourth representative district shall consist of:

a. Jackson county.

b. In Dubuque county:

(1) Prairie Creek, Washington, and Mosalem townships.

(2) That portion of Table Mound township not contained in the thirty-sixth representative district.

(3) That portion of Dubuque township bounded by a line commencing at the point the south boundary of Dubuque township intersects the west corporate limit of the city of Dubuque, then proceeding first north and then in a clockwise manner along the corporate limits of the city of Dubuque until it intersects John F. Kennedy road, then proceeding northwesterly along John F. Kennedy road until it intersects Derby Grange road, then proceeding westerly along Derby Grange road until it intersects the west boundary of Dubuque township, then proceeding first south and then in a counterclockwise manner along the boundary of Dubuque township to the point of origin.

35. The thirty-fifth representative district in Dubuque county consists of that portion of the city of Dubuque bounded by a line commencing at the point Prescott street intersects Roosevelt street, then proceeding northerly and then westerly along Roosevelt street until it intersects McDonald private road, then proceeding first north and then east along McDonald private road until it intersects Shiras avenue, then proceeding north along the extension of Shiras avenue until it intersects the north corporate limit of the city of Dubuque, then proceeding first northwesterly and then in a counterclockwise manner along the corporate limits of the city of Dubuque until it intersects Asbury road, then proceeding easterly along Asbury road until it intersects Bonson road, then proceeding north along Bonson road until it intersects Kaufmann avenue, then proceeding easterly along Kaufmann avenue until it intersects Martin drive, then proceeding south along Martin drive until it intersects Theda drive, then proceeding northwest along Theda drive until it intersects Crissy drive, then proceeding southwest along Crissy drive until it intersects Asbury road, then proceeding northwest along Asbury road until it intersects John F. Kennedy road, then proceeding south along John F. Kennedy road until it intersects South Hillcrest road, then proceeding easterly along South Hillcrest road until it intersects Hillcrest road, then proceeding easterly along Hillcrest road until it intersects Carter road, then proceeding southerly along Carter road until it intersects St. Anne drive, then proceeding east along St. Anne drive until it intersects Churchill drive, then proceeding south along Churchill drive until it intersects Pennsylvania avenue, then proceeding easterly along Pennsylvania avenue until it intersects Flora Park road, then proceeding northerly along Flora Park road until it intersects Wilbricht lane, then proceeding east along Wilbricht lane until it intersects Asbury road, then proceeding southeasterly along Asbury road until it intersects University avenue, then proceeding southwest along University avenue until it intersects Finley street, then proceeding southeast along Finley street until it intersects Pearl street, then proceeding northeast along Pearl street until it intersects O'Hagen street, then proceeding southerly along O'Hagen street until it intersects Mineral street, then proceeding easterly along Mineral street until it intersects McCormick street, then proceeding southwesterly along McCormick street until it intersects Bennett street, then proceeding easterly along Bennett street until it intersects South Algona street, then proceeding southerly along South Algona street

until it intersects Hale street, then proceeding east along Hale street until it intersects North Grandview avenue, then proceeding northerly along North Grandview avenue until it intersects West Third street, then proceeding easterly along West Third street until it intersects College street, then proceeding northwesterly along College street until it intersects West Fifth street, then proceeding westerly along West Fifth street until it intersects Delhi street, then proceeding northeasterly along Delhi street until it intersects University avenue, then proceeding westerly along University avenue until it intersects Wood street, then proceeding northwesterly along Wood street until it intersects Loras boulevard, then proceeding northeasterly along Loras boulevard until it intersects Cox street, then proceeding northwesterly along Cox street until it intersects West Seventeenth street, then proceeding northeasterly along West Seventeenth street until it intersects West Locust street, then proceeding southeasterly along West Locust street until it intersects Locust street, then proceeding northwesterly along Locust street until it intersects Loras boulevard, then proceeding northeasterly along Loras boulevard until it intersects Main street, then proceeding south along Main street until it intersects West Thirteenth street, then proceeding northeast along West Thirteenth street until it intersects Central avenue, then proceeding northwesterly along Central avenue until it intersects East Twentieth street, then proceeding northeasterly along East Twentieth street until it intersects Garfield avenue, then proceeding northeasterly along Garfield avenue until it intersects Stafford street, then proceeding southeasterly along the extension of Stafford street until it intersects the main line of the Soo Line Railroad Company railroad track, then proceeding northeasterly along the main line of the Soo Line Railroad Company railroad track until it intersects Ann street, then proceeding northwesterly along Ann street until it intersects Thomas street, then proceeding northeasterly along Thomas street until it intersects Ascension street, then proceeding southeast along Ascension street until it intersects Prescott street, then proceeding northeasterly along Prescott street to the point of origin.

36. The thirty-sixth representative district in Dubuque county shall consist of those portions of the city of Dubuque and Table Mound township bounded by a line commencing at the point Fengler street intersects the Soo Line Railroad Company railroad track, then proceeding southeast along Fengler street until it intersects Kerper boulevard, then proceeding southeasterly along Kerper boulevard until it intersects East Sixteenth street, then proceeding northeast along East Sixteenth street until it intersects the middle of the channel of the Mississippi river which lies to the west of City Island, then proceeding northeasterly along the middle of said channel of the Mississippi river until it intersects the east corporate limit of the city of Dubuque, then proceeding first southeasterly and then in a clockwise manner along the corporate limits of the city of Dubuque until it intersects the east boundary of Table Mound township, then proceeding south along the east boundary of Table Mound township until it intersects the east corporate limit of the city of Dubuque, then proceeding first south and then in a clockwise manner along the corporate limits of the city of Dubuque until it intersects Asbury road, then proceeding first east and then in a counterclockwise manner along the boundary of the thirty-fifth representative district to the point of origin.

37. The thirty-seventh representative district shall consist of:

a. In Clinton county, those portions of Camanche and Eden townships and the city of Clinton bounded by a line commencing at the point First avenue intersects Riverview drive, then proceeding east along First avenue (and its extension) until it intersects the east corporate limit of the city of Clinton, then proceeding first southeasterly and then in a clockwise manner along the corporate limits of the city of Clinton until it intersects the east boundary of Camanche township, then proceeding first southeasterly and then in a clockwise manner along the boundary of Camanche township until it intersects the south corporate limit of the city of Clinton, then proceeding first west and then in a clockwise manner along the corporate limits of the city of Clinton until it intersects the south corporate limit of the city of Low Moor, then proceeding first westerly and then in a clockwise manner along the corporate limits of the city of Low Moor until it intersects the west corporate limit of the city of Clinton, then proceeding north

along the west corporate limit of the city of Clinton until it intersects the boundary of Camanche township, then proceeding first west and then in a clockwise manner along the boundary of Camanche township until it intersects Lincoln way, then proceeding east along Lincoln way until it intersects South Sixtieth street, then proceeding north along South Sixtieth street until it intersects Hart's Mill road, then proceeding easterly along Hart's Mill road until it intersects South Bluff boulevard, then proceeding northeasterly along South Bluff boulevard until it intersects South Seventeenth street, then proceeding south along South Seventeenth street until it intersects Thirteenth avenue south, then proceeding easterly along Thirteenth avenue south (and its extension) until it intersects South Tenth street, then proceeding north along South Tenth street until it intersects Eleventh avenue south, then proceeding easterly along Eleventh avenue south until it intersects South Ninth street, then proceeding north along South Ninth street until it intersects Tenth avenue south, then proceeding easterly along Tenth avenue south until it intersects South Eighth street, then proceeding north along South Eighth street until it intersects Ninth avenue south, then proceeding east along Ninth avenue south until it intersects South Sixth street, then proceeding north along South Sixth street until it intersects Second avenue south, then proceeding west along Second avenue south until it intersects South Bluff boulevard, then proceeding northeasterly along South Bluff boulevard until it intersects North Bluff boulevard, then proceeding northeasterly along North Bluff boulevard until it intersects Fifth avenue north, then proceeding southeasterly along Fifth avenue north (and its extension) until it intersects a railroad track of the Soo Line Railroad Company, then proceeding southerly along said Soo Line Railroad Company railroad track until it intersects Fourth avenue north, then proceeding easterly along Fourth avenue north until it intersects an unnamed road through River View park, then proceeding along the unnamed road through River View park until it intersects First avenue, then proceeding easterly along First avenue to the point of origin.

b. In Scott county:

(1) Princeton and Le Claire townships.

(2) That portion of Pleasant Valley township not contained in the forty-first representative district.

38. The thirty-eighth representative district shall consist of:

a. That portion of the city of Clinton not contained in the thirty-seventh representative district.

b. In Clinton county:

(1) Deep Creek, Elk River, Center, Hampshire, and De Witt townships.

(2) That portion of Eden township lying outside the corporate limits of the city of Low Moor.

39. The thirty-ninth representative district shall consist of:

a. Cedar county.

b. In Jones county, Greenfield, Rome, Hale, and Oxford townships.

c. In Clinton county, Sharon, Brookfield, Bloomfield, Waterford, Washington, Welton, Grant, Liberty, Spring Rock, Olive, and Orange townships.

40. The fortieth representative district in Scott county shall consist of:

a. Liberty, Allens Grove, Winfield, Butler, Hickory Grove, and Sheridan townships.

b. That portion of the city of Walcott lying in Scott county.

c. That portion of the city of Davenport and Blue Grass township bounded by a line commencing at the point the north boundary of Blue Grass township intersects the west corporate limit of the city of Davenport, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Davenport until it intersects the northbound lane of Brady street, then proceeding southerly along the northbound lane of Brady street until it intersects East Sixty-fifth street, then proceeding west along East Sixty-fifth street until it intersects West Sixty-fifth street, then proceeding west along West Sixty-fifth street until it intersects North Ripley street, then proceeding southerly along North Ripley street until it intersects West Sixty-first street, then proceeding east along West Sixty-first street until it intersects East Sixty-first street, then proceeding east along East Sixty-first street until it intersects

Brady street, then proceeding southerly along Brady street until it intersects East Kimberly road, then proceeding west along East Kimberly road until it intersects Fair avenue, then proceeding south along Fair avenue until it intersects East Thirty-seventh street, then proceeding west along East Thirty-seventh street until it intersects Fair avenue, then proceeding south along Fair avenue until it intersects West Thirty-fifth street, then proceeding westerly along West Thirty-fifth street until it intersects Northwest boulevard, then proceeding northwesterly along Northwest boulevard until it intersects North Pine street, then proceeding south along North Pine street until it intersects West Fifty-ninth street, then proceeding west along West Fifty-ninth street until it intersects North Linwood avenue, then proceeding south along North Linwood avenue until it intersects West Fifty-eighth street, then proceeding east along West Fifty-eighth street until it intersects North Pine street, then proceeding south along North Pine street until it intersects West Forty-ninth street, then proceeding westerly along West Forty-ninth street until it intersects North Fairmount street, then proceeding southerly along North Fairmount street (and its extension) until it intersects the Iowa Interstate Railroad Limited railroad track, then proceeding southeasterly along the Iowa Interstate Railroad Limited railroad track until it intersects Duck creek, then proceeding westerly along Duck creek until it intersects the west corporate limit of the city of Davenport lying to the west of Interstate 280, then proceeding first southerly and then in a counterclockwise manner along the corporate limits of the city of Davenport until it intersects the south boundary of Blue Grass township, then proceeding west along the south boundary of Blue Grass township until it intersects the east corporate limit of the city of Blue Grass, then proceeding first north and then in a counterclockwise manner along the corporate limits of the city of Blue Grass until it intersects the south boundary of Blue Grass township, then proceeding first west and then in a clockwise manner along the boundary of Blue Grass township to the point of origin.

41. The forty-first representative district in Scott county shall consist of:

a. Lincoln township.

b. Those portions of Pleasant Valley township and the city of Davenport bounded by a line commencing at the point the west corporate limit of the city of Bettendorf intersects the north corporate limit of the city of Davenport, then proceeding south along the corporate limits of the city of Bettendorf until it intersects East Seventy-sixth street, then proceeding east along East Seventy-sixth street until it intersects Devils Glen road, then proceeding south along Devils Glen road until it intersects Central avenue, then proceeding west along Central avenue until it intersects Twenty-third street, then proceeding south along Twenty-third street (and its extension) until it intersects the south corporate limit of the city of Bettendorf, then proceeding first westerly and then in a clockwise manner along the corporate limits of the city of Bettendorf until it intersects Interstate 74, then proceeding northerly along Interstate 74 until it intersects Pheasant creek, then proceeding southwestwardly along Pheasant creek until it intersects East Forty-sixth street, then proceeding west along East Forty-sixth street until it intersects Jersey Ridge road, then proceeding south along Jersey Ridge road until it intersects Windsor drive, then proceeding west along Windsor drive until it intersects Winding Hill road, then proceeding first southwestwardly and then west along Winding Hill road until it intersects Eastern avenue, then proceeding south along Eastern avenue until it intersects East Kimberly road, then proceeding westerly along East Kimberly road until it intersects Brady street, then proceeding first north and then in a counterclockwise manner along the boundary of the fortieth representative district until it intersects the north corporate limit of the city of Davenport, then proceeding first southeasterly and then in a clockwise manner along the corporate limits of the city of Davenport to the point of origin.

42. The forty-second representative district in Scott county shall consist of that portion of the city of Davenport bounded by a line commencing at the point Brady street intersects East Kimberly road, then proceeding west along East Kimberly road until it intersects Fair avenue, then proceeding south along Fair avenue until it intersects East Thirty-seventh street, then proceeding east along East Thirty-seventh street until it intersects Brady street, then proceeding southerly along Brady street until it intersects East Thirtieth street, then proceeding west

along East Thirtieth street until it intersects Dubuque street, then proceeding south along Dubuque street until it intersects East Thirtieth street, then proceeding west along East Thirtieth street until it intersects West Thirtieth street, then proceeding west along West Thirtieth street until it intersects Sheridan street, then proceeding south along Sheridan street until it intersects West Columbia avenue, then proceeding west along West Columbia avenue until it intersects North Main street, then proceeding south along North Main street until it intersects West Central Park avenue, then proceeding east along West Central Park avenue until it intersects East Central Park avenue, then proceeding east along East Central Park avenue until it intersects Brady street, then proceeding southerly along Brady street until it intersects West Locust street, then proceeding westerly along West Locust street until it intersects North Ripley street, then proceeding south along North Ripley street until it intersects West Seventeenth street, then proceeding west along West Seventeenth street until it intersects Scott street, then proceeding north along Scott street until it intersects an alley lying to the north of West Locust street, then proceeding east along said alley until it intersects an alley lying to the south of West Pleasant street, then proceeding north along said alley until it intersects West Pleasant street, then proceeding west along West Pleasant street until it intersects Scott street, then proceeding north along Scott street until it intersects West Lombard street, then proceeding west along West Lombard street until it intersects North Gaines street, then proceeding south along North Gaines street until it intersects West Ninth street, then proceeding west along West Ninth street until it intersects Marquette street, then proceeding south along Marquette street until it intersects West Eighth street, then proceeding west along West Eighth street until it intersects Taylor street, then proceeding south along Taylor street until it intersects West Fifth street, then proceeding easterly along West Fifth street until it intersects Brown street, then proceeding north along Brown street until it intersects West Sixth street, then proceeding east along West Sixth street until it intersects North Main street, then proceeding north along North Main street until it intersects West Seventh street, then proceeding east along West Seventh street until it intersects East Seventh street, then proceeding east along East Seventh street until it intersects Iowa street, then proceeding north along Iowa street until it intersects East Eighth street, then proceeding east along East Eighth street until it intersects Farnam street, then proceeding south along Farnam street until it intersects East Seventh street, then proceeding east along East Seventh street until it intersects Grand avenue, then proceeding south along Grand avenue until it intersects East Sixth street, then proceeding easterly along East Sixth street until it intersects Charlotte street, then proceeding southeasterly along Charlotte street until it intersects Oneida avenue, then proceeding southerly along Oneida avenue until it intersects East River drive, then proceeding southwesterly along East River drive until it intersects Carey street, then proceeding southeasterly along Carey street (and its extension) until it intersects the south corporate limit of the city of Davenport, then proceeding first northeasterly and then in a counterclockwise manner along the corporate limits of the city of Davenport until it intersects the west corporate limit of the city of Bettendorf, then proceeding first north and then in a clockwise manner along the boundary of the forty-first representative district to the point of origin.

43. The forty-third representative district in Scott county shall consist of that portion of the city of Davenport bounded by a line commencing at the point West Fifth street intersects Taylor street, then proceeding south along Taylor street until it intersects West Fourth street, then proceeding westerly along West Fourth street until it intersects North Lincoln avenue, then proceeding north along North Lincoln avenue until it intersects Telegraph road, then proceeding northeasterly along Telegraph road until it intersects North Lincoln court, then proceeding northwesterly along North Lincoln court until it intersects Newberry street, then proceeding northeasterly along Newberry street until it intersects North Pine street, then proceeding south along North Pine street until it intersects Glasspell street, then proceeding northeasterly along Glasspell street until it intersects Belmont street, then proceeding southeasterly along Belmont street until it intersects Telegraph road, then proceeding northeasterly along Telegraph road until it intersects the Iowa Interstate Railroad Limited

railroad track, then proceeding northerly along the Iowa Interstate Railroad Limited railroad track until it intersects the western extension of West Pleasant street, then proceeding east along West Pleasant street (and its extension) until it intersects Frisco drive, then proceeding northerly along Frisco drive until it intersects Hickory Grove road, then proceeding northwesterly along Hickory Grove road until it intersects West Central Park avenue, then proceeding westerly along West Central Park avenue until it intersects North Dittmer street, then proceeding northerly along North Dittmer street until it intersects Heatherton drive, then proceeding southeasterly along Heatherton drive until it intersects North Clark street, then proceeding north along North Clark street (and its extension) until it intersects the Iowa Interstate Railroad Limited railroad track, then proceeding northwesterly along the Iowa Interstate Railroad Limited railroad track until it intersects the south extension of North Fairmount street, then proceeding first north and then in a counterclockwise manner along the boundary of the fortieth representative district until it intersects the west boundary of the forty-second representative district, then proceeding first east and then in a counterclockwise manner along the boundary of the forty-second representative district to the point of origin.

44. The forty-fourth representative district in Scott county shall consist of:

a. Those portions of the city of Davenport and Blue Grass township which are not contained in the fortieth, forty-first, forty-second, or forty-third representative district.

b. Buffalo township.

c. The city of Blue Grass.

45. The forty-fifth representative district in Johnson county shall consist of:

a. The city of University Heights.

b. That portion of the city of Iowa City bounded by a line commencing at the point U.S. highway 6 intersects Mormon Trek boulevard, then proceeding southwestwardly and then south along Mormon Trek boulevard until it intersects West Benton street, then proceeding easterly along West Benton street until it intersects South Riverside drive, then proceeding north along South Riverside drive until it intersects the Iowa Interstate Railroad Limited railroad track, then proceeding easterly along the Iowa Interstate Railroad Limited railroad track until it intersects the south extension of South Lucas street, then proceeding north along South Lucas street (and its extension) until it intersects Bowery street, then proceeding east along Bowery street until it intersects South Governor street, then proceeding north along South Governor street until it intersects East Burlington street, then proceeding east along East Burlington street until it intersects South Summit street, then proceeding north along South Summit street until it intersects East College street, then proceeding east along East College street until it intersects Ralston creek, then proceeding southerly along Ralston creek until it intersects East Court street, then proceeding east along East Court street until it intersects South First avenue, then proceeding south along South First avenue until it intersects Muscatine avenue, then proceeding east along Muscatine avenue until it intersects Scott boulevard, then proceeding south along Scott boulevard until it intersects the east corporate limit of the city of Iowa City, then proceeding first east and then in a counterclockwise manner along the corporate limits of the city of Iowa City until it intersects North Dodge street, then proceeding southwestwardly along North Dodge street until it intersects North Governor street, then proceeding south along North Governor street until it intersects Davenport street, then proceeding west along Davenport street until it intersects North Lucas street, then proceeding south along North Lucas street until it intersects East Bloomington street, then proceeding west along East Bloomington street until it intersects North Dubuque street, then proceeding north along North Dubuque street until it intersects Davenport street, then proceeding west along Davenport street (and its extension) until it intersects North Madison street, then proceeding south along North Madison street until it intersects West Iowa street, then proceeding west along West Iowa street until it intersects Newton road, then proceeding westerly along Newton road until it intersects U.S. highway 6 then proceeding northwestwardly along U.S. highway 6 to the point of origin.

46. The forty-sixth representative district in Johnson county shall consist of:
- a. Those portions of the city of Iowa City and West Lucas township bounded by a line commencing at the point Scott boulevard intersects the east corporate limit of the city of Iowa City to the south of Muscatine avenue, then proceeding first south and then in a clockwise manner along the corporate limits of the city of Iowa City until it intersects the west boundary of East Lucas township, then proceeding first southwest and then in a counterclockwise manner along the boundary of East Lucas township until it intersects the south boundary of West Lucas township, then proceeding west along the south boundary of West Lucas township until it intersects the east corporate limit of the city of Hills, then proceeding first northwesterly and then in a counterclockwise manner along the corporate limits of the city of Hills until it intersects the south boundary of West Lucas township, then proceeding first west and then in a clockwise manner along the boundary of West Lucas township until it intersects the south corporate limit of the city of Iowa City, then proceeding first west and then in a clockwise manner along the corporate limits of the city of Iowa City until it intersects Mormon Trek boulevard, then proceeding first southwesterly and then in a counterclockwise manner along the boundary of the forty-fifth representative district to the point of origin.
 - b. Scott, Sharon, Union, Hardin, and Washington townships.
47. The forty-seventh representative district shall consist of:
- a. Louisa county.
 - b. In Johnson county:
 - (1) Liberty, Pleasant Valley, Lincoln, and Fremont townships.
 - (2) The city of Hills.
 - (3) That portion of East Lucas township bounded by a line commencing at the point U.S. highway 6 intersects the east boundary of East Lucas township, then proceeding first south and then in a clockwise manner along the boundary of East Lucas township until it intersects the south corporate limit of the city of Iowa City, then proceeding first northeasterly and then in a counterclockwise manner along the corporate limits of the city of Iowa City to the point of origin.
 - c. In Muscatine county:
 - (1) Wapsinonoc, Goshen, Moscow, Pike, Lake, Orono, and Cedar townships.
 - (2) Those portions of Bloomington, Seventy-six, and Fruitland townships lying outside the corporate limits of the city of Muscatine.
 - (3) The city of Wilton.
48. The forty-eighth representative district shall consist of:
- a. That portion of Muscatine county not contained in the forty-seventh representative district.
 - b. In Scott county, that portion of Cleona township lying outside the corporate limits of the city of Walcott.
49. The forty-ninth representative district in Johnson county shall consist of:
- a. The cities of Coralville and North Liberty.
 - b. Those portions of the city of Iowa City, East Lucas township, and West Lucas township, which are not contained in the forty-fifth or forty-sixth representative district.
 - c. Newport and Penn townships.
50. The fiftieth representative district shall consist of:
- a. That portion of Johnson county not contained in the forty-fifth, forty-sixth, forty-seventh, or forty-ninth representative district.
 - b. In Linn county, that portion of Linn county not contained in the fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, or fifty-sixth representative district.
51. The fifty-first representative district in Linn county shall consist of:
- a. The city of Marion.
 - b. Those portions of the city of Cedar Rapids and Bertram and Marion townships bounded by a line commencing at the point the south corporate limit of the city of Marion intersects state highway 13, then proceeding south along state highway 13 until it intersects the north boundary of Bertram township, then proceeding first east and then in a clockwise manner along

the boundary of Bertram township until it intersects the south corporate limit of the city of Cedar Rapids, then proceeding first east and then in a counterclockwise manner along the corporate limits of the city of Cedar Rapids until it intersects the Chicago and Northwestern Transportation Company railroad track at the west boundary of Bertram township, then proceeding west along the north branch of the Chicago and Northwestern Transportation Company railroad track until it intersects Cole street southeast, then proceeding north along Cole street southeast until it intersects Fir avenue southeast, then proceeding westerly along Fir avenue southeast until it intersects Cole street southeast, then proceeding north along Cole street southeast until it intersects Otis road southeast, then proceeding northeasterly along Otis road southeast until it intersects Memorial drive southeast, then proceeding northerly along Memorial drive southeast until it intersects Fourteenth avenue southeast, then proceeding easterly along Fourteenth avenue southeast until it intersects Thirty-third street southeast, then proceeding north along Thirty-third street southeast until it intersects Henderson avenue southeast, then proceeding east along Henderson avenue southeast until it intersects Thirty-fourth street southeast, then proceeding north along Thirty-fourth street southeast until it intersects Dalewood avenue southeast, then proceeding east along Dalewood avenue southeast until it intersects Fortieth street southeast, then proceeding south along Fortieth street southeast until it intersects Mount Vernon road southeast, then proceeding easterly along Mount Vernon road southeast until it intersects the east corporate limit of the city of Cedar Rapids, then proceeding first east and then in a counterclockwise manner along the corporate limits of the city of Cedar Rapids until it intersects Boyson road northeast, then proceeding west along Boyson road northeast until it intersects Brentwood drive northeast, then proceeding first south and then in a clockwise manner along Brentwood drive northeast until it intersects Windsor drive northeast, then proceeding first northerly and then westerly along Windsor drive northeast until it intersects "C" avenue northeast, then proceeding north along "C" avenue northeast until it intersects the north corporate limit of the city of Cedar Rapids to the east of "C" avenue northeast, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Cedar Rapids until it intersects the north corporate limit of the city of Marion, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Marion to the point of origin.

52. The fifty-second representative district shall consist of those portions of the city of Cedar Rapids and Bertram and Marion townships bounded by a line commencing at the point Dalewood avenue southeast intersects Thirty-fourth street southeast, then proceeding west along Dalewood avenue southeast until it intersects Knoll street southeast, then proceeding north along Knoll street southeast until it intersects Soutter avenue southeast, then proceeding west along Soutter avenue southeast until it intersects Thirty-second street southeast, then proceeding north along Thirty-second street southeast until it intersects Meadowbrook drive southeast, then proceeding west along Meadowbrook drive southeast until it intersects Thirtieth street southeast, then proceeding south along Thirtieth street southeast until it intersects Dalewood avenue southeast, then proceeding west along Dalewood avenue southeast until it intersects Twenty-ninth street southeast, then proceeding south along Twenty-ninth street southeast until it intersects Dalewood avenue southeast, then proceeding west along Dalewood avenue southeast until it intersects Memorial drive southeast, then proceeding south along Memorial drive southeast until it intersects Mount Vernon road southeast, then proceeding west along Mount Vernon road southeast until it intersects Nineteenth street southeast, then proceeding first north and then in a counterclockwise manner along the boundary of the fifty-third representative district until it intersects Forty-second street northeast, then proceeding north along Council street northeast until it intersects the north corporate limit of the city of Cedar Rapids to the east of Council street northeast and to the north of Seventy-fourth street northeast, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Marion until it intersects the north boundary of the fifty-first representative district, then proceeding first south and then in a counterclockwise manner along the boundary of the fifty-first representative district to the point of origin.

53. The fifty-third representative district in Linn County shall consist of that portion of the city of Cedar Rapids bounded by a line commencing at the point Nineteenth street southeast intersects Mount Vernon road southeast, then proceeding west along Mount Vernon road southeast until it intersects Nineteenth street southeast, then proceeding north along Nineteenth street southeast until it intersects Fifth avenue southeast, then proceeding easterly along Fifth avenue southeast until it intersects Twenty-first street southeast, then proceeding northerly along Twenty-first street southeast until it intersects Park avenue southeast, then proceeding west along Park avenue southeast until it intersects Nineteenth street southeast, then proceeding north along Nineteenth street southeast until it intersects Grande avenue southeast, then proceeding west along Grande avenue southeast until it intersects Eighteenth street southeast, then proceeding north along Eighteenth street southeast until it intersects Third avenue southeast, then proceeding southwest along Third avenue southeast until it intersects Fourteenth street southeast, then proceeding northwest along Fourteenth street southeast until it intersects Fourteenth street northeast, then proceeding northwest along Fourteenth street northeast until it intersects "C" avenue northeast, then proceeding southwest along "C" avenue northeast until it intersects Center Point road northeast, then proceeding northwest along Center Point road northeast until it intersects Oakland road northeast, then proceeding northerly along Oakland road northeast until it intersects Hollywood boulevard northeast, then proceeding northwest along Hollywood boulevard northeast until it intersects Richmond road northeast, then proceeding northerly along Richmond road northeast until it intersects Council street northeast, then proceeding north along Council street northeast until it intersects Forty-second street northeast, then proceeding west along Forty-second street northeast until it intersects the abandoned Chicago, Central, & Pacific Railroad Company railroad bed, then proceeding southerly along the abandoned Chicago, Central, & Pacific Railroad Company railroad bed until it intersects Interstate 380, then proceeding northwest along Interstate 380 until it intersects Glass road northeast, then proceeding westerly along Glass road northeast until it intersects Redbud road northeast, then proceeding northerly along Redbud road northeast until it intersects Birchwood drive northeast, then proceeding westerly along Birchwood drive northeast until it intersects Northwood drive northeast, then proceeding southerly along Northwood drive northeast until it intersects Glass road northeast, then proceeding west along Glass road northeast until it intersects Wenig road northeast, then proceeding south along Wenig road northeast until it intersects Coldstream avenue northeast, then proceeding easterly along Coldstream avenue northeast until it intersects Linmar drive northeast, then proceeding southerly along Linmar drive northeast until it intersects Sierra drive northeast, then proceeding southerly along Sierra drive northeast until it intersects "J" avenue northeast, then proceeding first southwest, then northwest, then southwest along "J" avenue northeast (and its extension) until it intersects the middle of the main channel of the Red Cedar river, then proceeding southeasterly along the middle of the main channel of the Red Cedar river until it intersects the northeast extension of Ellis lane northwest, then proceeding southwest along Ellis lane northwest (and its extension) until it intersects Eighth street northwest, then proceeding southeast along Eighth street northwest until it intersects "Q" avenue northwest, then proceeding west along "Q" avenue northwest until it intersects Tenth street northwest, then proceeding south along Tenth street northwest until it intersects Penn avenue northwest, then proceeding east along Penn avenue northwest until it intersects Ellis boulevard northwest, then proceeding south along Ellis boulevard northwest until it intersects "M" avenue northwest, then proceeding west along "M" avenue northwest until it intersects Ninth street northwest, then proceeding north along Ninth street northwest until it intersects "O" avenue northwest, then proceeding west along "O" avenue northwest until it intersects Highwood drive northwest, then proceeding southerly along Highwood drive northwest until it intersects Belmont parkway northwest, then proceeding easterly along Belmont parkway northwest (and its extension) until it intersects the north extension of Eighteenth street northwest, then proceeding southerly along Eighteenth street northwest (and its extension) until

it intersects Johnson avenue northwest, then proceeding first easterly and then in a counter-clockwise manner along Johnson avenue northwest until it intersects "A" avenue northwest, then proceeding east along "A" avenue northwest until it intersects Fourteenth street northwest, then proceeding south along Fourteenth street northwest until it intersects First avenue southwest, then proceeding northeast along First avenue southwest until it intersects Twelfth street southwest, then proceeding southeast along Twelfth street southwest until it intersects Third avenue southwest, then proceeding east along Third avenue southwest until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding northerly along the Chicago and Northwestern Transportation Company railroad track until it intersects Second avenue southwest, then proceeding northeast along Second avenue southwest until it intersects Eighth street southwest, then proceeding southeast along Eighth street southwest until it intersects Third avenue southwest, then proceeding northeast along Third avenue southwest until it intersects Seventh street southwest, then proceeding southeasterly along Seventh street southwest until it intersects Fifth avenue southwest, then proceeding east along Fifth avenue southwest until it intersects the north extension of Seventh street southwest, then proceeding south along Seventh street southwest (and its extension) until it intersects Eighth avenue southwest, then proceeding east along Eighth avenue southwest until it intersects Sixth street southwest, then proceeding north along Sixth street southwest until it intersects Seventh avenue southwest, then proceeding easterly along Seventh avenue southwest until it intersects "L" street southwest, then proceeding southeast along "L" street southwest until it intersects Eighth avenue southwest, then proceeding northeast along Eighth avenue southwest until it intersects Second street southwest, then proceeding south along Second street southwest until it intersects the Cedar Rapids and Iowa City Railway Company railroad track, then proceeding northeast along the Cedar Rapids and Iowa City Railway Company railroad track until it intersects First street southwest, then proceeding southeast along First street southwest until it intersects "C" street southwest, then proceeding southeast along "C" street southwest until it intersects Sixteenth avenue southwest, then proceeding southwesterly along Sixteenth avenue southwest until it intersects "J" street southwest, then proceeding south along "J" street southwest until it intersects Wilson avenue southwest, then proceeding east along Wilson avenue southwest until it intersects Southland street southwest, then proceeding south along Southland street southwest until it intersects Twenty-fourth avenue southwest, then proceeding west along Twenty-fourth avenue southwest until it intersects Schaefer drive southwest, then proceeding south along Schaefer drive southwest until it intersects Twenty-sixth avenue southwest, then proceeding west along Twenty-sixth avenue southwest until it intersects "J" street southwest, then proceeding south along "J" street southwest until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding northeasterly along the Chicago and Northwestern Transportation Company railroad track until it intersects the middle of the main channel of the Red Cedar river, then proceeding northerly along the middle of the main channel of the Red Cedar river until it intersects the south extension of Nineteenth street southeast, then proceeding north along Nineteenth street southeast (and its extension) until it intersects Van Vechten Park road, then proceeding first east and then northeasterly along Van Vechten Park road until it intersects McCarthy road southeast, then proceeding northwesterly along McCarthy road southeast until it intersects Nineteenth street southeast, then proceeding north along Nineteenth street southeast to the point of origin.

54. The fifty-fourth representative district in Linn county shall consist of those portions of the city of Cedar Rapids and Fairfax and Clinton townships bounded by a line commencing at the point "J" street southwest intersects Twenty-seventh avenue southwest, then proceeding west along Twenty-seventh avenue southwest until it intersects Sixth street southwest, then proceeding southerly along Sixth street southwest until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding southwestern along the Chicago and Northwestern Transportation Company railroad track until it intersects the west corporate limit of the city of Cedar Rapids, then proceeding first north and then in a

clockwise manner along the corporate limits of the city of Cedar Rapids until it intersects Rogers road northwest, then proceeding westerly along Rogers road northwest until it intersects the southerly extension of the west corporate limit of the city of Cedar Rapids to the west of Morris avenue, then proceeding north along the west corporate limit (and its southern extension), and then west along the corporate limit, then south along the corporate limit and its extension until it intersects Rogers road northwest, then proceeding westerly along Rogers road northwest until it again intersects the southern extension of the west corporate limit of the city of Cedar Rapids, then proceeding north along the west corporate limit of the city of Cedar Rapids until it intersects the west corporate limit of the city of Cedar Rapids, then proceeding first north and then in a clockwise manner along the corporate limits of the city of Cedar Rapids until it intersects the middle of the main channel of the Red Cedar river, then proceeding north-easterly along the middle of the main channel of the Red Cedar river until it intersects Edgewood road northwest, then proceeding southerly along Edgewood road northwest until it intersects "O" avenue northwest, then proceeding east along "O" avenue northwest until it intersects Hillside drive northwest, then proceeding north along Hillside drive northwest until it intersects Elaine drive northwest, then proceeding east along Elaine drive northwest until it intersects Thirtieth street northwest, then proceeding south along Thirtieth street northwest until it intersects "O" avenue northwest, then proceeding east along "O" avenue northwest until it intersects Highwood drive northwest, then proceeding first southwesterly and then in a counterclockwise manner along the boundary of the fifty-third representative district to the point of origin.

55. The fifty-fifth representative district in Linn county shall consist of:

- a. Grant, Washington, Fayette, and Monroe townships.
- b. The city of Robins.

c. That portion of the city of Cedar Rapids bounded by a line commencing at the point Edgewood road northwest intersects the middle of the main channel of the Red Cedar river, then proceeding southwestwardly along the middle of the main channel of the Red Cedar river until it intersects the west corporate limit of the city of Cedar Rapids, then proceeding first north and then in a clockwise manner along the corporate limits of the city of Cedar Rapids until it intersects Council street northeast, then proceeding south along Council street northeast until it intersects the west boundary of the fifty-second representative district, then proceeding south along the west boundary of the fifty-second representative district until it intersects the north boundary of the fifty-third representative district, then proceeding first west and then in a clockwise manner along the boundary of the fifty-third representative district until it intersects the boundary of the fifty-fourth representative district, then proceeding first west and then in a clockwise manner along the boundary of the fifty-fourth representative district to the point of origin.

56. The fifty-sixth representative district shall consist of:

- a. That portion of Jones county not contained in the thirty-ninth representative district.
- b. In Linn county, Spring Grove, Jackson, Boulder, Otter Creek, Maine, Buffalo, Brown, and Linn townships, and that portion of Marion township not contained in the fifty-first or fifty-second representative district.

57. The fifty-seventh representative district in Jasper county, shall consist of:

a. Clear Creek, Independence, Malaka, Poweshiek, Sherman, Newton, Washington, Mound Prairie, Des Moines, and Fairview townships.

b. That portion of the city of Newton and Palo Alto township bounded by a line commencing at the point West Fifteenth street south intersects the south corporate limit of the city of Newton lying to the west of West Fifteenth street south, then proceeding first west and then in a clockwise manner along the corporate limits of the city of Newton to the point of origin.

58. The fifty-eighth representative district shall consist of:

- a. That portion of Jasper county not contained in the fifty-seventh representative district.
- b. Poweshiek county.
- c. In Mahaska county, Union and Pleasant Grove townships.

d. In Marshall county, Greencastle township.

59. The fifty-ninth representative district shall consist of:

a. Iowa county.

b. That portion of Benton county not contained in the sixtieth representative district.

60. The sixtieth representative district shall consist of:

a. Tama county.

b. In Black Hawk county, Lincoln and Eagle townships.

c. In Benton county, Bruce, Cedar, Harrison, Polk, Taylor, Jackson, Monroe, and Homer townships, and the city of Vinton.

61. The sixty-first representative district in Story county shall consist of that portion of the city of Ames bounded by a line commencing at the point Thackery avenue, Lincoln way, and the corporate limits of the city of Ames intersect, then proceeding east along Lincoln way until it intersects Wilmoth avenue, then proceeding north along Wilmoth avenue until it intersects Story street, then proceeding east along Story street until it intersects Howard avenue, then proceeding north along Howard avenue until it intersects West street, then proceeding easterly along West street until it intersects Beyer court, then proceeding first south and then westerly along Beyer court until it intersects the sidewalk lying to the west of Friley hall, then proceeding southwesterly along the sidewalk lying to the west of Friley hall (and its extension) until it intersects Lincoln way, then proceeding east along Lincoln way until it intersects Squaw creek, then proceeding northerly along Squaw creek until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding southeasterly along the Chicago and Northwestern Transportation Company railroad track until it intersects Grand avenue, then proceeding north along Grand avenue until it intersects Seventh street, then proceeding east along Seventh street until it intersects Duff avenue, then proceeding north along Duff avenue until it intersects East Sixteenth street, then proceeding east along East Sixteenth street until it intersects Glendale avenue, then proceeding south along Glendale avenue until it intersects East Thirteenth street, then proceeding east along East Thirteenth street until it intersects the north corporate limit of the city of Ames to the north of East Thirteenth street, then proceeding first northerly and then in a counterclockwise manner along the corporate limits of the city of Ames to the point of origin.

62. The sixty-second representative district in Story county shall consist of:

a. Those portions of the city of Ames and Washington township not contained in the sixty-first representative district.

b. That portion of Grant township lying outside the corporate limits of the city of Nevada.

c. Palestine, Union, and Indian Creek townships.

63. The sixty-third representative district shall consist of:

a. That portion of Story county not contained in the sixty-first or sixty-second representative districts.

b. That portion of Marshall county not contained in the fifty-eighth or sixty-fourth representative district.

64. The sixty-fourth representative district in Marshall county shall consist of:

a. Timber Creek and Le Grand townships.

b. That portion of the city of Marshalltown and Marietta township bounded by a line commencing at the point Highland Acres road, West Main street, and the corporate limits of the city of Marshalltown intersect, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Marshalltown to the point of origin.

65. The sixty-fifth representative district shall consist of that portion of Polk county bounded by a line commencing at the point the west corporate limit of the city of Sheldahl intersects the north boundary of Polk county, then proceeding first south and then in a counterclockwise manner along the corporate limits of the city of Sheldahl until it intersects the west boundary of Lincoln township, then proceeding first south and then east along the boundary of Lincoln township until it intersects the west boundary of Douglas township, then proceeding south along the west boundary of Douglas township until it intersects the north corporate limit of

the city of Ankeny, then proceeding first south then in a clockwise manner along the corporate limits of the city of Ankeny until it intersects the east boundary of Crocker township north of Northeast One Hundred Fifth place, then proceeding south along the east boundary of Crocker township until it intersects the corporate limits of the city of Ankeny, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Ankeny until it intersects the east boundary of Crocker township, then proceeding south along the east boundary of Crocker township until it intersects the east boundary of Saylor township, then proceeding south along the east boundary of Saylor township until it intersects the north corporate limit of the city of Des Moines, then proceeding first west and then in a counterclockwise manner along the corporate limits of the city of Des Moines until it intersects the middle of the main channel of the Des Moines river, then proceeding northerly along the middle of the main channel of the Des Moines river until it intersects the west boundary of Polk county, then proceeding first north and then east along the boundary of Polk county to the point of origin.

66. The sixty-sixth representative district shall consist of that portion of Polk county bounded by a line commencing at the point Delaware avenue intersects the north corporate limit of the city of Des Moines, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Des Moines until it intersects the south boundary of Polk county, then proceeding first east and then in a counterclockwise manner along the boundary of Polk county until it intersects the east boundary of the sixty-fifth representative district, then proceeding first south and then in a clockwise manner along the boundary of the sixty-fifth representative district to the point of origin.

67. The sixty-seventh representative district in Polk county shall consist of that portion of the city of Des Moines bounded by a line commencing at the point the south corporate limit of the city of Des Moines intersects Fleur drive, then proceeding north along Fleur drive until it intersects Kenyon avenue, then proceeding easterly along Kenyon avenue until it intersects Southwest Thirteenth street, then proceeding north along Southwest Thirteenth street until it intersects Frazier avenue, then proceeding east along Frazier avenue until it intersects Southwest Ninth street, then proceeding north along Southwest Ninth street until it intersects McKinley avenue, then proceeding west along McKinley avenue until it intersects Southwest Fourteenth street, then proceeding north along Southwest Fourteenth street until it intersects Watrous avenue, then proceeding east along Watrous avenue until it intersects Southwest Ninth street, then proceeding northerly along Southwest Ninth street until it intersects Olinda avenue, then proceeding east along Olinda avenue until it intersects South Union street, then proceeding north along South Union street until it intersects Hartford avenue, then proceeding east along Hartford avenue until it intersects Southeast Fifth street, then proceeding south along Southeast Fifth street until it intersects East Bell avenue, then proceeding east along East Bell avenue until it intersects Southeast Fourteenth street, then proceeding southerly along Southeast Fourteenth street until it intersects U.S. highways 65 and 69 at Army Post road, then proceeding southeasterly along U.S. highways 65 and 69 until it intersects the south boundary of the corporate limits of the city of Des Moines, then proceeding west along the corporate limits of the city of Des Moines to the point of origin.

68. The sixty-eighth representative district in Polk county shall consist of those portions of the city of Des Moines and Bloomfield township bounded by a line commencing at the point Olinda avenue intersects Ninth street southwest, then proceeding northerly along Ninth street southwest until it intersects the Raccoon river, then proceeding first westerly and then northerly along the Raccoon river until it intersects Fleur drive, then proceeding northeasterly along Fleur drive until it intersects Eighteenth street, then proceeding northerly along Eighteenth street until it intersects Grand avenue, then proceeding easterly along Grand avenue until it intersects Seventeenth street, then proceeding northerly along Seventeenth street until it intersects Center street, then proceeding west along Center street until it intersects Eighteenth street, then proceeding north along Eighteenth street until it intersects School street, then proceeding west along School street until it intersects Harding road, then proceeding north along Harding road until it intersects Interstate 235, then proceeding easterly along

Interstate 235 until it intersects East University avenue, then proceeding east along East University avenue until it intersects the east corporate limit of the city of Des Moines, then proceeding first south and then in a clockwise manner along the corporate limits of the city of Des Moines until it intersects U.S. highways 65 and 69, then proceeding first northwesterly and then in a counterclockwise manner along the boundary of the sixty-seventh representative district to the point of origin.

69. The sixty-ninth representative district in Polk county shall consist of that portion of the city of Des Moines bounded by a line commencing at the point East Fifteenth street intersects Interstate 235, then proceeding north along East Fifteenth street until it intersects Maple street, then proceeding east along Maple street until it intersects East Sixteenth street, then proceeding northerly along East Sixteenth street until it intersects East University avenue, then proceeding west along East University avenue until it intersects East Sixteenth street, then proceeding north along East Sixteenth street until it intersects East Washington avenue, then proceeding east along East Washington avenue until it intersects East Seventeenth street, then proceeding north along East Seventeenth street until it intersects Guthrie avenue, then proceeding west along Guthrie avenue until it intersects York street, then proceeding north along York street until it intersects Arthur avenue, then proceeding east along Arthur avenue until it intersects East Fourteenth street, then proceeding north along East Fourteenth street until it intersects the north corporate limit of the city of Des Moines, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Des Moines until it intersects East University avenue, then proceeding west along East University avenue until it intersects Interstate 235, then proceeding southwest along Interstate 235 to the point of origin.

70. The seventieth representative district in Polk county shall consist of that portion of the city of Des Moines bounded by a line commencing at the point East Fifteenth street intersects Interstate 235, then proceeding westerly along Interstate 235 until it intersects Harding road, then proceeding north along Harding road until it intersects Atkins street, then proceeding west along Atkins street until it intersects Twenty-first street, then proceeding north along Twenty-first street until it intersects University avenue, then proceeding east along University avenue until it intersects Harding road, then proceeding north along Harding road until it intersects Clark street, then proceeding east along Clark street until it intersects Eleventh street, then proceeding north along Eleventh street until it intersects Jefferson avenue, then proceeding east along Jefferson avenue until it intersects Sixth avenue, then proceeding north along Sixth avenue until it intersects the middle of the main channel of the Des Moines river, then proceeding northerly along the middle of the main channel of the Des Moines river until it intersects the north corporate limit of the city of Des Moines, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Des Moines until it intersects East Fourteenth street, then proceeding first south and then in a counterclockwise manner along the boundary of the sixty-ninth representative district to the point of origin.

71. The seventy-first representative district in Polk county shall consist of that portion of the city of Des Moines bounded by a line commencing at the point Fleur drive intersects the Raccoon river, then proceeding northeasterly along Fleur drive until it intersects the north spur of the Des Moines Union Railway Company railroad track, then proceeding southwest along said Des Moines Union Railway Company railroad track until it intersects the south extension of Twenty-eighth street, then proceeding north along the south extension of Twenty-eighth street until it intersects Terrace drive, then proceeding westerly along Terrace drive until it intersects Thirty-first street, then proceeding north along Thirty-first street until it intersects Grand avenue, then proceeding west along Grand avenue until it intersects Thirty-fifth street, then proceeding north along Thirty-fifth street until it intersects Woodland avenue, then proceeding west along Woodland avenue until it intersects Thirty-seventh street, then proceeding north along Thirty-seventh street until it intersects Center street, then proceeding east along Center street until it intersects Thirty-seventh street, then proceeding north along Thirty-seventh street until it intersects Rollins avenue, then proceeding east along

Rollins avenue until it intersects Thirty-fifth street, then proceeding north along Thirty-fifth street until it intersects Interstate 235, then proceeding westerly along Interstate 235 until it intersects Forty-second street, then proceeding north along Forty-second street until it intersects Cottage Grove avenue, then proceeding east along Cottage Grove avenue until it intersects Thirty-first street, then proceeding north along Thirty-first street until it intersects University avenue, then proceeding east along University avenue until it intersects Thirtieth street, then proceeding north along Thirtieth street until it intersects Hickman road, then proceeding west along Hickman road until it intersects Thirty-eighth street, then proceeding north along Thirty-eighth street until it intersects Douglas avenue, then proceeding east along Douglas avenue until it intersects Thirtieth street, then proceeding north along Thirtieth street until it intersects Seneca avenue, then proceeding west along Seneca avenue until it intersects Lawnwoods drive, then proceeding north along Lawnwoods drive until it intersects Madison avenue, then proceeding west along Madison avenue until it intersects Lower Beaver road, then proceeding northwesterly along Lower Beaver road until it intersects Aurora avenue, then proceeding west along Aurora avenue until it intersects Thirty-eighth street, then proceeding north along Thirty-eighth street until it intersects Brinkwood road, then proceeding east along Brinkwood road until it intersects Lower Beaver road, then proceeding northwest along Lower Beaver road until it intersects Hillcrest drive, then proceeding east along Hillcrest drive until it intersects the north corporate limit of the city of Des Moines, then proceeding first southeast and then in a clockwise manner along the corporate limits of the city of Des Moines until it intersects the middle of the main channel of the Des Moines river, then proceeding first south and then in a counterclockwise manner along the boundary of the seventieth representative district until it intersects the boundary of the sixty-eighth representative district, then proceeding first south and then in a counterclockwise manner along the boundary of the sixty-eighth representative district to the point of origin.

72. The seventy-second representative district in Polk county shall consist of that portion of the city of Des Moines bounded by a line commencing at the point Cottage Grove avenue intersects Forty-second street, then proceeding north along Forty-second street until it intersects University avenue, then proceeding west along University avenue until it intersects Fifty-sixth street, then proceeding south along Fifty-sixth street until it intersects Interstate 235, then proceeding west along Interstate 235 until it intersects the west corporate limit of the city of Des Moines, then proceeding first north and then in a clockwise manner along the corporate limits of the city of Des Moines until it intersects Aurora avenue, then proceeding east along Aurora avenue until it intersects Beaver avenue, then proceeding east along the south boundary of Webster township until it intersects Aurora avenue, then proceeding easterly along Aurora avenue until it intersects Lower Beaver road, then proceeding first southeast and then in a counterclockwise manner along the boundary of the seventy-first representative district to the point of origin.

73. The seventy-third representative district in Polk county shall consist of those portions of the cities of Des Moines and West Des Moines and Bloomfield township which are bounded by a line commencing at the point Interstate 235 intersects Fifty-sixth street, then proceeding south along Fifty-sixth street until it intersects North Valley drive, then proceeding southwest along North Valley drive until it intersects Walnut creek, then proceeding northwesterly along Walnut creek until it intersects Grand avenue, then proceeding west along Grand avenue until it intersects First street, then proceeding south along First street until it intersects Railroad avenue, then proceeding west along Railroad avenue until it intersects Grand avenue, then proceeding northeast along Grand avenue until it intersects Vine street, then proceeding west and then northwesterly along Vine street until it intersects Thirty-second street, then proceeding southwest along Thirty-second street until it intersects Meadow lane, then proceeding southeasterly along Meadow lane until it intersects Twenty-eighth street, then proceeding southerly along Twenty-eighth street until it intersects Giles street, then proceeding westerly along Giles street until it intersects Thirty-third street, then proceeding southerly along Thirty-third street until it intersects Maple street, then proceeding westerly along Maple

street until it intersects Thirty-fifth court, then proceeding southerly along Thirty-fifth court (and its extension) until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding westerly along the Chicago and Northwestern Transportation Company railroad track until it intersects Thirty-ninth street, then proceeding south along Thirty-ninth street until it intersects Delavan drive, then proceeding west along Delavan drive (and its extension) until it intersects Interstate 35, then proceeding north along Interstate 35 until it intersects Jordan creek, then proceeding westerly along Jordan creek until it intersects the Chicago and Northwestern Transportation Company railroad track, then proceeding westerly along the Chicago and Northwestern Transportation Company railroad track until it intersects Jordan creek, then proceeding westerly along Jordan creek until it intersects the west boundary of Polk county, then proceeding first south and then east along the boundary of Polk county until it intersects Fleur drive, then proceeding first north and then in a clockwise manner along the boundary of the sixty-seventh representative district until it intersects the boundary of the sixty-eighth representative district, then proceeding first north and then in a clockwise manner along the boundary of the sixty-eighth representative district until it intersects the boundary of the seventy-first representative district, then proceeding first north and then in a clockwise manner along the boundary of the seventy-first representative district until it intersects the boundary of the seventy-second representative district, then proceeding first north and then in a clockwise manner along the boundary of the seventy-second representative district to the point of origin.

74. The seventy-fourth representative district in Polk county shall consist of the following portions of the cities of Des Moines and West Des Moines bounded by a line commencing at the point Jordan creek intersects the west boundary of Polk county, then proceeding north along the boundary of Polk county until it intersects the north corporate limit of the city of West Des Moines, then proceeding first east and then in a clockwise manner along the corporate limits of the city of West Des Moines until it intersects Center street, then proceeding easterly along Center street until it intersects Sixty-third street, then proceeding north along Sixty-third street until it intersects Interstate 235, then proceeding east along Interstate 235 until it intersects Fifty-sixth street, then proceeding first south and then in a counterclockwise manner along the boundary of the seventy-third representative district to the point of origin.

75. The seventy-fifth representative district in Polk county shall consist of that portion bounded by a line commencing at the point Sixty-ninth street intersects Douglas avenue, then proceeding north along Sixty-ninth street until it intersects Airline avenue, then proceeding east along Airline avenue (and its extension) until it intersects the unnamed road lying to the west of Merle Hay mall, then proceeding north and then west on said unnamed road until it intersects the east corporate limit of the city of Urbandale, then proceeding first south and then in a clockwise manner along the corporate limits of the city of Urbandale until it intersects the north corporate limit of the city of Windsor Heights, then proceeding first east and then in a clockwise manner along the corporate limits of the city of Windsor Heights until it intersects the south corporate limit of the city of Clive, then proceeding first northwest and then in a clockwise manner along the corporate limits of the city of Clive until it intersects the west boundary of Polk county at Northwest One Hundred Forty-second street, then proceeding north along the west boundary of Polk county until it intersects Northwest Seventieth avenue, then proceeding east along Northwest Seventieth avenue until it intersects the west corporate limit of the city of Grimes, then proceeding first north and then in a clockwise manner along the corporate limits of the city of Grimes until it intersects the north boundary of Webster township, then proceeding east along the north boundary of Webster township until it intersects the west corporate limit of the city of Johnston, then proceeding first south and then in a counterclockwise manner along the corporate limits of the city of Johnston until it intersects the north corporate limit of the city of Urbandale, then proceeding first south and then in a clockwise manner along the corporate limits of the city of Urbandale until it intersects Meredith drive, then proceeding east along Meredith drive until it intersects North Walnut

creek, then proceeding southerly along North Walnut creek until it intersects Douglas avenue, then proceeding east along Douglas avenue to the point of origin.

76. The seventy-sixth representative district shall consist of:

a. That portion of Polk county not contained in the sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, seventy-fourth, or seventy-fifth representative districts.

b. In Dallas county, Beaver, Des Moines, Sugar Grove, and Grant townships and the city of Dallas Center.

77. The seventy-seventh representative district shall consist of:

a. That portion of Dallas county not contained in the seventy-sixth representative district.

b. In Madison county, Penn, Madison, Jefferson, Lee, Jackson, Douglas, Union, and Crawford townships.

78. The seventy-eighth representative district shall consist of:

a. That portion of Madison county not contained in the seventy-seventh representative district.

b. Guthrie county.

c. Adair county.

79. The seventy-ninth representative district shall consist of:

a. That portion of Boone county not contained in the fourteenth representative district.

b. In Greene county, Highland, Dawson, Paton, Bristol, Junction, Franklin, and Washington townships and those portions of Grant and Hardin townships lying outside the corporate limits of the city of Jefferson.

80. The eightieth representative district shall consist of:

a. That portion of Greene county not contained in the seventy-ninth representative district.

b. Carroll county.

81. The eighty-first representative district shall consist of:

a. Audubon county.

b. Shelby county.

c. In Pottawattamie county, Neola, Minden, Pleasant, Knox, Layton, Lincoln, Valley, James, York, and Norwalk townships.

82. The eighty-second representative district shall consist of:

a. Harrison county.

b. That portion of Pottawattamie county not contained in the eighty-first, eighty-third, eighty-fourth, eighty-fifth, or eighty-sixth representative district.

83. The eighty-third representative district in Pottawattamie county shall consist of:

a. The city of Carter Lake.

b. Those portions of the city of Council Bluffs and Kane township bounded by a line commencing at the point the north boundary of Kane township intersects Indian creek, then proceeding west along the north boundary of Kane township until it intersects the north corporate limit of the city of Council Bluffs, then proceeding first west and then in a counterclockwise manner along the corporate limits of the city of Council Bluffs until it intersects Interstate 480, then proceeding easterly along Interstate 480 until it intersects West Broadway, then proceeding east along West Broadway until it intersects South Twenty-third street, then proceeding southerly along South Twenty-third street until it intersects Third avenue, then proceeding east along Third avenue until it intersects South Twenty-first street, then proceeding south along South Twenty-first street until it intersects Ninth avenue, then proceeding easterly along Ninth avenue until it intersects South Twelfth street, then proceeding north on South Twelfth street until it intersects Fourth avenue, then proceeding east along Fourth avenue until it intersects South Eleventh street, then proceeding north along South Eleventh street until it intersects West Broadway, then proceeding east along West Broadway until it intersects North Eighth street, then proceeding north along North Eighth street until it intersects West Washington avenue, then proceeding easterly along West Washington avenue until it intersects Kanesville boulevard, then proceeding northeasterly along Kanesville boulevard until

it intersects North First street, then proceeding south along North First street until it intersects East Broadway, then proceeding northeasterly along East Broadway until it intersects Union street, then proceeding southeasterly along Union street until it intersects East Pierce street, then proceeding northeast along East Pierce street until it intersects Frank street, then proceeding northwest along Frank street until it intersects East Broadway, then proceeding northeast along East Broadway until it intersects East Oak street, then proceeding southeast along East Oak street until it intersects East Pierce Street, then proceeding northeasterly along East Pierce street until it intersects North avenue, then proceeding north along North avenue until it intersects East Kanesville boulevard, then proceeding northeasterly along East Kanesville boulevard until it intersects McKensie avenue, then proceeding northerly along McKensie avenue until it intersects South Ridge road, then proceeding east along South Ridge road until it intersects North Ridge road, then proceeding northerly along North Ridge road until it intersects the north corporate limit of the city of Council Bluffs, then proceeding west along the north corporate limit until it intersects the east boundary of Kane township, then proceeding north and then west along the boundary of Kane township until it intersects the north corporate limit of the city of Council Bluffs, then proceeding first north and then in a counterclockwise manner along the corporate limits of the city of Council Bluffs until it intersects the north boundary of Kane township, then proceeding west along the north boundary of Kane township to the point of origin.

84. The eighty-fourth representative district shall consist of that portion of Pottawattamie county bounded by a line commencing at the point North avenue intersects East Kanesville boulevard, then proceeding south along North avenue until it intersects East Pierce street, then proceeding easterly along East Pierce street until it intersects McPherson avenue, then proceeding southeasterly along McPherson avenue until it intersects Gleason avenue, then proceeding west along Gleason avenue until it intersects Morningside avenue, then proceeding north along Morningside avenue until it intersects Park lane, then proceeding west on Park lane until it intersects Lincoln avenue, then proceeding southeasterly along Lincoln avenue until it intersects Bennett avenue, then proceeding southwesterly along Bennett avenue until it intersects Madison avenue, then proceeding southeasterly along Madison avenue until it intersects the east corporate limit of the city of Council Bluffs, then proceeding southwest along the corporate limits of the city of Council Bluffs until it intersects the east boundary of Kane township, then proceeding southerly along the east boundary of Kane township until it intersects the east corporate limit of the city of Council Bluffs, then proceeding first south and then in a clockwise manner along the corporate limits of the city of Council Bluffs until it intersects state highway 92, then proceeding northeasterly along state highway 92 until it intersects the east boundary of Lewis township, then proceeding south along the east boundary of Lewis township until it intersects the south boundary of Pottawattamie county, then proceeding first west and then in a clockwise manner along the boundary of Pottawattamie county until it intersects Interstate 480, then proceeding first east and then in a counterclockwise manner along the boundary of the eighty-third representative district to the point of origin.

85. The eighty-fifth representative district shall consist of:

a. In Pottawattamie county, Hardin, Washington, Belknap, Center, Grove, Carson, Macedonia, Silver Creek, and Keg Creek townships.

b. Mills county.

c. Fremont county.

86. The eighty-sixth representative district shall consist of:

a. Cass county.

b. Montgomery county.

c. In Pottawattamie county, Wright and Waveland townships.

87. The eighty-seventh representative district shall consist of:

a. Adams county.

b. Page county.

c. That portion of Taylor county not contained in the eighty-eighth representative district.

88. The eighty-eighth representative district shall consist of:

- a. Union county.
- b. Ringgold county.
- c. Decatur county.
- d. In Taylor county, Grant, Gay, and Jefferson townships.

89. The eighty-ninth representative district shall consist of that portion of Warren county bounded by a line commencing at the point the west corporate limit of the city of Norwalk intersects the north boundary of Warren county, then proceeding first south and then in a counterclockwise manner along the corporate limits of the city of Norwalk until it intersects the east boundary of Linn township at Wright road, then proceeding south along the east boundary of Linn township until it intersects the east boundary of Jefferson township, then proceeding south along the east boundary of Jefferson township until it intersects the south boundary of Lincoln township, then proceeding east along the south boundary of Lincoln township until it intersects the west corporate limit of the city of Indianola, then proceeding first south and then in a counterclockwise manner along the corporate limits of the city of Indianola until it intersects the south boundary of Lincoln township, then proceeding east along the south boundary of Lincoln township until it intersects the west boundary of Union township, then proceeding first north and then in a clockwise manner along the boundary of Union township until it intersects the east boundary of Warren county, then proceeding first north and then in a counterclockwise manner along the boundary of Warren county to the point of origin.

90. The ninetieth representative district shall consist of:

- a. That portion of Warren county not contained in the eighty-ninth representative district.
- b. That portion of Marion county not contained in the ninety-fifth representative district.

91. The ninety-first representative district shall consist of:

- a. Clarke county.
- b. Lucas county.
- c. Wayne county.
- d. In Appanoose county, Independence, Walnut, Johns, Bellair, Lincoln, Franklin, and Pleasant townships.

92. The ninety-second representative district shall consist of:

- a. Monroe county.
- b. Davis county.
- c. That portion of Appanoose county not contained in the ninety-first representative district.
- d. In Van Buren county, that portion of Jackson township lying outside the corporate limits of the city of Cantril.

93. The ninety-third representative district in Wapello county shall consist of Adams, Green, and Center townships, and the city of Ottumwa.

94. The ninety-fourth representative district shall consist of:

- a. Jefferson county.
- b. That portion of Van Buren county not contained in the ninety-second representative district.
- c. In Wapello county, Keokuk, Washington, Agency, and Pleasant townships, and that portion of Dahlonga township lying outside the corporate limits of the city of Ottumwa.

95. The ninety-fifth representative district shall consist of:

- a. In Marion county, Lake Prairie township.
- b. In Mahaska county:
 - (1) Richland, Prairie, Black Oak, Madison, Scott, Garfield, Lincoln, Jefferson, West Des Moines, and East Des Moines townships.
 - (2) The cities of Oskaloosa and University Park.

96. The ninety-sixth representative district shall consist of:

- a. That portion of Mahaska county not contained in the fifty-eighth or ninety-fifth representative districts.
- b. Keokuk county.

c. That portion of Wapello county not contained in the ninety-third or ninety-fourth representative district.

d. In Washington county, Lime Creek, English River, Iowa, Seventy-six, Cedar, Jackson, Highland, Dutch Creek, and Clay townships and the city of Brighton.

97. The ninety-seventh representative district shall consist of:

a. That portion of Washington county not contained in the ninety-sixth representative district.

b. That portion of Henry county not contained in the ninety-eighth representative district.

c. In Des Moines county, Washington and Pleasant Grove townships.

98. The ninety-eighth representative district shall consist of:

a. In Henry county, Tippecanoe, Salem, Jackson, and Baltimore townships.

b. That portion of Lee county not contained in the ninety-ninth representative district.

99. The ninety-ninth representative district shall consist of:

a. In Lee county:

(1) Washington and Green Bay townships.

(2) That portion of the city of Fort Madison and Jefferson township bounded by a line commencing at the point Sheppard's lane intersects the west corporate limit of the city of Fort Madison, then proceeding first southwest and then in a counterclockwise manner along the corporate limits of the city of Fort Madison to the point of origin.

b. That portion of Des Moines county not contained in the ninety-seventh or one hundredth representative district.

100. The one hundredth representative district in Des Moines county shall consist of:

a. Concordia township.

b. Those portions of the city of Burlington and Union and Tama townships bounded by a line commencing at the point West Avenue road intersects the south corporate limit of the city of Burlington, then proceeding north along the corporate limits of the city of Burlington until it intersects West avenue, then proceeding east along West avenue until it intersects the corporate limits of the city of Burlington proceeding to the south of West avenue, then proceeding first south and then in a counterclockwise manner along the corporate limits of the city of Burlington to the point of origin.

Sec. 3. If a vacancy in the general assembly occurs or exists after the effective date of this Act, at a time which makes it necessary to fill the vacancy at a special election held pursuant to section 69.14, the vacancy shall be filled from the same district provided in chapter 41, Code 1991, that elected the senator or representative whose seat is vacant. This does not apply if a special election is not required under section 69.14 and is repealed January 1, 1993.

Sec. 4. The membership of the senate and the house of representatives in the seventy-fifth and subsequent general assemblies shall be determined as follows:

1. Each representative district established by section 2 of this Act shall elect one representative for a term of two years in 1992 and every subsequent even-numbered year.

2. Each even-numbered senatorial district established by section 41.2, which the general assembly adopts by reference, and section 2 of this Act, shall elect a senator in 1992 for a four-year term commencing in January 1993. If an incumbent senator who was elected to a four-year term which commenced in January 1991, or was subsequently elected to fill a vacancy in such a term, is residing in an even-numbered senatorial district on March 13, 1992, that senator's term of office shall be terminated on January 1, 1993.

3. Each odd-numbered senatorial district established by section 41.2, which the general assembly adopts by reference, and section 2 of this Act, shall elect a senator in 1994 for a four-year term commencing in January 1995.

a. If one and only one incumbent state senator is residing in an odd-numbered senatorial district on March 13, 1992, and that senator meets all of the following requirements, the senator shall represent the district in the senate for the Seventy-fifth General Assembly.

(1) The senator was elected to a four-year term which commenced in January 1991, or was subsequently elected to fill a vacancy in such a term.

(2) The senatorial district adopted under this Act which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the odd-numbered senatorial district in which the senator resides on March 13, 1992, or is contiguous to such odd-numbered senatorial district. Areas which meet only at the points of adjoining corners are not contiguous.

b. Each odd-numbered senatorial district to which paragraph "a" of this subsection is not applicable shall elect a senator in 1992 for a two-year term commencing in January 1993.

Sec. 5. For purposes of this Act, each reference to a specific city or township means the city or township as its boundary existed on January 1, 1990, the official date for establishing such boundaries under the 1990 United States decennial census. Also, for purposes of this Act, each reference to a street or other boundary means the boundaries as they are delineated on the official Public Law 94-171 census maps.

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

Approved May 30, 1991

CHAPTER 224

CERTIFICATION OF WELL CONTRACTORS

H.F. 325

AN ACT relating to the establishment of a well contractor certification program, establishing fees, and making penalties applicable.

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

Section 1. GOALS. The goals of the well contractor certification program are the following:

1. To protect the groundwater of the state against contamination caused by improper water well construction or maintenance, faulty pump installation and repair, and inadequate well abandonment.

2. To protect the health and well-being of Iowans through the provision of safe drinking water supplies through proper water well construction and maintenance.

Sec. 2. NEW SECTION. 455B.190A WELL CONTRACTOR CERTIFICATION PROGRAM.

1. As used in this section:

a. "Groundwater" means groundwater as defined in section 455E.2.

b. "Water well" or "well" means water well as defined in section 455B.171.

c. "Well contractor" means contractor as defined pursuant to section 455B.171, subsection 25.

d. "Well contractors' council" means the council established in subsection 3.

e. "Well services" means new well construction, well reconstruction, installation of pitless equipment, or well plugging.

f. "Examination" means an examination for well contractors which includes, but is not limited to, relevant aspects of Iowa groundwater law, well construction, well maintenance, and well abandonment practices which protect groundwater and water supplies.

2. The department shall establish a well contractor certification program which shall include all of the following provisions:

a. Specification of certification requirements, including minimum work experience levels, successful completion of an examination, and continuing education requirements.

b. A certified well contractor shall be present at the well site and in direct charge of the services whenever well services are provided.

c. A person shall not act as a well contractor on or after July 1, 1993, unless the person is certified by the department pursuant to this section.

d. Violation of the rules regarding well construction, maintenance, or plugging are grounds for suspension or revocation of certification.

e. Provisional certification may be obtained by an applicant in instances of shortages of certified personnel if all of the following conditions are met:

(1) The applicant provides documentation of at least one year of work experience in well services performed under the direct supervision of a certified well contractor.

(2) The applicant successfully completes the examination.

(3) A certified well contractor who employs an applicant for well contractor certification cosigns the application for provisional certification. An employer who cosigns an application for provisional certification is jointly liable for a violation of the rules regarding well construction, maintenance, or plugging by the provisionally certified well contractor and the violation is grounds for the suspension or revocation of certification of the certified well contractor and the provisionally certified well contractor.

f. The department shall develop continuing education requirements for certification of a well contractor in consultation with the well contractors' council.

g. The examination shall be developed by the department in consultation with the well contractors' council. The examination shall be updated as necessary to reflect current groundwater law and well construction, maintenance, and abandonment practices.

h. The department may provide for multiyear certification of well contractors.

3. A well contractors' council is established.

a. The council shall consist of the following members:

(1) One well drilling contractor appointed by the governor and subject to confirmation by the senate.

(2) One pump installation contractor appointed by the governor and subject to confirmation by the senate.

(3) One citizen member of the Iowa groundwater association or its successor, appointed by the governor and subject to confirmation by the senate.

(4) One citizen member of the Iowa environmental health association or its successor, appointed by the governor and subject to confirmation by the senate.

(5) The director of the Iowa department of public health or the director's designee.

(6) The state geologist or the state geologist's designee.

(7) The director of the state hygienic laboratory or the director's designee.

b. Citizen members of the council shall serve two-year terms beginning and ending as provided in section 69.19. A citizen member of the council shall not serve more than two consecutive terms. The council shall be gender balanced, to the extent possible, pursuant to section 69.16A.

c. The well contractors' council shall be dissolved six months after completion of all of the following:

(1) Publication of the consumer information pamphlet.

(2) Adoption of rules by the commission.

(3) Administration of the second certification examination.

4. The department shall develop, in consultation with the well contractors' council, a consumer information pamphlet regarding well construction, well maintenance, well plugging, and Iowa groundwater laws. The department and the council shall review and revise the consumer information pamphlet as necessary. The consumer information pamphlet shall be supplied to well contractors, at cost, and well contractors shall supply one copy at no cost to potential customers prior to initiation of well services.

5. The department shall establish by rule and collect, in consultation with the well contractors' council, the following fees to be used to implement and administer the provisions of this section:

a. An annual certification fee to be paid by certified well contractors. The initial annual certification fee is one hundred fifty dollars. The fee may be increased by rule, as necessary, to reflect the costs of administration of the program. The department may establish a fee for multiyear certification.

b. The department may also charge and collect fees for testing, the provision of continuing education, and other fees related to and based on the actual costs of the well contractor certification program.

6. Rules adopted by the commission shall be developed in consultation with the council. If a majority of the council does not endorse the rules adopted by the commission, notice shall be sent to the administrative rules review committee indicating the council's position.

Sec. 3. Section 455B.171, subsections 25 and 27, Code 1991, are amended to read as follows:

25. "Contractor" means a person engaged in the business of well construction or reconstruction or other well services.

27. "Water well" means an excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted or otherwise constructed for ~~accessing groundwater~~ the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. "Water well" does not include an open ditch or drain tiles or an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried.

Sec. 4. Section 455B.172, subsection 7, Code 1991, is amended to read as follows:

7. The department is the state agency to regulate the registration or certification of water well contractors pursuant to section 455B.187 or section 455B.190A.

Sec. 5. Section 455B.173, subsection 9, Code 1991, is amended to read as follows:

9. Adopt, modify or repeal rules relating to the construction and reconstruction of water wells, the proper abandonment of wells, and the registration or certification of water well contractors. The rules shall include those necessary to protect the public health and welfare, and to protect the waters of the state. The rules may include, but are not limited to, establishing fees for registration or certification of water well contractors, requiring the submission of well driller's logs, formation samples or well cuttings, water samples, information on test pumping and requiring inspections. Fees shall be based upon the reasonable cost of conducting the water well contractor registration or certification program.

Sec. 6. Section 455B.187, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A contractor shall not engage in well construction or reconstruction without first registering or being certified as required in department rules. If a well contractor is registered prior to July 1, 1991, the well contractor shall meet the requirements of certification by July 1, 1993. Following adoption of the rules establishing a well contractor certification program, a person seeking initial well contractor status shall meet the requirements established for certification. Beginning July 1, 1993, the department shall replace the registration program with the well certification program. Water wells shall not be constructed, reconstructed, or abandoned by a person except as provided in this part or rules adopted pursuant to this part. Within thirty days after construction or reconstruction of a well, a contractor shall provide well information required by rule to the department and the Iowa geological survey.

Sec. 7. Section 455B.190, subsection 6, Code 1991, is amended to read as follows:

6. A person who fails to properly plug a well on property the person owns, in accordance with the program established by the department, or as reported by a designated agent or a registered or certified well driller contractor, is subject to a civil penalty of up to one hundred dollars per every five calendar days that the well remains unplugged or improperly plugged. However, the total civil penalty shall not exceed one thousand dollars. The penalty shall only be assessed after the one thousand dollar limit is reached. If the owner plugs the well in compliance with this section, including applicable departmental rules, before the date that the one thousand dollar limit is reached, the civil penalty shall not be assessed. The penalty

shall not be imposed upon a person for improperly plugging a well until the department notifies the person of the improper plugging. 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.

Approved May 30, 1991

CHAPTER 225

HEALTH CARE FACILITIES AND CERTIFICATE OF NEED PROGRAM

H.F. 668

AN ACT relating to the certificate of need program and providing penalties.

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

Section 1. Section 135.61, Code 1991, is amended to read as follows:

135.61 DEFINITIONS.

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

1. "Affected persons" means, with respect to an application for a certificate of need:

a. The person submitting the application.

b. Consumers who would be served by the new institutional health service proposed in the application.

c. Each institutional health facility or health maintenance organization which is located in the geographic area which would appropriately be served by the new institutional health service proposed in the application. The appropriate geographic service area of each institutional health facility or health maintenance organization shall be determined on a uniform basis in accordance with criteria established in rules promulgated adopted by the department in consultation with the appropriate health systems agency.

d. The designated health systems agencies for the health systems agency area in which the new institutional health service proposed in the application is to be located and for each of the health systems agency areas contiguous thereto, including those in other states.

e. Each institutional health facility or health maintenance organization which, prior to receipt of the application by the department, has formally indicated to the department pursuant to this division an intent to furnish in the future institutional health services similar to the new institutional health service proposed in the application.

f. Any other person designated as an affected person by rules of the department.

g. Any payer or third-party payer for health services.

2. "Birth center" means birth center as defined in section 135G.2.

3. "Director" means the director of public health, or the director's designee.

4. "Consumer" means any individual whose occupation is other than health services, who has no fiduciary obligation to an institutional health facility, health maintenance organization or other facility primarily engaged in delivery of services provided by persons in health service occupations, and who has no material financial interest in the providing of any health services.

5. "Council" means the state health facilities council established by this division.

6. "Department" means the Iowa department of public health.

6 7. "Develop", when used in connection with health services, means to undertake those activities which on their completion will result in the offer of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service.

7. "Federal Act" means the national health planning and resources development Act of 1974, United States public law 93-641, as amended to January 1, 1977.

8. "Financial reporting" means reporting by which hospitals and health care facilities shall respectively record their revenues, expenses, other income, other outlays, assets and liabilities, and units of services.

9. "Health care facility" is defined means health care facility as it is defined in section 135C.1.

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 155A to provide in this state professional health care service to an individual during that individual's medical care, treatment or confinement.

11. "Health maintenance organization" is defined means health maintenance organization as it is defined in section 514B.1, subsection 3.

12. "Health services" means clinically related diagnostic, curative, or rehabilitative services, and includes alcoholism, drug abuse, and mental health services.

13. "Health systems agency" means an entity which is designated and operated in the manner described in the federal Act.

14. "Health systems plan" means a detailed statement of goals developed by a health systems agency, which describes a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care at reasonable cost for all residents of the area, and which is responsive to the unique needs and resources of the area.

15 13. "Hospital" is defined as it is means hospital as defined in section 135B.1, subsection 1.

16 14. "Institutional health facility" means any of the following, without regard to whether the facilities referred to are publicly or privately owned or are organized for profit or not or whether the facilities are part of or sponsored by a health maintenance organization:

a. A hospital.

b. A health care facility.

c. A kidney disease treatment center, including any freestanding hemodialysis unit but not including any home hemodialysis unit.

d. An organized outpatient health facility.

e. An outpatient surgical facility.

f. A community mental health facility.

g. A birth center.

17 15. "Institutional health service" means any health service furnished in or through institutional health facilities or health maintenance organizations, including mobile health services.

18 16. "Mobile health service" means equipment used to provide a health service that can be transported from one delivery site to another.

19 17. "Modernization" means the alteration, repair, remodeling, replacement or renovation of existing buildings or of the equipment previously installed therein, or both.

20 18. "New institutional health service" or "changed institutional health service" means any of the following:

a. The construction, development or other establishment of a new institutional health facility or health maintenance organization regardless of ownership.

b. Relocation of an institutional health facility or a health maintenance organization.

c. Any capital expenditure, lease, or donation by or on behalf of an institutional health facility or a health maintenance organization in excess of six hundred thousand dollars which, under generally accepted accounting principles consistently applied, is a capital expenditure, or any acquisition by lease or donation to which this subsection would be applicable if the acquisition were made by purchase eight hundred thousand dollars within a twelve-month period.

d. A permanent change in the bed capacity, as determined by the department, of an institutional health facility or a health maintenance organization. For purposes of this paragraph, a change is permanent if it is intended to be effective for one year or more.

e. Any expenditure in excess of ~~two hundred fifty~~ three hundred thousand dollars by or on behalf of an institutional health facility for health services which are or will be offered in or through an institutional health facility or a health maintenance organization at a specific time but which were not offered on a regular basis in or through that institutional health facility or health maintenance organization within the twelve-month period prior to that time.

f. The deletion of one or more health services, previously offered on a regular basis by an institutional health facility or health maintenance organization or the relocation of one or more health services from one physical facility to another.

g. Any expenditure by or on behalf of an individual health care provider or group of health care providers, in excess of four hundred thousand dollars, made for the purchase or acquisition of a single piece of new equipment which is to be installed and used in a private office or clinic, and for which a certificate of need would be required if the equipment were being purchased or acquired by an institutional health facility or health maintenance organization, and which is, under generally accepted accounting principles consistently applied, a capital expenditure.

h. Any expenditure by or on behalf of an institutional health facility or a health maintenance organization in excess of four hundred thousand dollars, which is made for the purchase or acquisition of a single piece of new equipment which is to be installed and used in an institutional health facility or a health maintenance organization, and which is, under generally accepted accounting principles consistently applied, a capital expenditure.

g. Any acquisition by or on behalf of a health care provider or a group of health care providers of any piece of replacement equipment with a value in excess of four hundred thousand dollars, whether acquired by purchase, lease, or donation.

h. Any acquisition by or on behalf of a health care provider or group of health care providers of any piece of equipment with a value in excess of three hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by a health care provider or group of health care providers.

i. Any acquisition by or on behalf of an institutional health facility or a health maintenance organization of any piece of replacement equipment with a value in excess of four hundred thousand dollars, whether acquired by purchase, lease, or donation.

j. Any acquisition by or on behalf of an institutional health facility or health maintenance organization of any piece of equipment with a value in excess of three hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by an institutional health facility.

k. Any air transportation system for transportation of patients or medical personnel.

l. Any mobile health service with a value in excess of three hundred thousand dollars.

m. Any of the following:

(1) Cardiac catheterization service.

(2) Open heart surgical service.

(3) Organ transplantation service.

20 19. "Offer", when used in connection with health services, means that an institutional health facility, or health maintenance organization, health care provider, or group of health care providers holds itself out as capable of providing, or as having the means to provide, specified health services.

21 20. "Organized outpatient health facility" means a facility, not part of a hospital, organized and operated to provide health care to noninstitutionalized and nonhomebound persons on an outpatient basis; it does not include private offices or clinics of individual physicians, dentists or other practitioners, or groups of practitioners, who are health care providers.

22 21. "Outpatient surgical facility" means a facility which as its primary function provides, through an organized medical staff and on an outpatient basis to patients who are generally ambulatory, surgical procedures not ordinarily performed in a private physician's office, but not requiring twenty-four hour hospitalization, and which is neither a part of a hospital nor the private office of a health care provider who there engages in the lawful practice of surgery. "Outpatient surgical facility" includes a facility certified or seeking certification as an ambulatory surgical center, under the federal Medicare program or under the medical assistance program established pursuant to chapter 249A.

23 22. "Technologically innovative equipment" means equipment potentially useful for diagnostic or therapeutic purposes which introduces new technology in the diagnosis or treatment of disease, the usefulness of which is not well enough established to permit a specific plan of need to be developed for the state.

Sec. 2. Section 135.62, subsection 2, paragraph a, subparagraph (2), Code 1991, is amended to read as follows:

(2) Serve as a member of any board or other policy-making or advisory body of a health systems agency, an institutional health facility, a health maintenance organization, or any health or hospital insurer.

Sec. 3. Section 135.62, subsection 2, paragraph b, unnumbered paragraph 3, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 4. Section 135.63, subsections 1 and 2, Code 1991, are amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need, pursuant to this division. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this division ~~after consultation with all health systems agencies serving the state of Iowa~~. The application shall be accompanied by a fee equivalent to two-tenths of one percent of the anticipated cost of the project, as determined under rules promulgated by the department. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill as defined pursuant to section 135C.1 is exempt from payment of the application fee.

2. ~~Nothing in this~~ This division shall not be construed to augment, limit, contravene, or repeal in any manner any other statute of this state which may authorize or relate to licensure, regulation, supervision, or control of, nor to be applicable to:

a. Private offices and private clinics of an individual physician, dentist or other practitioner or group of health care providers, except as provided by section 135.61, subsection ~~19 18~~, ~~paragraph~~ paragraphs "g" and "h", and subsections 20 and 21.

b. Dispensaries and first aid stations, located within schools, businesses or industrial establishments, which are maintained solely for the use of students or employees of those establishments and which do not contain inpatient or resident beds that are customarily occupied by the same individual for more than twenty-four consecutive hours.

c. Establishments such as motels, hotels, and boarding houses which provide medical, nursing personnel, and other health related services as an incident to their primary business or function.

d. The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

e. A health maintenance organization or combination of health maintenance organizations or an institutional health facility controlled directly or indirectly by a health maintenance organization or combination of health maintenance organizations, except when the health maintenance organization or combination of health maintenance organizations does any of the following:

(1) Constructs, develops, renovates, relocates, or otherwise establishes an institutional health facility.

(2) Acquires major medical equipment as provided by section 135.61, subsection 19, paragraph "g" 18, paragraphs "i" and "j".

f. A residential care facility, as defined in section 135C.1, including a residential care facility for the mentally retarded, notwithstanding any provision in this division to the contrary.

g. A reduction in bed capacity of an institutional health facility, notwithstanding any provision in this division to the contrary, if all of the following conditions exist:

(1) The institutional health facility reports to the department the number and type of beds reduced on a form prescribed by the department at least thirty days before the reduction. In the case of a health care facility, the new bed total must be consistent with the number of licensed beds at the facility. In the case of a hospital, the number of beds must be consistent with bed totals reported to the department of inspections and appeals for purposes of licensure and certification.

(2) The institutional health facility reports the new bed total on its next annual report to the department.

If these conditions are not met, the institutional health facility is subject to review as a "new institutional health service" or "changed institutional health service" under section 135.61, subsection 18, paragraph "d", and subject to sanctions under section 135.73. If the institutional health facility reestablishes the deleted beds at a later time, review as a "new institutional health service" or "changed institutional health service" is required pursuant to section 135.61, subsection 18, paragraph "d".

h. The deletion of one or more health services, previously offered on a regular basis by an institutional health facility or health maintenance organization, notwithstanding any provision of this division to the contrary, if all of the following conditions exist:

(1) The institutional health facility or health maintenance organization reports to the department the deletion of the service or services at least thirty days before the deletion on a form prescribed by the department.

(2) The institutional health facility or health maintenance organization reports the deletion of the service or services on its next annual report to the department.

If these conditions are not met, the institutional health facility or health maintenance organization is subject to review as a "new institutional health service" or "changed institutional health service" under section 135.61, subsection 18, paragraph "f", and subject to sanctions under section 135.73.

If the institutional health facility or health maintenance organization reestablishes the deleted service or services at a later time, review as a "new institutional health service" or "changed institutional health service" may be required pursuant to section 135.61, subsection 18.

Sec. 5. Section 135.64, subsection 1, paragraphs a and l through q, Code 1991, are amended to read as follows:

a. The relationship of the proposed institutional health services to the applicable health systems plan and annual implementation plan adopted by the affected health systems agency. The contribution of the proposed institutional health service in meeting the needs of the medically underserved, including persons in rural areas, low-income persons, racial and ethnic minorities, handicapped persons, and the elderly, as well as the extent to which medically underserved residents in the applicant's service area are likely to have access to the proposed institutional health service.

l. Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health systems agency areas immediate geographic area in which the entities are located or in adjacent health systems agency areas, which entities may include but are not limited to medical and other health professional schools, multidisciplinary clinics, and specialty centers.

m. The special needs and circumstances of health maintenance organizations.

n. The special needs and circumstances of biomedical and behavioral research projects designed to meet a national need and for which local conditions offer special advantages.

o. The impact of relocation of an institutional health facility or health maintenance organization on other institutional health facilities or health maintenance organizations and on the needs of the population to be served, or which was previously served, or both.

p. In the case of a construction project,

(1) ~~The the costs and methods of the proposed construction, including the costs and methods of energy supply;~~ and

(2) ~~The the probable impact of the proposed construction project on the costs incurred by the person proposing the construction project in providing institutional health services total health care costs.~~

q. In the case of a proposal for the addition of beds to a health care facility, the consistency of the proposed addition with the plans of other agencies of this state responsible for provision and financing of long-term care services, including home health services.

r. The recommendations of staff personnel of the department assigned to the area of certificate of need, concerning the application, if requested by the council.

Sec. 6. Section 135.65, subsection 1, Code 1991, is amended to read as follows:

1. Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit to the department, ~~and to the designated health systems agency in whose area the proposed new or changed service is or will be located,~~ a letter of intent to offer or develop a service requiring a certificate of need. The letter shall be submitted as soon as possible after initiation of the applicant's planning process, and in any case not less than sixty days before applying for a certificate of need and before substantial expenditures to offer or develop the service are made. The letter shall include a brief description of the proposed new or changed service, its location, and its estimated cost.

Sec. 7. Section 135.66, subsections 2, 3, and 4, Code 1991, are amended to read as follows:

2. Upon acceptance of an application for a certificate of need, the department shall promptly undertake to notify all affected persons in writing that formal review of the application has been initiated. Notification to those affected persons who are consumers or third-party payers or other payers for health services may be provided by distribution of the pertinent information to the news media.

3. Each application accepted by the department shall be formally reviewed for the purpose of furnishing to the council the information necessary to enable it to determine whether or not to grant the certificate of need. A formal review shall consist at a minimum of the following steps:

a. Evaluation of the application against the criteria specified in section 135.64.

b. A public hearing on the application, to be held prior to completion of the evaluation required by paragraph "a" of this subsection, ~~if requested by any party who is an affected person with respect to the application within thirty days after notification of affected persons that the application has been accepted for completeness,~~ shall be conducted by the council.

e. A request to the designated health systems agency in whose area the proposed new institutional health service or changed institutional health service would be located for a recommendation for or against the granting of the certificate of need. The department shall assist the designated health systems agency to formulate a recommendation by furnishing any appropriate data and information on the proposed new institutional health service or changed institutional

health service. The health systems agency may give notice of its intent to formulate a recommendation on the application, and may hold a public hearing on the application if requested by any party who is an affected person with respect to that application. If a hearing is held on the application by the health systems agency, the department may but shall not be required to hold a separate hearing under paragraph "b" of this subsection. The department shall allow the health systems agency sixty days after acceptance of the application by the department, except as otherwise provided by section 135.72, subsection 4, to submit to the department recommendations with respect to the application. The department shall consider any recommendations timely submitted by the health systems agency.

4. When a hearing is to be held pursuant to either subsection 3, paragraph "b" or paragraph "c" of subsection 3 of this section, the department or the health systems agency, as the case may be, shall give at least ten days' notice of the time and place of the hearing. At the hearing, any affected person or that person's designated representative shall have the opportunity to present testimony.

Sec. 8. Section 135.67, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department may, with approval of the council, waive the letter of intent procedures prescribed by sections section 135.65 and 135.66 and substitute a summary review procedure, which shall be established by rules of the department, when it accepts an application for a certificate of need for a project which meets any of the following criteria in subsection 1 through 5:

Sec. 9. Section 135.67, subsection 5, Code 1991, is amended to read as follows:

5. Any other project for which the applicant proposes, and both the council and the appropriate health systems agency agree the department agrees to, summary review.

Sec. 10. Section 135.67, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department's decision to disallow a summary review shall be binding upon the applicant.

Sec. 11. Section 135.69, Code 1991, is amended to read as follows:

***COUNCIL TO MAKE FINAL DECISION.**

The department shall complete its formal review of the application within ninety days after acceptance of the application, except as otherwise provided by section 135.72, subsection 4. Upon completion of the formal review, the council shall approve, approve with conditions, or deny the application. However, the council shall not approve an application with conditions which mandate new institutional health services not proposed by the applicant. The council shall issue written findings stating the basis for its decision on the application, and the department shall send copies of the council's decision and the written findings supporting it the decision to the applicant, to the designated health systems agency in whose area the new or changed institutional health service is proposed to be offered or developed, and to any other person who so requests. If the application is approved or approved with conditions, the department shall issue a certificate of need to the applicant at the time the applicant is informed of the council's decision.

Failure by the council to issue a written decision on an application for a certificate of need within the time required by this section shall constitute denial of and final administrative action on the application, and is subject to appeal under section 135.70.

Sec. 12. Section 135.70, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

135.70 APPEAL OF CERTIFICATE OF NEED DECISIONS.

The council's decision on an application for certificate of need, when announced pursuant to section 135.69, is a final decision. Any dissatisfied party who is an affected person with respect to the application, and who participated or sought unsuccessfully to participate in the formal review procedure prescribed by section 135.66, may request a rehearing in accordance with

*135.69 probably intended

chapter 17A and rules of the department. If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the manner provided by chapter 17A. Notwithstanding the Iowa administrative procedures Act, chapter 17A, a request for rehearing is not required, prior to appeal under section 17A.19.

Sec. 13. Section 135.72, subsection 4, Code 1991, is amended to read as follows:

4. Criteria for determining when it is not feasible to complete formal review of an application for a certificate of need, ~~or not feasible for a designated health systems agency to formulate and submit a recommendation on an application,~~ within the time limits specified in section 135.69 and section 135.66, subsection 3, paragraph "e", respectively. The rules adopted under this subsection shall include criteria for determining whether an application proposes introduction of technologically innovative equipment, and if so, procedures to be followed in reviewing the application. However, ~~no~~ a rule adopted under this subsection shall not permit a deferral of more than sixty days beyond the time when a decision is required under section 135.69, unless both the applicant and the department agree to a longer deferment.

Sec. 14. Section 135.73, Code 1991, is amended to read as follows:

135.73 SANCTIONS.

1. Any party constructing a new institutional health facility or a ~~major~~ an addition to or renovation of an existing institutional health facility without first obtaining a certificate of need ~~therefor or, in the case of a mobile health service, ascertaining that the mobile health service has received certificate of need approval,~~ as required by this division, ~~or who shall violate any of the provisions of this division, may~~ shall be denied licensure or change of licensure by the appropriate responsible licensing agency of this state.

2. A party violating this division shall be subject to penalties in accordance with this section. The department shall adopt rules setting forth the violations by classification, the criteria for the classification of any violation not listed, and procedures for implementing this subsection.

a. A class I violation is one in which a party offers a new institutional health service or changed institutional health service modernization or acquisition without review and approval by the council. A party in violation is subject to a penalty of three hundred dollars for each day of a class I violation. The department may seek injunctive relief which shall include restraining the commission or continuance of an act which would violate the provisions of this paragraph. Notice and opportunity to be heard shall be provided to a party pursuant to Iowa rule of civil procedure 326 and contested case procedures in accordance with chapter 17A. The department may reduce, alter, or waive a penalty upon the party showing good faith compliance with the department's request to immediately cease and desist from conduct in violation of this section.

b. A class II violation is one in which a party violates the terms or provisions of an approved application. The department may seek injunctive relief which shall include restraining the commission or continuance of or abating or eliminating an act which would violate the provisions of this subsection. Notice and opportunity to be heard shall be provided to a party pursuant to Iowa rule of civil procedure 326 and contested case procedures in accordance with chapter 17A. The department may reduce, alter, or waive a penalty upon the party showing good faith compliance with the department's request to immediately cease and desist from conduct in violation of this section. A class II violation shall be abated or eliminated within a stated period of time determined by the department and specified by the department in writing. The period of time may be modified by the department for good cause shown. A party in violation may be subject to a penalty of five hundred dollars for each day of a class II violation.

23. Any ~~Notwithstanding any other sanction imposed pursuant to this section,~~ a party offering or developing any new institutional health service or changed institutional health service without first obtaining a certificate of need ~~therefor~~ as required by this division may be temporarily or permanently restrained ~~therefrom~~ from doing so by any court of competent jurisdiction in any action brought by the state, any of its political subdivisions, or any other interested person.

§ 4. The sanctions provided by this section are in addition to, and not in lieu of, any penalty prescribed by law for the acts against which these sanctions are invoked.

Sec. 15. Sections 135.80 and 135.82, Code 1991, are repealed.

Approved May 30, 1991

CHAPTER 226

CAMPAIGN FINANCE

S.F. 476

AN ACT relating to campaign finance disclosure by changing the definition of a candidate's committee, requiring the reporting to the treasurer of a committee of all contributions received by a person for the committee, requiring disclosure reports of out-of-state political action committees, changing the number of disclosure reports required in nonelection years, providing that the treasurer of a committee is not responsible for filing disclosure reports or liable for civil penalties, directing the use of leftover campaign funds, restricting the uses of campaign funds, providing for the transfer of campaign funds, providing for the ownership and disposition of campaign property, making penalties applicable, prohibiting certain accounts by officeholders, and providing for a civil penalty for violations regarding placement of political signs.

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

Section 1. Section 56.2, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Candidate's committee" means the committee designated by the candidate to receive contributions, expend funds, or incur indebtedness in the aggregate as follows:

a. For federal, state, or county office, in excess of two hundred fifty dollars in any calendar year on behalf of the candidate.

b. For city or school office, in excess of five hundred dollars in any calendar year on behalf of the candidate.

Sec. 2. Section 56.3, subsection 2, Code 1991, is amended to read as follows:

2. 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 each person making a contribution in excess of ten dollars, the amount of the contributions, 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 held by 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. The funds of a committee are not attachable for the personal debt of the committee's candidate or an officer, member, or associate of the committee.

Sec. 3. Section 56.5, subsection 5, Code 1991, is amended to read as follows:

5. 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~~ A committee not domiciled in Iowa which is not registered and filing full disclosure reports of all financial activities with the federal election commission or another state's disclosure commission shall register and file full disclosure reports with the commission pursuant to this chapter. A committee which is currently filing a disclosure report in another jurisdiction shall either file a statement of organization under subsections 1 and 2 and file disclosure reports, the same as those required of Iowa-domiciled committees, under section 56.6, or shall file one copy of a verified statement with the commission and a second copy with 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 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, 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. 4. Section 56.5A, Code 1991, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

Each candidate for ~~public~~ federal, state, or county office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of two hundred fifty dollars in a calendar year.

Each candidate for city or school office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of five hundred dollars in a calendar year.

Sec. 5. Section 56.6, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. Each treasurer of a committee shall file with the commission or commissioner disclosure reports of contributions received and disbursed on forms prescribed by rules as provided by chapter 17A. The reports from all committees, except those committees for municipal and school elective offices and for local ballot issues, shall be filed on the twentieth day or mailed bearing a United States postal service postmark dated on or before the nineteenth day of January, May, July, and October of each year. The May, July, and October reports shall be current as of five days prior to the filing deadline. The January report shall be the annual report covering activity through December 31. However, a state or county statutory political committee is not required to file the May and July reports for a year in which no primary or general election is held. A candidate's committee, other than for municipal and school elective offices, for a year in which the candidate is not standing for election, is not required to file the May, and July, and October reports. Reports for committees for a ballot issue placed before the voters of the entire state shall be filed at the January, May, July, and October deadlines.

Sec. 6. Section 56.10, subsection 4, Code 1991, is amended to read as follows:

4. Adopt rules pursuant to chapter 17A and levy civil penalties to carry out this chapter. The rules shall provide that the candidate, ~~or the treasurer~~ of a candidate's committee, or the chairperson ~~or treasurer~~ of a political committee, is responsible for filing disclosure reports as required by this chapter, and shall receive notice from the commission if the committee has failed to file a disclosure report at the time required by this chapter. A candidate, ~~or treasurer~~ of a candidate's committee, or chairperson ~~or treasurer~~ of a political committee, may be subject to a civil penalty for failure to file a disclosure report required by this chapter if the report has not been filed when required by section 56.6, subsection 1.

Sec. 7. NEW SECTION. 56.12A USE OF PUBLIC MONEYS FOR POLITICAL PURPOSES.

The governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including supporting or opposing a ballot issue.

This section shall not be construed to limit the freedom of speech of the governing body of, or the officials or employees of the governing body of, a county, city, or other political subdivision of the state.

Sec. 8. Sections 9 through 13 of this Act are created as a new division of chapter 56.

Sec. 9. NEW SECTION. 56.40 CAMPAIGN FUNDS.

As used in this division, "campaign funds" means contributions to a candidate or candidate's committee which are required by this chapter to be deposited in a separate campaign account.

Sec. 10. NEW SECTION. 56.41 USES OF CAMPAIGN FUNDS.

1. A candidate and the candidate's committee shall use campaign funds only for campaign purposes, and shall not use campaign funds for personal expenses.

2. Campaign funds shall not be used for any of the following purposes:

a. Payment of civil or criminal penalties. However, payment of civil penalties relating to campaign finance and disclosure requirements is permitted.

b. Satisfaction of personal debts, other than campaign loans.

c. Personal services, including the services of attorneys, accountants, physicians, and other professional persons. However, payment for personal services directly related to campaign activities is permitted.

d. Clothing or laundry expense of a candidate or members of the candidate's family.

e. Purchase of or installment payments for a motor vehicle. However, a candidate may lease a motor vehicle during the duration of the campaign if the vehicle will be used for campaign purposes. If a vehicle is leased, detailed records shall be kept on the use of the vehicle and the cost of noncampaign usage shall not be paid from campaign funds. Candidates and campaign workers may be reimbursed for actual mileage for campaign-related travel at a rate not to exceed the current rate of reimbursement allowed under the standard mileage rate method for computation of business expenses pursuant to the Internal Revenue Code.

f. Mortgage payments, rental payments, furnishings, or renovation or improvement expenses for a permanent residence of a candidate or family member, including a residence in the state capital during a term of office or legislative session.

g. Membership in professional organizations.

h. Membership in service organizations, except those organizations which the candidate joins solely for the purpose of enhancing the candidacy.

i. Meals, groceries, or other food expense, except for tickets to meals that the candidate attends solely for the purpose of enhancing the candidacy or the candidacy of another person. However, payment for food and drink purchased for campaign related purposes and for entertainment of campaign volunteers is permitted.

j. Payments clearly in excess of the fair market value of the item or service purchased.

Sec. 11. NEW SECTION. 56.42 TRANSFER OF CAMPAIGN FUNDS.

1. In addition to the uses permitted under section 56.41, a candidate's committee may transfer campaign funds in one or more of the following ways:

a. Contributions to charitable organizations.

b. Contributions to national, state, or local political party central committees, or other candidate's committees.

c. Transfers to the treasurer of state for deposit in the general fund of the state.

d. Return of contributions to contributors on a pro rata basis, except that any contributor who contributed five dollars or less may be excluded from the distribution.

2. If an unexpended balance of campaign funds remains when a candidate ceases to be a candidate or the candidate's committee dissolves, the unexpended balance shall be transferred pursuant to subsection 1.

3. A candidate or candidate's committee making a transfer of campaign funds pursuant to subsection 1 or 2 shall not place any requirements or conditions on the use of the campaign funds transferred.

4. A candidate or candidate's committee shall not transfer campaign funds except as provided in this section.

5. A candidate or candidate's committee shall not transfer campaign funds with the intent of circumventing the requirements of this section.

6. An individual or a political committee shall not knowingly make transfers or contributions to a candidate or candidate's committee for the purpose of transferring the funds to another candidate or candidate's committee to avoid the disclosure of the source of the funds pursuant to this chapter. A candidate or candidate's committee shall not knowingly accept transfers or contributions from an individual or political committee for the purpose of transferring funds to another candidate or candidate's committee as prohibited by this subsection. A candidate or candidate's committee shall not accept transfers or contributions which have been transferred to another candidate or candidate's committee as prohibited by this subsection. The commission shall notify candidates of the prohibition of such transfers and contributions under this subsection.

Sec. 12. NEW SECTION. 56.43 CAMPAIGN PROPERTY.

1. Equipment, supplies, or other materials purchased on or after July 1, 1991, with campaign funds are campaign property. Campaign property belongs to the candidate's committee and not to the candidate.

2. Upon dissolution of the candidate's committee, a report accounting for the disposition of all items of campaign property having a residual value of twenty-five dollars or more shall be filed with the commission. Each item of campaign property having a residual value of twenty-five dollars or more shall be disposed of by one of the following methods:

a. Sale of the property at fair market value, in which case the proceeds shall be treated the same as other campaign funds.

b. Donation of the property under one of the options for transferring campaign funds set forth in section 56.42.

Sec. 13. APPLICABILITY. The restrictions imposed by sections 10 and 11 of this Act apply to all campaign funds held in campaign accounts on and after the effective date of this Act.

Sec. 14. NEW SECTION. 56.44 CERTAIN ACCOUNTS BY OFFICEHOLDERS PROHIBITED.

A holder of public office shall not maintain an account, other than a campaign account, to receive contributions for the purpose of publishing and distributing newsletters or performing other constituent services related to the official duties of public office. This section applies whether or not the officeholder is a candidate.

Sec. 15. 1991 Iowa Acts, Senate File 505,* section 12, if enacted by the Seventy-fourth General Assembly, 1991 Session, is amended to read as follows:

SEC. 12. ANTISEVERABILITY CLAUSE.

Notwithstanding section 4.12, if section 56.36A, subsections 3 or 4, or section 56.37, subsection 3, or the application thereof is invalid, this Act as a whole shall be invalid.

Approved May 30, 1991

*Vetoed by Governor

CHAPTER 227**FACILITIES USED TO MAINTAIN ANIMALS***H.F. 662*

AN ACT relating to facilities used to maintain animals, and providing penalties.

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

Section 1. **NEW SECTION. 717A.1 ANIMAL FACILITIES.**

1. As used in this section, unless the context otherwise requires:

a. "Animal" means a warm or cold blooded animal, including an animal belonging to the bovine, canine, feline, equine, ovine, or porcine species, or an animal which belongs to a species of poultry or fish, or an animal which is an invertebrate.

b. "Animal facility" means any of the following:

(1) A location where an animal is maintained for agricultural production, including an operation dedicated to farming as defined in section 172C.1, a livestock market, exhibition, or a vehicle used to transport the animal.

(2) A location where an animal is maintained for educational or scientific purposes, including an institution as defined in section 351A.1, a research facility as defined in section 162.2, an exhibition, or a vehicle used to transport the animal.

(3) A location which is a facility operated by a person licensed to prescribe veterinary medicine pursuant to chapter 169.

(4) A pound as defined in section 162.2.

(5) An animal shelter as defined in section 162.2.

(6) A pet shop as defined in section 162.2.

(7) A boarding kennel as defined in section 162.2.

(8) A commercial kennel as defined in section 162.2.

c. "Consent" means express or apparent assent by a person authorized to provide such assent.

d. "Deprive" means to do any of the following:

(1) Withhold an animal or property belonging to or maintained by an animal facility for a period of time sufficient to significantly reduce the value or enjoyment of the animal or property.

(2) Withhold an animal or property for ransom or upon condition to restore the animal or property in return for compensation.

(3) Dispose of an animal or property of an owner in a manner that makes recovery of the animal or property by the owner unlikely.

e. "Maintain" means to keep, handle, house, exhibit, breed, or offer for sale, or sell an animal.

f. "Owner" means a person who has a legal interest in an animal or property or who is authorized by the holder of the legal interest to act on the holder's behalf.

2. A person shall not, without the consent of the owner, do any of the following:

a. Willfully destroy property of an animal facility, or injure an animal maintained at an animal facility.

b. Exercise control over an animal facility including property of the animal facility, or an animal maintained at an animal facility, with intent to deprive the animal facility of an animal or property.

c. Enter onto or into an animal facility, or remain on or in an animal facility, if the person has notice that the facility is not open to the public, if the person has an intent to do one of the following:

(1) Disrupt operations conducted at the animal facility, if the operations directly relate to agricultural production, animal maintenance, educational or scientific purposes, or veterinary care.

(2) Injure an animal maintained at the animal facility.

A person has notice that an animal facility is not open to the public if the person is provided notice before entering onto or into the facility, or the person refuses to immediately depart from the facility after being informed to leave. The notice may be in the form of a written

or verbal communication by the owner, a fence or other enclosure designed to exclude intruders or contain animals, or a sign posted which is reasonably likely to come to the attention of an intruder and which indicates that entry is forbidden.

3. A person suffering damages resulting from an action which is in violation of subsection 2 may bring an action in the district court against the person causing the damage to recover all of the following:

a. An amount equaling three times all actual and consequential damages.

b. Court costs and reasonable attorney fees.

4. A person violating this section is guilty of the following penalties:

a. A person who violates subsection 2, paragraph "a", is guilty of a class "C" felony if the injury to an animal or damage to property exceeds fifty thousand dollars, a class "D" felony if the injury to an animal or damage to property exceeds five hundred dollars but does not exceed fifty thousand dollars, an aggravated misdemeanor if the injury to an animal or damage to property exceeds one hundred dollars but does not exceed five hundred dollars, a serious misdemeanor if the injury to an animal or damage to property exceeds fifty dollars but does not exceed one hundred dollars, or a simple misdemeanor if the injury to an animal or damage to property does not exceed fifty dollars.

b. A person who violates subsection 2, paragraph "b", is guilty of a class "D" felony.

c. A person who violates subsection 2, paragraph "c", is guilty of an aggravated misdemeanor.

5. This section does not prohibit any conduct of a person holding a legal interest in an animal or property which is superior to the interest held by a person suffering from damages resulting from the conduct. The section does not apply to activities of a governmental agency.

Approved May 31, 1991

CHAPTER 228

PHYSICAL THERAPIST ASSISTANTS

S.F. 48

AN ACT relating to professional titles and abbreviations of physical therapists and physical therapist assistants, and licensure, examination fees, and conditions of practice of physical therapist assistants.

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

Section 1. Section 147.74, unnumbered paragraph 8, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

A physical therapist registered or licensed under chapter 148A may use the words "physical therapist" after the person's name or signify the same by the use of the letters "PT" after the person's name.

A physical therapist assistant licensed under chapter 148A may use the words "physical therapist assistant" after the person's name or signify the same by use of the letters "PTA" after the person's name.

Sec. 2. Section 147.80, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. License to practice as a physical therapist assistant issued on the basis of an examination given by the board of physical and occupational therapy examiners, license to practice as a physical therapist assistant issued under a reciprocal agreement, renewal of a license to practice as a physical therapist assistant.

Sec. 3. NEW SECTION. 148A.6 PHYSICAL THERAPIST ASSISTANT.

1. A person shall not use the title "physical therapist assistant" or the letters "PTA", or represent to the public that the person is a physical therapist assistant, unless the person has obtained from the department a license pursuant to this section.

2. A licensed physical therapist assistant is required to function under the direction and supervision of a licensed physical therapist to perform physical therapy procedures delegated and supervised by the licensed physical therapist in a manner consistent with the rules adopted by the board of physical and occupational therapy examiners. Selected and delegated tasks of physical therapist assistants may include, but are not limited to, therapeutic procedures and related tasks, routine operational functions, documentation of treatment progress, and the use of selected physical agents. The ability of the licensed physical therapist assistant to perform the selected and delegated tasks shall be assessed on an ongoing basis by the supervising physical therapist. The licensed physical therapist assistant shall not interpret referrals, perform initial evaluation or reevaluations, initiate physical therapy treatment programs, change specified treatment programs, or discharge a patient from physical therapy services.

3. Each applicant for a license to practice as a physical therapist assistant shall:

a. Successfully complete a course of study for the physical therapist assistant accredited by the commission on accreditation in education of the American physical therapy association, or another appropriate accrediting body, and meet other requirements established by the rules of the board of physical and occupational therapy examiners.

b. Have passed an examination administered by the board of physical and occupational therapy examiners.

c. Have the right to petition for waiver of education requirements under conditions defined by the board of physical and occupational therapy examiners.

4. This section does not prevent a person not licensed as a physical therapist assistant from performing services ordinarily performed by a physical therapy aide, assistant, or technician, provided that the person does not represent to the public that the person is a licensed physical therapist assistant, or use the title "physical therapist assistant" or the letters "PTA", and provided that the person performs services consistent with the supervision requirements of the board of physical and occupational therapy examiners for persons not licensed as physical therapist assistants.

Approved June 4, 1991

CHAPTER 229

MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

S.F. 193

AN ACT relating to the licensing of marital and family therapists and mental health counselors, by establishing the board of behavioral science examiners, prohibiting the use of the title marital and family therapist or mental health counselor without a license, providing exemptions, redefining "mental health professional" for purposes of confidential communications, making penalties applicable, and providing other properly related matters.

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

Section 1. Section 147.1, subsections 2 and 3, Code 1991, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist,

pharmacist, physical therapist, occupational therapist, practitioner of cosmetology, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, or social worker means a person licensed under this title.

3. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, mortuary science, marital and family therapy, mental health counseling, social work, or dietetics.

Sec. 2. Section 147.13, Code 1991, is amended by adding the following new subsection after subsection 15 and renumbering the subsequent subsection:

NEW SUBSECTION. 16. For marital and family therapists and mental health counselors, behavioral science examiners.

Sec. 3. Section 147.14, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 13. For behavioral science examiners, three members licensed to practice marital and family therapy, one of whom shall be employed in graduate teaching, training, or research in marital and family therapy and two of whom shall be practicing marital and family therapists; three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental health counselors; and three members who are not licensed to practice marital and family therapy or mental health counseling and who shall represent the general public. A majority of the members of the board constitutes a quorum.

Sec. 4. Section 147.74, Code 1991, is amended by adding the following new unnumbered paragraphs after unnumbered paragraph 11:

NEW UNNUMBERED PARAGRAPH. A marital and family therapist licensed under chapter 154D and this chapter may use the words "licensed marital and family therapist" after the person's name or signify the same by the use of the letters "L.M.F.T." after the person's name. A marital and family therapist licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "Licensed Marital and Family Therapist".

NEW UNNUMBERED PARAGRAPH. A mental health counselor licensed under chapter 154D and this chapter may use the words "licensed mental health counselor" after the person's name. A mental health counselor licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "Licensed Mental Health Counselor".

Sec. 5. Section 147.80, Code 1991, is amended by adding the following new subsections after subsection 19 and renumbering the subsequent subsections:

NEW SUBSECTION. 20. License to practice marital and family therapy issued upon the basis of an examination given by the board of behavioral science examiners, license to practice marital and family therapy issued under a reciprocal agreement, or renewal of a license to practice marital and family therapy.

NEW SUBSECTION. 21. License to practice mental health counseling issued upon the basis of an examination given by the board of behavioral science examiners, license to practice mental health counseling issued under a reciprocal agreement, or renewal of a license to practice mental health counseling.

Sec. 6. NEW SECTION. 154D.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of behavioral science examiners, established in section 147.13.
2. "Licensed marital and family therapist" means a person licensed to practice marital and family therapy under chapter 147 and this chapter.
3. "Licensed mental health counselor" means a person licensed to practice mental health counseling under chapter 147 and this chapter.

4. "Licensee" includes a licensed marital and family therapist and a licensed mental health counselor.

5. "Marital and family therapy" means the application of counseling techniques in the assessment and resolution of emotional conditions. This includes the alteration and establishment of attitudes and patterns of interaction relative to marriage, family life, and interpersonal relationships.

6. "Mental health counseling" means the provision of counseling services involving assessment, referral, consultation, and the application of counseling, human development principles, learning theory, group dynamics, and the etiology of maladjustment and dysfunctional behavior to individuals, families, and groups.

Sec. 7. NEW SECTION. 154D.2 REQUIREMENTS TO OBTAIN LICENSE.

1. An applicant for a license to practice marital and family therapy shall be granted a license by the board when the applicant satisfies all of the following requirements:

a. Possesses a master's degree in marital and family therapy consisting of at least forty-five credit hours, or its equivalent, from a nationally accredited institution or from a program approved by the board.

b. Has at least two years of supervised clinical experience or its equivalent as approved by the board in consultation with the mental health and retardation commission.

c. Passes an examination administered by the board.

d. Has not failed the examination required in paragraph "c" within six months of the date of the current application.

2. An applicant for a license to practice mental health counseling shall be granted a license by the board when the applicant satisfies all of the following requirements:

a. Possesses a master's degree in counseling consisting of at least forty-five credit hours, or its equivalent, from a nationally accredited institution or from a program approved by the board.

b. Has at least two years of clinical experience, supervised by a licensee, in assessing mental health needs and problems and in providing appropriate mental health services as approved by the board of behavioral science examiners in consultation with the mental health and mental retardation commission.

c. Passes an examination administered by the board.

Sec. 8. NEW SECTION. 154D.3 BOARD ORGANIZATION AND AUTHORITY.

1. In addition to duties and responsibilities provided in chapters 147 and 258A, the board shall adopt rules relating to:

a. Standards required for licensees engaging in the professions covered by this chapter.

b. Standards for professional conduct of persons licensed under this chapter.

c. The administration of this chapter.

d. The status of active and inactive licensure, and guidelines for reentry of inactive licensees.

e. Educational activities which fulfill continuing education requirements for license renewals.

2. A separate subcommittee is established within the board for each of the professions under the board's jurisdiction. The chairperson of the board shall appoint to the subcommittee for each profession those members of the board who represent that profession. The chairperson shall appoint two of the public members of the board to serve on a subcommittee. Each subcommittee shall, by majority vote, rule on all license applications within the subcommittee's assigned profession, approve and administer the grading of the examination given to applicants for licenses to practice that profession, and otherwise coordinate the board's administration of all matters pertinent to regulation of the practice of the profession.

3. A decision or recommendation of a subcommittee shall not become effective without approval of the board. The board may initiate action relating to either of the professions within its jurisdiction.

4. Members attending meetings of the board's subcommittees shall be reimbursed on the same basis as members attending board meetings up to a maximum of six subcommittee meetings per calendar year.

5. The board shall hold at least two regular meetings each year, and no more than four additional meetings may be held upon the call of the chairperson of the board, or at the written request of at least four members of the board.

Sec. 9. NEW SECTION. 154D.4 EXEMPTIONS.

This chapter and chapter 147 do not prevent qualified members of other professions, including but not limited to nurses, psychologists, social workers, physicians, attorneys-at-law, or members of the clergy from providing or advertising that they provide services of a marital and family therapy or mental health counseling nature consistent with the accepted standards of their respective professions, but these persons shall not use a title or description denoting that they are licensed marital and family therapists or licensed mental health counselors.

Sec. 10. NEW SECTION. 154D.5 SEXUAL CONDUCT WITH CLIENT.

The license of a marriage and family therapist or a mental health counselor shall be revoked if the board finds that the licensee engaged in sexual activity or genital contact with a client while acting or purporting to act within the licensee's scope of practice, whether or not the client consented to the sexual activity or genital contact.

The revocation shall be in addition to any other penalties provided by law.

Sec. 11. Section 622.10, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A practicing attorney, counselor, physician, surgeon, physician's assistant, mental health professional, or the stenographer or confidential clerk of any such person, who obtains information by reason of the person's employment, ~~minister of the gospel or priest of any denomination or a member of the clergy~~ shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to the person in the person's professional capacity, and necessary and proper to enable the person to discharge the functions of the person's office according to the usual course of practice or discipline. The prohibition does not apply to cases where the person in whose favor the prohibition is made waives the rights conferred; nor does the prohibition apply to physicians or surgeons, physician's assistants, mental health professionals, or to the stenographer or confidential clerk of any physicians or surgeons, physician's assistants, or mental health professionals, in a civil action in which the condition of the person in whose favor the prohibition is made is an element or factor of the claim or defense of the person or of any party claiming through or under the person. The evidence is admissible upon trial of the action only as it relates to the condition alleged.

PARAGRAPH DIVIDED. If an adverse party desires the oral deposition, either discovery or evidentiary, of a physician or surgeon, physician's assistant, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician's assistant, or mental health professional or desires to call a physician or surgeon, physician's assistant, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician's assistant, or mental health professional as a witness at the trial of the action, the adverse party shall file an application with the court for permission to do so. The court upon hearing, which shall not be ex parte, shall grant permission unless the court finds that the evidence sought does not relate to the condition alleged and shall fix a reasonable fee to be paid to the physician or surgeon, physician's assistant, or mental health professional by the party taking the deposition or calling the witness.

PARAGRAPH DIVIDED. For the purposes of this section, "mental health professional" means ~~psychologists certified a psychologist licensed under chapter 154B, a registered nurses nurse licensed under chapter 152, a social worker licensed under chapter 154C, a marital and family therapist licensed under chapter 154D, a mental health counselor licensed under chapter 154D, or individuals an individual holding at least a master's degree in social work or counseling and guidance a related field as deemed appropriate by the board of behavioral science examiners.~~

Sec. 12. **INITIAL APPOINTMENTS.** Notwithstanding section 147.19, of the initial appointees to the board of behavioral science examiners, one member of each professional subcommittee and one member appointed to represent the general public shall be appointed for one-year terms, one member of each subcommittee and one representative of the general public shall be appointed for two-year terms, and one member of each subcommittee and one representative of the general public shall be appointed for three-year terms. The initial appointees' successors shall be appointed for terms of three years each, except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member replaced.

Initial professional appointees to the board of behavioral science examiners shall meet the requirements of section 154D.2, subsection 1, paragraphs "a" and "b", or section 154D.2, subsection 2, paragraphs "a" and "b", and shall not be required to pass an examination in order to be appointed to the board.

Approved June 4, 1991

CHAPTER 230

COOPERATIVE ASSOCIATIONS — STATEMENTS — SECURITIES EXEMPTIONS *S.F. 276*

AN ACT relating to financial requirements of cooperative associations, by providing for the preparation and delivery of certain statements, exempting agricultural cooperative associations from certain requirements provided under the Iowa uniform securities Act, providing for the retroactive application of the Act, and providing an effective date.

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

Section 1. **NEW SECTION. 497.35 STATEMENT TO ESTATE OF STOCKHOLDER.**

The board of directors, upon receiving actual notice of a stockholder's death, shall provide a statement to the administrator or executor of the stockholder's estate, or to the attorney representing the stockholder's estate. The statement shall describe agricultural products owned by the stockholder which are in the possession of the association.

This section shall not require an association to conduct a search of the status of its stockholders. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the stockholder's death within one year after the date of death, or by the date that the stockholder's estate is closed, whichever is later.

Sec. 2. **NEW SECTION. 498.37 STATEMENT TO ESTATE OF STOCKHOLDER.**

The board of directors, upon receiving actual notice of a member's death, shall provide a statement to the administrator or executor of the member's estate, or to the attorney representing the member's estate. The statement shall describe agricultural products owned by the member which are in the possession of the association.

This section shall not require an association to conduct a search of the status of its members. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the member's death within one year after the date of death, or by the date that the member's estate is closed, whichever is later.

Sec. 3. NEW SECTION. 499.72 STATEMENT TO ESTATE OF MEMBERS AND STOCKHOLDERS.

The board of directors, upon receiving actual notice of the death of a member or stockholder, shall provide a statement to the administrator or executor of the member's or stockholder's estate, or to the attorney representing such estate. The statement shall describe agricultural products owned by the member or stockholder which are in the possession of the association.

This section shall not require an association to conduct a search of the status of its members or stockholders. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the member's or stockholder's death within one year after the date of death, or by the date that the member's or stockholder's estate is closed, whichever is later.

Sec. 4. Section 502.102, subsection 2, paragraph a, Code 1991, 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, 12, 13, or 17, or a security issued by an industrial loan company licensed under chapter 536A;

Sec. 5. Section 502.102, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 2A. "Agricultural cooperative association" means any one of the following:

a. An association of persons organized pursuant to chapter 497 for purposes of conducting an agricultural or dairy business on a cooperative plan, as described in section 497.1.

b. A cooperative association organized pursuant to chapter 498 for purposes of conducting an agricultural, livestock, horticultural, or dairy business on a cooperative plan and acting as a cooperative selling agency, as described in section 498.2.

c. An agricultural association as defined in section 499.2, and organized pursuant to chapter 499.

d. Any other entity which is organized on a cooperative basis under the laws of this state for the purpose of engaging in the activities of an agricultural association as defined in section 499.2.

Sec. 6. Section 502.202, subsection 12, paragraph a, Code 1991, is amended by striking the paragraph, and relettering subsequent paragraphs.

Sec. 7. Section 502.202, subsection 13, Code 1991, is amended by striking the subsection, and inserting in lieu thereof the following:

13. A security issued by an agricultural cooperative association, provided the following conditions are satisfied:

a. A commission or remuneration must not be paid or provided either directly or indirectly for the sale, except as permitted by the administrator by rule or by order issued upon written application showing good cause for allowance of a commission or other remuneration.

b. If the securities to be issued are notes or other evidences of indebtedness and are issued after July 1, 1991, the issuer must file with the administrator a written notice specifying the name of the issuer, the date of the issuer's organization, the name of a contact person, a copy of the issuer's current audited financial statement, the types of security or securities to be offered, and the class of persons to whom the offer will be made in accordance with such rules as prescribed by the administrator.

Sec. 8. APPLICABILITY OF THIS ACT.

1. a. This Act applies retroactively to January 1, 1988, to exempt securities from registration requirements in section 502.202, if the securities were issued by an agricultural cooperative association.

b. This Act applies retroactively to January 1, 1988, to exempt an agricultural cooperative association from filing a prospectus, circular, form, letter, advertisement, or other sales literature or advertising communication described in section 502.602.

2. This section does not require remedial action by the administrator for any administrative action completed under chapter 502 before enactment of this Act.

3. As used in this section, "agricultural cooperative association" means an agricultural cooperative association defined in section 502.102 as amended by this Act.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 4, 1991

CHAPTER 231

DEPENDENT ADULT ABUSE

S.F. 455

AN ACT relating to the restructuring of the codified provisions relating to dependent adult abuse, and providing penalties.

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

Section 1. Section 235B.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

235B.1 DEPENDENT ADULT ABUSE SERVICES.

The department shall establish and operate a dependent adult abuse services program. The program shall emphasize the reporting and evaluation of cases of abuse of a dependent adult who is unable to protect the adult's own interests or unable to perform or obtain essential services. The program shall include but is not limited to:

1. 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. The membership of a team shall include 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, or other disciplines relative to dependent adults. Members of a team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and other persons involved in advocating or providing services to dependent adults.

2. Provisions for information sharing and case consultation among service providers, care providers, and victims of dependent adult abuse.

3. Procedures for referral of cases among service providers, including the referral of victims of dependent adult abuse residing in licensed health care facilities.

Sec. 2. Section 235B.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

235B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Court" means the district court.

2. "Department" means the department of human services.

3. "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 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, including theft, 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 or mental health care, or 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.

Dependent adult abuse does not include depriving a dependent adult of medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment. However, this provision does not preclude a court from ordering that medical service be provided to the dependent adult if the dependent adult's health requires it.

Dependent adult abuse does not include the withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.

4. "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.

5. "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.

6. "Individual employed as an outreach person" means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

7. "Person" means person as defined in section 4.1.

Sec. 3. NEW SECTION. 235B.3 DEPENDENT ADULT ABUSE REPORTS.

1. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously. However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within health care facilities and shall inform the department of human services of such evaluations and dispositions.

2. All of the following persons shall report suspected dependent adult abuse to the department:

- a. A self-employed social worker.
- b. A social worker under the jurisdiction of the department of human services.
- c. A social worker employed by a public or private person including a public or private health care facility as defined in section 135C.1.
- d. A certified psychologist.
- e. A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, including:

(1) A member of the staff of a community 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.

(2) A peace officer.

(3) An in-home homemaker-home health aide.

(4) An individual employed as an outreach person.

(5) A health practitioner, as defined in section 232.68.

(6) A member of the staff or an employee of a community, supervised apartment living arrangement, sheltered workshop, or work activity center.

3. If a staff member or employee is required to report pursuant to this section the person shall immediately notify the person in charge or the person's designated agent, and the person in charge or the designated agent shall make the report.

4. Any other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.

5. Following the reporting of suspected dependent adult abuse, the department of human services shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

6. Upon a showing of probable cause that a dependent adult has been abused, a court may authorize a person, also authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult. Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to make an evaluation, and to gain access to the financial records of the dependent adult.

7. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency 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.

a. If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

b. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

c. In every case involving abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

8. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in

good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

9. 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 2 or 4, or cooperating with, 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 cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

10. A person 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 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.

11. 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. 4. NEW SECTION. 235B.4 DEPENDENT ADULT ABUSE INFORMATION REGISTRY.

Legislative findings and purposes.

The general assembly finds and declares that a central registry is required to provide a single source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. Such a registry is imperative for increased effectiveness in dealing with the problem of dependent adult abuse. The general assembly also finds that vigorous protection of rights of individual privacy is an indispensable element of a fair and effective system of collecting, maintaining, and disseminating dependent adult abuse information.

The purposes of this section and sections 235B.5 to 235B.13 are to facilitate the identification of victims or potential victims of dependent adult abuse by making available a single, statewide source of dependent adult abuse data; to facilitate research on dependent adult abuse by making available a single, statewide source of dependent adult abuse data; and to provide maximum safeguards against the unwarranted invasions of privacy which such a registry might otherwise entail.

Sec. 5. NEW SECTION. 235B.5 CREATION AND MAINTENANCE OF A CENTRAL REGISTRY.

1. There is created within the department a central registry for dependent adult abuse information. The department shall organize and staff the registry and adopt rules for its operation.

2. The registry shall collect, maintain, and disseminate dependent adult abuse information as provided in this chapter.

3. The department shall maintain a toll-free telephone line, which shall be available on a twenty-four-hour-a-day, seven-day-a-week basis and which the department and all other persons may use to report cases of suspected dependent adult abuse and that all persons authorized by this chapter may use for obtaining dependent adult abuse information.

4. An oral report of suspected dependent adult abuse initially made to the central registry shall be immediately transmitted by the department to the appropriate county department of human services or law enforcement agency, or both.

5. An oral report of suspected dependent adult abuse initially made to the central registry regarding a health care facility shall be transmitted by the department to the department of inspections and appeals on the first working day following the submitting of the report.

6. The registry, upon receipt of a report of suspected dependent adult abuse, shall search the records of the registry, and if the records of the registry reveal any previous report of dependent adult abuse involving the same adult or if the records reveal any other pertinent information with respect to the same adult, the appropriate office of the department of human services or the appropriate law enforcement agency shall be immediately notified of that fact.

7. The central registry shall include but not be limited to report data, investigation data, and disposition data.

Sec. 6. NEW SECTION. 235B.6 AUTHORIZED ACCESS.

1. Notwithstanding chapter 22, the confidentiality of all dependent adult abuse information shall be maintained, except as specifically provided by subsections 2 and 3.

2. Access to dependent adult abuse information other than unfounded dependent adult abuse information is authorized only to the following persons:

a. A subject of a report including all of the following:

(1) To an adult named in a report as a victim of abuse or to the adult's attorney or guardian ad litem.

(2) To a guardian or legal custodian, or that person's attorney, of an adult named in a report as a victim of abuse.

(3) To the person or the attorney for the person named in a report as having abused an adult.

b. A person involved in an investigation of dependent adult abuse including all of the following:

(1) A health practitioner or mental health professional who is examining, attending, or treating an adult 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 an adult believed to have been the victim of abuse is requested by the department.

(2) An employee or agent of the department responsible for the investigation of a dependent adult abuse report.

(3) A law enforcement officer responsible for assisting in an investigation of a dependent adult abuse allegation.

(4) 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 case of dependent adult abuse.

(5) The mandatory reporter who reported the dependent adult abuse in an individual case.

c. A person providing care to an adult including all of the following:

(1) A licensing authority for a facility providing care to an adult named in a report.

(2) A person authorized as responsible for the care or supervision of an adult named in a report as a victim of abuse or a person named in a report as having abused an adult if the court or registry deems access to dependent adult abuse information by such person to be necessary.

(3) An employee or agent of the department responsible for registering or licensing or approving the registration or licensing of a person, or to an individual providing care to an adult and regulated by the department.

(4) The legally authorized protection and advocacy agency recognized pursuant to section 135C.2 if a person identified in the information as a victim or a perpetrator of abuse resided in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

d. Relating to judicial and administrative proceedings persons including all of the following:

(1) A court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving dependent adult abuse.

(2) A court or administrative agency hearing an appeal for correction of dependent adult abuse information as provided in section 235B.10.

(3) An expert witness at any stage of an appeal necessary for correction of dependent adult abuse information as provided in section 235B.10.

e. Other persons including all of the following:

(1) A person conducting bona fide research on dependent adult abuse, but without information identifying individuals named in a dependent adult 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 adult, the adult's guardian or guardian ad litem, and the person named in a report as having abused an adult give permission to release the information.

(2) Registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) The department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3 through 5.

(4) A legally constituted adult protection agency of another state which is investigating or treating an adult named in a report as having been abused.

(5) The attorney for the department who is responsible for representing the department.

(6) A health care facility administrator or the administrator's designee, following the appeals process, for the purpose of hiring staff or continued employment of staff.

3. Access to unfounded dependent adult abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e", subparagraph (2).

Sec. 7. NEW SECTION. 235B.7 REQUESTS FOR DEPENDENT ADULT ABUSE INFORMATION.

1. Requests for dependent adult abuse information shall be in writing on forms prescribed by the department, except as otherwise provided by subsection 2. Request forms shall require information sufficient to demonstrate authorized access.

2. Requests for dependent adult abuse information may be made orally by telephone if a person making the request believes that the information is needed immediately and if information sufficient to demonstrate authorized access is provided. If a request is made orally by telephone, a written request form shall be filed within seventy-two hours of the oral request.

3. Subsections 1 and 2 do not apply to dependent adult abuse information that is disseminated to an employee of the department or to the attorney representing the department as authorized by section 235B.6.

Sec. 8. NEW SECTION. 235B.8 REDISSEMINATION OF DEPENDENT ADULT ABUSE INFORMATION.

1. A recipient of dependent adult abuse information authorized to receive the information shall not disseminate the information, except that dissemination shall be permitted when all of the following conditions apply:

a. The dissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.

b. The person to whom such information would be disseminated would have independent access to the same information under section 235B.6.

c. A written record is made of the dissemination, including the name of the recipient and the date and purpose of the dissemination.

d. The written record is forwarded to the registry within thirty days of the dissemination.

2. The department may notify, orally, the mandatory reporter in an individual dependent adult abuse case of the results of the case investigation and of the confidentiality provisions of sections 235B.6 and 235B.12. The department 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 235B.9.

Sec. 9. NEW SECTION. 235B.9 SEALING AND EXPUNGEMENT OF DEPENDENT ADULT ABUSE INFORMATION.

1. Dependent adult abuse information relating to a particular case of suspected dependent adult abuse shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause is shown why the information should remain open to authorized access. If a subsequent report of a suspected case of dependent adult abuse involving

the adult named in the initial report as the victim of abuse or a person named in such report as having abused an adult is received by the registry within the ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause is shown why the information should remain open to authorized access.

2. Dependent adult abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of abuse and dependent adult abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged immediately when it is determined to be unfounded.

3. However, if a correction of dependent adult abuse information is requested under section 235B.10 and the issue is not resolved at the end of one year the information shall be retained until the issue is resolved and if the dependent adult abuse information is not determined to be founded, the information shall be expunged immediately when it is determined to be unfounded.

4. The registry, at least annually, shall review and determine the current status of dependent adult abuse reports which are at least one year old and in connection with which no investigatory report has been filed by the department. If no investigatory report has been filed, the registry shall request the department to file a report. If a report is not filed within ninety days subsequent to a request, the report and relative information shall be sealed and remain sealed unless good cause is shown why the information should remain open to authorized access.

Sec. 10. NEW SECTION. 235B.10 EXAMINATION, REQUESTS FOR CORRECTION OR EXPUNGEMENT AND APPEAL.

1. Any person or that person's attorney shall have the right to examine dependent adult abuse information in the registry which refers to that person. The registry may prescribe reasonable hours and places of examination.

2. A person may file with the department within six months of the date of the notice of the results of an investigation, a written statement to the effect that dependent adult abuse information referring to the person is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the person with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a court case relating to the information or findings.

3. The decision resulting from the hearing may be appealed to the court of Polk county by the person requesting the correction or to the court of the district in which the person resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the dependent adult abuse information. Appeal shall be taken in accordance with chapter 17A.

4. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235B.12.

5. If the registry corrects or eliminates information as requested or as ordered by the court, the registry shall advise all persons who have received the incorrect information of the fact. Upon application to the court and service of notice on the registry, an individual may request and obtain a list of all persons who have received dependent adult abuse information referring to the individual.

6. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information and the identity of any person who has been reported as having abused an adult may be withheld upon a determination by the registry that disclosure of the person's identity would be detrimental to the person's interest.

Sec. 11. NEW SECTION. 235B.11 CIVIL REMEDY.

Any aggrieved person may institute a civil action for damages under chapter 25A or 613A or to restrain the dissemination of dependent adult abuse information in violation of this chapter, and any person proven to have disseminated or to have requested and received dependent adult abuse information in violation of this chapter shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than five hundred dollars.

Sec. 12. NEW SECTION. 235B.12 CRIMINAL PENALTIES.

1. Any person who willfully requests, obtains, or seeks to obtain dependent adult abuse information under false pretenses, or who willfully communicates or seeks to communicate dependent adult abuse information to any person except in accordance with sections 235B.6 through 235B.8, or any person connected with any research authorized pursuant to section 235B.6 who willfully falsifies dependent adult abuse information or any records relating to the information is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate dependent adult abuse information except in accordance with sections 235B.6 through 235B.8 is guilty of a simple misdemeanor.

2. Any reasonable grounds for belief that a person has violated any provision of this chapter is grounds for the immediate withdrawal of any authorized access the person might otherwise have to dependent adult abuse information.

Sec. 13. NEW SECTION. 235B.13 REGISTRY REPORTS.

1. The registry may compile statistics, conduct research, and issue reports on dependent adult abuse, provided identifying details of the subject of dependent adult abuse reports are deleted from any report issued.

2. The registry shall issue an annual report on its administrative operation, including information as to the number of requests for dependent adult abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

Sec. 14. NEW SECTION. 235B.14 INFORMATION, EDUCATION, AND TRAINING REQUIREMENTS.

1. The department of elder affairs, in cooperation with the department, 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. Affecting public attitudes regarding the role of a dependent adult in society.

2. The department, 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 come 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.

5. A person required to report cases of dependent adult abuse pursuant to section 235B.3, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

If the person is an employee of a hospital or similar public or private facility, the employer shall be responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day. If the person is self-employed, the person shall be responsible for obtaining the training.

The person may complete the initial or additional training as a part of a continuing education program required under chapter 258A or may complete the training as a part of a training program offered by the department of human services, the department of elder affairs, the department of inspections and appeals, the Iowa law enforcement academy, or a similar public agency.

A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both this subsection and section 232.69 simultaneously.

6. The department shall require an educational program for employees of the registry on the proper use and control of dependent adult abuse information.

Approved June 4, 1991

CHAPTER 232

STATE POLICIES AND PROCEDURES AFFECTING CHILDREN

S.F. 471

AN ACT relating to state foster care, child care, children waived to adult court, and adoption registry policies and procedures and providing an effective date.

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

Section 1. Section 232.2, subsection 4, Code 1991, is amended to read as follows:

4. "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., secs. 671(a)(16), 627(a)(2)(B), and 675(1),(5), which is designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall specifically include all of the following:

- a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.
- b. The type and appropriateness of the placement and services to be provided to the child.
- c. The care and services that will be provided to the child, natural parents, and foster parents.
- d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.
- e. To the extent the records are available and accessible, a summary of the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider.
- f. When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living.

Sec. 2. Section 232.22, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A Except as provided in subsection 6, a child may be placed in detention as provided in this section in one of the following facilities only:

Sec. 3. Section 232.22, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If the court has waived its jurisdiction over the child for the alleged commission of a forcible felony offense pursuant to section 232.45 or 232.45A, and there is a serious risk that the child may commit an act which would inflict serious bodily harm on another person, the child may be held in the county jail, notwithstanding section 356.3. However, wherever possible the child shall be held in sight and sound separation from adult offenders. A child held in the county jail under this subsection shall have all the rights of adult postarrest or pretrial detainees.

Sec. 4. **NEW SECTION. 232.45A WAIVER TO AND CONVICTION BY DISTRICT COURT – PROCESSING.**

1. Once jurisdiction over a child has been waived by the juvenile court as provided in section 232.45, and a conviction is entered by the district court, the clerk of the juvenile court shall immediately send a certified copy of the findings required by section 232.45, subsection 8, and the judgment of conviction to the department of public safety. The department shall maintain a file on each child who has previously been waived to and convicted by the district court in a prosecution as an adult. The file shall be accessible by law enforcement officers on a twenty-four hour per day basis.

2. Once a child sixteen years of age or older has been waived to and convicted of a forcible felony by the district court, all criminal proceedings against the child for any forcible felony occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for a forcible felony who has previously been waived to and convicted of a forcible felony by the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.

Sec. 5. Section 232.52, subsection 6, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph "d", and the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living.

Sec. 6. Section 232.52, subsection 7, Code 1991, is amended to read as follows:

7. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in foster group care, the department or agency

shall make every reasonable effort to place the child within the state, in the least restrictive setting available and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 7. Section 232.102, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living.

Sec. 8. Section 232.102, subsection 7, Code 1991, is amended to read as follows:

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interest of the child. 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 shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in foster group care, the department or agency shall make every reasonable effort to place the child within Iowa, in the least restrictive setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 9. Section 232.119, subsection 4, Code 1991, is amended to read as follows:

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~~ The department shall register a child with the national exchange if the child has not been placed for adoption after three months on the exchange established pursuant to this section.

Sec. 10. Section 232.119, subsection 5, unnumbered paragraph 2, Code 1991, is amended to read as follows:

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 unless the termination of parental rights order is appealed. However, if the foster parents or another person with a significant relationship continues to be considered the child's prospective adoptive family, additional extensions of the deferral may be granted until ninety days after the date of the final decision regarding the appeal.

Sec. 11. Section 237.15, subsection 1, Code 1991, is amended to read as follows:

1. "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272, as codified in 42 U.S.C., secs. 671(a)(16), 627(a)(2)(B), and 675(1),(5), which is designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall specifically include all of the following:

- a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.
- b. The type and appropriateness of the placement and services to be provided to the child.
- c. The care and services that will be provided to the child, natural parents, and foster parents.
- d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.
- e. The efforts to place the child with a relative.
- f. The rationale for an out-of-state placement, and the efforts to prevent such placement, if the child has been placed out of state.
- g. Time frames to meet the stated permanency goal and short-term objectives.
- h. To the extent the records are available and accessible, a summary of the child's health and education records, including the date the records were supplied to the licensee who is the child's foster care provider.
- i. When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living.

Sec. 12. Section 237A.2, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of six months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the six-month period.

NEW UNNUMBERED PARAGRAPH. Notwithstanding any requirement established under this chapter, an exception is provided for the period beginning on the effective date of this Act and ending December 31, 1991, in accordance with the provisions of this paragraph, to permit a center to care for one more child than the amount of children authorized for the center. The exception applies to any limit on the number of children and to requirements for numerical ratios of staff persons to children. The exception applies only to a child who meets both of the following circumstances: the child has a parent serving in the United States armed services who is stationed outside the state of Iowa due to the Persian Gulf conflict and there is no charge for the care provided to the child.

Sec. 13. Section 237A.3, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 4. If the department has denied or revoked a registration because the applicant or person has continually or repeatedly failed to operate a registered child day care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a registered facility for a period of six months from the date the registration is denied or revoked. The department shall not act on an application for registration submitted by the applicant or person during the six-month period.

NEW SUBSECTION. 5. Notwithstanding any requirement established under this chapter, an exception is provided for the period beginning on the effective date of this Act and ending December 31, 1991, in accordance with the provisions of this subsection, to permit a family day care home or group day care home to care for one more child than the amount of children authorized for the home. The exception applies to any limit on the number of children and to requirements for numerical ratios of staff persons to children. The exception applies only to a child who meets both of the following circumstances: the child has a parent serving in the United States armed services who is stationed outside the state of Iowa due to the Persian Gulf conflict and there is no charge for the care provided to the child.

Sec. 14. **EFFECTIVE DATE.** Sections 12 and 13 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 4, 1991

CHAPTER 233
PHARMACY AND DRUG LAWS
S.F. 539

AN ACT relating to the Iowa pharmacy practice Act and assessing fees.

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

Section 1. **NEW SECTION. 155A.13A NONRESIDENT PHARMACY LICENSE — REQUIRED, RENEWAL, DISCIPLINE.**

1. **LICENSE REQUIRED.** A pharmacy located outside of this state which delivers, dispenses, or distributes by any method, prescription drugs or devices to an ultimate user in this state shall obtain a nonresident pharmacy license from the board. The board shall make available an application form for a nonresident pharmacy license and shall require such information it deems necessary to fulfill the purposes of this section. A nonresident pharmacy shall do all of the following in order to obtain a nonresident pharmacy license from the board:

- a. Submit a completed application form and an application fee as determined by the board.
- b. Submit evidence of possession of a valid license, permit, or registration as a pharmacy in compliance with the laws of the state in which it is located, a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located, and evidence of compliance with all legal directions and requests for information issued by the regulatory or licensing agency of the state in which it is located.
- c. Submit a list of the name, titles, and location of all principal owners, partners, or officers of the nonresident pharmacy, all pharmacists employed by the nonresident pharmacy who deliver, dispense, or distribute by any method prescription drugs to an ultimate user in this state, and of the pharmacist in charge of the nonresident pharmacy. A nonresident pharmacy shall update the list within thirty days of any addition, deletion, or other change to the list.
- d. Submit evidence that the nonresident pharmacy maintains records of the controlled substances delivered, dispensed, or distributed to ultimate users in this state.
- e. Submit evidence that the nonresident pharmacy provides, during its regular hours of operation for at least six days and for at least forty hours per week, toll-free telephone service to facilitate communication between ultimate users in this state and a pharmacist who has access to the ultimate user's records in the nonresident pharmacy, and that the toll-free number is printed on the label affixed to each container of prescription drugs delivered, dispensed, or distributed in this state.

2. **LICENSE RENEWAL.** A nonresident pharmacy shall renew its license on or before January 1 annually. In order to renew a nonresident pharmacy license, a nonresident pharmacy shall submit a renewal fee as determined by the board, and shall fulfill all of the requirements of subsection 1, paragraphs "b" through "e". A nonresident pharmacy shall pay an additional fee for late renewal for failure to renew a license within thirty-one days after expiration of the license.

3. **DISCIPLINE.** The board may deny, suspend, or revoke a nonresident pharmacy license for any violation of this section, section 155A.15, subsection 2, paragraph "a", "b", "d", "e", "f", "g", "h", or "i", chapter 203B, 204, 204A, 204B, or 205, or a rule of the board.

Sec. 2. Section 155A.15, subsection 2, paragraph d, subparagraph (4), Code 1991, is amended to read as follows:

(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 rules of the Iowa department of public health inspections and appeals.

Sec. 3. Section 155A.17, Code 1991, is amended to read as follows:
155A.17 **WHOLESALE DRUG LICENSE.**

1. 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.

2. The board shall establish standards for drug wholesaler licensure and may deny, suspend, or revoke a drug wholesale license for failure to meet the standards or for a violation of the laws of this state, another state, or the United States relating to prescription drugs or controlled substances, or for a violation of this chapter, chapter 203B, 204, 204A, 204B, or 205, or a rule of the board.

3. The board shall adopt rules pursuant to chapter 17A on matters pertaining to the issuance of a wholesale drug license. The rules shall provide for conditions of licensure, compliance standards, licensure fees, disciplinary action, and other relevant matters.

4. 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. 4. Section 155A.19, subsection 2, Code 1991, is amended to read as follows:

2. A pharmacist shall report in writing to the board within ten days a change of name, address, or place of employment.

Sec. 5. Section 204.302, subsection 1, Code 1991, is amended to read as follows:

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually and maintain a biennial registration issued by the board in accordance with its rules.

Sec. 6. Section 204.304, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Has committed such acts as would render the registrant's registration under section 204.303 inconsistent with the public interest as determined under that section.

Approved June 4, 1991

CHAPTER 234

SHOOTING FIREARMS ACROSS PUBLIC PROPERTY — OBSTRUCTING HUNTING, FISHING, OR TRAPPING

H.F. 109

AN ACT to prohibit the shooting of a firearm across a public highway, or the intentional obstruction of a person who is lawfully hunting, fishing, or trapping, and subjecting violators to a penalty.

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

Section 1. Section 109.54, Code 1991, is amended to read as follows:

109.54 SHOOTING RIFLE, SHOTGUN, PISTOL, OR REVOLVER OVER WATER OR HIGHWAY.

1. No A person shall at any time not shoot any rifle on or over any of the public waters or public highways of the state or any railroad right-of-way.

2. A person shall not shoot a shotgun with a slug load, pistol, or revolver on or over a public roadway as defined in section 321.1, subsection 50.

3. This section does not apply to any peace officers or military personnel in the performance of their official duties.

Sec. 2. NEW SECTION. 109.125 INTENTIONAL OBSTRUCTION OF LAWFUL ACTIVITIES PROHIBITED — PENALTY.

1. A person shall not intentionally obstruct the participation of another person in the lawful activity of hunting, fishing, or trapping. This subsection shall not prohibit a landowner or lessee from exercising the landowner's or lessee's lawful rights.

2. A person violating this section is guilty of a simple misdemeanor.

Approved June 4, 1991

CHAPTER 235

HUNTER SAFETY AND ETHICS EDUCATION

H.F. 233

AN ACT relating to the hunter safety and ethics education program, and providing a penalty for violations.

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

Section 1. Section 110.27, subsections 1 through 7, Code 1991, are amended to read as follows:

1. A ~~hunting license shall not be issued to a person born after January 1, 1967 by the commission, a county recorder, or a depositary authorized to issue hunting licenses, unless the person exhibits a certificate showing satisfactory completion of a hunter safety and ethics education course approved by the commission or a hunting license issued by this state after July 1, 1983, shall not obtain a hunting license unless the person has satisfactorily completed a hunter safety and ethics education course approved by the commission.~~ A certificate of completion from an approved hunter safety education course shall not be issued to a person under twelve years of age. A certificate of completion from an approved hunter safety and ethics education course issued in this state since 1960, by another state or by a province of Canada, is valid for the requirements of this section, provided the applicant is twelve years of age or older.

2. A certificate of completion shall not be issued to a person who has not satisfactorily completed a minimum of ten hours of training in an approved hunter safety and ethics education course. The ~~commission~~ department shall establish the curriculum for the first ten hours of an approved hunter safety and ethics education course offered in this state. Upon completion of the ten-hour curriculum, a certificate of completion shall be awarded to the applicant. An examination shall not be required for the award of the certificate.

3. The ~~commission~~ department shall provide a manual on hunter safety education which shall be used by all instructors and persons receiving hunter safety and ethics education training in this state.

4. The ~~commission~~ department shall provide for the certification of persons who wish to become hunter safety and ethics instructors. A person shall not act as an instructor in hunter safety and ethics education as provided in this section without first obtaining an instructor's certificate from the ~~commission~~ department.

5. An officer of the ~~commission~~ department or a certified instructor may issue a certificate to a person who has not completed the hunter safety and ethics education course but ~~has demonstrated to that officer or instructor a satisfactory knowledge of hunter safety and ethics~~ meets the criteria established by the commission.

6. A public or private school or organization approved by the ~~commission~~ department may co-operate with the ~~commission~~ department in providing a course in hunter safety and ethics education as provided in this section.

7. A hunting license obtained under this section by a person who gave false information or presented a fraudulent certificate of completion shall be revoked and a new hunting license shall not be issued for at least two years from the date of conviction. A hunting license obtained by a person who was born after January 1, 1967, but has not satisfactorily completed the hunter safety and ethics education course or has not met the requirements established by the commission, shall be revoked.

Sec. 2. Section 110.27, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 10. A person under eighteen years of age who is required to exhibit a valid hunting license, shall also exhibit a valid certificate of completion from a state approved hunter safety and ethics education course upon request of an officer of the department. A failure to carry or refusal to exhibit the certificate of completion as provided in this subsection is a violation of this chapter. A violator is guilty of a simple misdemeanor as provided in section 110.42.

Approved June 4, 1991

CHAPTER 236

SNOWMOBILES AND ALL-TERRAIN VEHICLES

H.F. 289

AN ACT relating to the operation of snowmobiles, all-terrain vehicles, and motorcycles and limiting safety certification to certain operators on public lands and waters.

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

Section 1. Section 321G.1, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 8A. "Nonambulatory person" means an individual with paralysis of the lower half of the body with the involvement of both legs, usually caused by disease of or injury to the spinal cord, or caused by the loss of both legs or the loss of a part of both legs.

Sec. 2. Section 321G.6, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A motorcycle, as defined in section 321.1, subsection 3, paragraph "a", may be registered as an all-terrain vehicle as provided in this section. A motorcycle registered as an all-terrain vehicle may participate in all programs established for all-terrain vehicles under this chapter except for the safety instruction and certification program.

Sec. 3. Section 321G.13, subsection 11, Code 1991, is amended to read as follows:

11. A person shall not operate or ride in an all-terrain vehicle or snowmobile with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case, ~~or any bow unless it is unstrung or enclosed in a carrying case.~~ However, a nonambulatory person may carry an uncased and unloaded firearm while operating or riding an all-terrain vehicle or a snowmobile.

Sec. 4. Section 321G.16, Code 1991, is amended to read as follows:

321G.16 SPECIAL EVENTS.

The ~~commission~~ department may authorize the holding of organized special events as defined in this chapter within this state. The ~~commission~~ department shall adopt ~~and may amend~~ rules relating to the conduct of special events held under ~~commission~~ department permits and designating the equipment and facilities necessary for safe operation of all-terrain vehicles and snowmobiles or for the safety of operators, participants, and observers in the special events. A

special event for all-terrain vehicles may include motorcycles upon payment of an entrance fee set by the organizer of the special event. The department may require that part of the motorcycle entrance fee be credited to pay costs of all-terrain vehicle programs authorized pursuant to section 321G.7. At least thirty days before the scheduled date of a special event in this state, an application shall be filed with the commission department for authorization to conduct the special event. The application shall set forth the date, time, and location of the proposed special event and any other information the commission department requires. The special event shall not be conducted without written authorization of the commission department. Copies of the rules shall be furnished by the commission department to any person making an application.

Sec. 5. Section 321G.24, subsection 1, Code 1991, is amended to read as follows:

1. A person under eighteen years of age shall not operate ~~an all-terrain vehicle or a snowmobile on public land or land purchased with snowmobile registration funds~~ in this state without obtaining a valid safety certificate issued by the commission department and having the certificate in the person's possession, unless the person is accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and possesses a valid motor vehicle license, as defined in section 321.1, or a safety certificate issued under this chapter. A person under eighteen years of age shall not operate an all-terrain vehicle on public land or land purchased with all-terrain vehicle registration funds in this state without obtaining a valid safety certificate issued by the department and having the certificate in the person's possession.

Approved June 4, 1991

CHAPTER 237

HUNTING AND FISHING — LICENSES AND FEES

H.F. 703

AN ACT relating to, and increasing the fees for, fishing, hunting, and related licenses, and providing effective dates.

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

Section 1. Section 109.60, Code 1991, is amended to read as follows:

109.60 RAISING GAME — RULEMAKING AUTHORITY.

A person shall not raise or sell game or fur-bearing animals of the kinds protected by this chapter, except rock doves and pigeons, without first procuring a game breeder's license as provided by law. The commission may adopt rules which ensure that all game birds, game animals, and fur-bearing animals handled and confined by licensed game breeders are provided with humane care and treatment. A violation of a rule adopted by the commission is a cause for license revocation. This section does not apply to governmental zoos and exhibits.

Sec. 2. Section 109.95, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A license shall be required of each fur dealer and each employee, agent, or representative of a fur dealer except when the employee, agent, or representative is operating solely on the premises of a licensed fur dealer. A fur dealer shall conduct business only at the location specified on the dealer's license, at an established fur auction, at the nonadvertised residence of a licensed fur harvester, or at the place of business specified on the license of any fur dealer. A nonresident licensed fur dealer may purchase location permits to operate at locations other than at the location specified on the fur dealer's license. A resident licensed fur dealer may

obtain location permits without fee. Each location permit shall be valid only for the one location specified on the location permit and shall entitle the fur dealer and employee, agent, or representative of the licensed fur dealer to operate at that location. The commission shall, upon application and the payment of the required license fee, if any, furnish the proper license and location permits to the dealer.

Sec. 3. Section 110.1, subsections 1 through 6, Code 1991, are amended by striking the subsections and inserting in lieu thereof the following:

1. Fishing licenses:	
a. Legal residents except as otherwise provided	\$ 10.50
b. Nonresident license	\$ 22.50
c. Seven-day license for residents and nonresidents	\$ 8.50
d. Trout stamp	\$ 10.00
2. Hunting licenses:	
a. Legal residents except as otherwise provided	\$ 12.50
b. Deer hunting license for residents	\$ 25.00
c. Wild turkey hunting license for residents	\$ 22.00
d. Nonresidents hunting license	\$ 60.50
e. Deer hunting license for nonresidents	\$ 110.00
f. Wild turkey hunting license for nonresidents	\$ 55.00
3. Hunting and fishing combined licenses:	
Legal residents except as otherwise provided	\$ 23.50
4. Hunting, fishing, and fur harvesting combined licenses:	
Annual fur, fish and game license for residents	\$ 37.50
5. Fur harvesters, dealers and game breeders licenses:	
a. Fur harvester license for legal residents sixteen years of age or older	\$ 20.50
b. Fur harvester license for legal residents under sixteen years of age	\$ 5.50
c. Fur harvester license for nonresidents	\$ 175.50
d. Fur dealers license for residents	\$ 225.00
e. Fur dealers license for nonresidents	\$ 500.00
f. Game breeders license	\$ 15.00
g. Location permit for nonresident fur dealers	\$ 55.00
6. Other licenses:	
a. Scientific collector's license	\$ 5.00
b. Private fish hatcheries	\$ 15.00
c. Bait dealer's license for residents	\$ 30.00
d. Bait dealer's license for nonresidents	\$ 60.00
e. Taxidermy license	\$ 15.00
f. Falconry license	\$ 20.00
g. Nongame support certificate	\$ 5.00
h. Special wildlife habitat stamp	\$ 5.00

Sec. 4. Section 110.24, subsection 16, Code 1991, is amended to read as follows:

16. Upon payment of the fee of thirty dollars for a lifetime hunting and fishing combined license, the department shall issue a hunting and fishing combined license to a veteran who was disabled in combat or during the period of a veteran's service listed in this subsection or who was a prisoner of war during that veteran's military service. The department shall prepare an application to be used by a person requesting a hunting and fishing combined license under this subsection. The veterans affairs division of the department of public defense shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, "veteran" means a person who is a resident of Iowa and who served in the armed forces of the United States of America at any time during World War I between

the dates of April 6, 1917, and July 2, 1921, World War II between the dates of December 7, 1941, and December 31, 1946, the Korean conflict between the dates of June 27, 1950, and January 31, 1955, or the Vietnam conflict between August 5, 1964, and May 7, 1975, or the Persian Gulf Conflict between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, all dates inclusive, and "disabled" means entitled to compensation under the United States Code, title 38, chapter 11.

Sec. 5. Section 110.24, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 17. The department shall issue without charge a special annual fishing or combined hunting and fishing license to residents of this state who are permanently disabled and whose income falls below the federal poverty guidelines as published by the United States department of health and human services or residents of this state who are sixty-five years of age or older and whose income falls below the federal poverty guidelines as published by the United States department of health and human services. The commission shall provide for, by rule, an application to be used by an applicant requesting a permanent disabled status or age status. The commission shall require proof of age, income, and proof of permanent disability.

Sec. 6. EFFECTIVE DATES.

1. The fees specified in section 3 of this Act are effective for the 1992 license year and each subsequent license year until otherwise provided by the general assembly, except as provided in subsection 2.

2. This Act takes effect on December 15, 1991, except that:

a. This section, the deer hunting license fees specified in section 110.1, subsection 2, paragraphs "b" and "e", and the wild turkey hunting license fees specified in section 110.1, subsection 2, paragraphs "c" and "f", take effect on July 1, 1991.

b. A lifetime license issued before January 1, 1992, pursuant to section 110.1, subsection 1, paragraph "b", Code 1991, or section 110.1, subsection 3, paragraph "b", Code 1991, and preceding Codes, is valid for the lifetime of the licensee unless sooner suspended or revoked as otherwise provided by law.

c. The falconry license fee in section 110.1 shall be for three years beginning and ending as provided by rule of the natural resource commission.

Approved June 4, 1991

CHAPTER 238

AUTHORITY OF PHYSICIAN ASSISTANTS

S.F. 42

AN ACT relating to the authority of physician assistants to prescribe and supply prescription drugs and controlled substances, and providing an effective date.

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

Section 1. Section 147.107, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. Notwithstanding subsection 3, a physician assistant shall not dispense prescription drugs as an incident to the practice of the supervising physician or the physician assistant, but may supply, when pharmacist services are not reasonably available, or when it is in the best interests of the patient, a quantity of properly packaged and labeled prescription drugs, controlled substances, or medical devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician assistant, where pharmacy

services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices. Prescription drugs supplied under the provisions of this subsection shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs, as they relate to supplying prescription drugs to the patient, and not at a profit to the physician or the physician assistant. If prescription drug supplying authority is delegated by a supervising physician to a physician assistant, a nurse or staff assistant may assist the physician assistant in providing that service. Rules shall be adopted by the board of physician assistant examiners, after consultation with the board of pharmacy examiners, to implement this subsection.

NEW SUBSECTION. 3B. Notwithstanding subsection 1 and any other provision of this section to the contrary, a physician may delegate the function of prescribing drugs, controlled substances, and medical devices to a physician assistant licensed pursuant to chapter 148C. When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Rules relating to the authority of physician assistants to prescribe drugs, controlled substances, and medical devices pursuant to this subsection shall be adopted by the board of physician assistant examiners, after consultation with the board of medical examiners and the board of pharmacy examiners, as soon as possible after July 1, 1991. The rules shall be reviewed and approved by the physician assistant rules review group created under subsection 3D and shall be adopted in final form by January 1, 1993. However, the rules shall prohibit the prescribing of Schedule II controlled substances which are listed as stimulants or depressants pursuant to chapter 204. If rules are not reviewed and approved by the physician assistant rules review group created under subsection 3D and adopted in final form by January 1, 1993, a physician assistant may prescribe drugs as a delegated act of a supervising physician under rules adopted by the physician assistant board of examiners and subject to the rules review process established in section 148C.7. The board of physician assistant examiners shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices, notwithstanding section 148C.6A.

NEW SUBSECTION. 3C. Health care providers shall consider the instructions of the physician assistant to be instructions of the supervising physician if the instructions concern duties delegated to the physician assistant by a supervising physician.

NEW SUBSECTION. 3D. A physician assistant rules review group is established consisting of two physician assistants selected by the board of physician assistants, two physicians selected by the board of medical examiners, and one physician currently practicing as a supervising physician of physician assistants selected by the four other members of the rules review group no later than August 1, 1991. The rules review group shall select its own chairperson.

The rules review group shall review and approve or disapprove rules proposed for adoption relating to the authority of physician assistants to supply or prescribe drugs, controlled substances, and medical devices pursuant to subsection 3B. Approval shall be by a simple majority of the members of the rules review group. A rule shall not become effective without the approval of the rules review group unless otherwise specified under this section.

Sec. 2. LIMITATION OF POWERS.

This Act shall not be construed to limit the powers currently delegated or authorized by statute or departmental rules to physician assistants. This Act shall also not be construed to limit the current authority of the board of medical examiners over a supervising physician.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 5, 1991

CHAPTER 239**AUTHORITY OF ADVANCED NURSE PRACTITIONERS***S.F. 363*

AN ACT to permit advanced nurse practitioners to prescribe noncontrolled substances or devices under certain circumstances.

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

Section 1. Section 147.107, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 6. Notwithstanding subsection 1, but subject to the limitations contained in subsections 2 and 3, a registered nurse who is licensed and registered as an advanced registered nurse practitioner and who qualifies for and is registered in a recognized nursing specialty, other than the specialty of nurse anesthetist, may prescribe substances or devices that are not controlled substances or devices, if the nurse is engaged in the practice of a nursing specialty, other than that of nurse anesthetist, for which the use of prescription medications and devices is recognized by the board of medical examiners and the board of nursing and the use of the medications and devices is regulated under rules accepted by the board of medical examiners and adopted by the board of nursing in consultation with the board of pharmacy examiners.

Approved June 5, 1991

CHAPTER 240**SALE AND FURNISHING OF CIGARETTES AND TOBACCO PRODUCTS***H.F. 232*

AN ACT relating to the sale and furnishing of cigarettes and tobacco products to certain persons and providing penalties and an effective date.

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

Section 1. Section 98.1, subsection 21, Code 1991, is amended to read as follows:

21. "Cigarette vending machine" means any self-service device offered for public use which, upon insertion of a coin, coins, paper currency, or by other means, dispenses cigarettes or tobacco products without the necessity of replenishing the device between each vending operation.

Sec. 2. Section 98.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 24. "Tobacco products" means cigars; little cigars as defined in section 98.42, subsection 16; cheroots; stogies; periques; granulated; plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; or refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not mean cigarettes.

Sec. 3. Section 98.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

98.2 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age and a person under eighteen years of age shall not smoke, use, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

2. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 98.22 before a permit-issuing authority against a permit holder violating this section.

3. Payment and distribution of court costs, fees, and fines in a prosecution initiated by a city or county shall be made as provided in chapter 602 for violation of a city or county ordinance.

Sec. 4. Section 98.3, Code 1991, is amended to read as follows:

98.3 VIOLATION.

~~Any A person who shall violate any of the provisions of violates section 98.2 shall for the first offense be or 98.39 is guilty of a simple misdemeanor. For a second or any subsequent violation such person shall be guilty of a serious misdemeanor.~~

Sec. 5. Section 98.22, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. If a retailer or employee of a retailer has violated section 98.2, 98.36, subsection 6, or 98.39, the department or local authority, in addition to the other penalties fixed for such violations in this section, shall assess a penalty upon the same hearing and notice as prescribed in subsection 1 as follows:

a. For a first violation, the violator shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.

b. For a second violation within a period of two years, the violator's permit shall be suspended for a period of thirty days.

c. For a third violation within a period of five years, the violator's permit shall be suspended for a period of sixty days.

d. For a fourth violation within a period of five years, the violator's permit shall be revoked.

Sec. 6. Section 98.36, subsection 6, Code 1991, is amended to read as follows:

6. Any sales of cigarettes or tobacco products made through a cigarette vending machine are subject to rules and penalties relative to retail sales of cigarettes and tobacco products provided for in this division chapter. No cigarettes shall be sold through any cigarette vending machine unless the cigarettes have been properly stamped or metered as provided by this division, and in case of violation of this provision, the permit of the dealer authorizing retail sales of cigarettes shall be canceled. Payment of the license fee as provided in section 98.13 authorizes a cigarette vendor to sell cigarettes or tobacco products through vending machines, provided that the following conditions are met: the machines are located in places where the machines are under the supervision of a person of legal age who is responsible for prevention of purchase by minors from the machines; the machines are equipped with a lock-out device under the control of a person of legal age who shall directly regulate the sale of items through the machines, and which shall include a mechanism to prevent the machines from functioning if the power source for the lock-out device fails or if the lock-out device is disabled, and a mechanism to ensure that only one pack of cigarettes or one tobacco product is dispensed at a time; and the location where the machines are placed is covered by a local retail permit. However, a lock-out device is not required for machines operated in the following locations, if the machines are not to be placed in a doorway or other area readily accessible to minors: a commercial establishment holding a class "C" liquor license or a class "B" beer permit under chapter 123, if the establishment is not also licensed as a food service establishment under chapter 137B; a private facility not open to the public; or a workplace not open to the public. This section does not require a retail licensee to buy a cigarette vendor's permit if the retail licensee is in fact the owner of the cigarette vending machines and the machines are operated in the location described in the retail permit.

Sec. 7. Section 98.39, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

98.39 TOBACCO PRODUCT AND CIGARETTE SAMPLES — RESTRICTIONS — ADMINISTRATION.

1. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not give away cigarettes or tobacco products at any time in connection with the manufacturer's, distributor's, wholesaler's, retailer's, or distributing agent's business or for promotion of the business or product, except as provided in subsection 2.

2. a. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not give away any cigarettes or tobacco products to any person under eighteen years of age, or within five hundred feet of any playground, school, high school, or other facility when such facility is being used primarily by persons under age eighteen for recreational, educational, or other purposes.

b. Proof of age shall be required if a reasonable person could conclude on the basis of outward appearance that a prospective recipient of a sample may be under eighteen years of age.

c. Persons engaged in sampling shall secure stocks of samples in safe locations in order to avoid inadvertent distribution of samples contrary to the provisions of this section.

d. Sampling shall cease at a particular location when circumstances arise that make it apparent that sampling cannot continue in a manner consistent with the provisions of this section; however, sampling may resume at that location when such circumstances abate.

e. All cigarette samples shall be shipped to a distributor that has a permit to stamp cigarettes or little cigars with Iowa tax. The manufacturer shipping samples under this section shall send an affidavit to the director stating the quantity and to whom the samples were shipped. The distributor receiving the shipment shall send an affidavit to the director stating the quantity and from whom the samples were shipped. These affidavits shall be duly notarized and submitted to the director at time of shipment and receipt of the samples. The distributor shall pay the tax on samples by separate remittance along with the affidavit.

DIVISION III

Sec. 8. NEW SECTION. 98.51 UNIFORM APPLICATION.

Enforcement of this chapter shall be implemented in an equitable manner throughout the state. For the purpose of equitable and uniform implementation, application, and enforcement of state and local laws and regulations, the provisions of this chapter shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.

Sec. 9. Section 232.8, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Violations by a child of provisions of chapter 98, 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. A child convicted of a violation excluded from the jurisdiction of the juvenile court under this unnumbered paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

Sec. 10. Section 903.1, subsection 3, Code 1991, is amended to read as follows:

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 98, 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, 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. 11. EFFECTIVE DATE AND TRANSITION PROVISION. Section 6 of this Act takes effect upon enactment. However, section 6 of this Act shall not be enforced against persons in relationship to cigarette vending machines in operation on or before the enactment of this Act until July 1, 1994.

Approved June 5, 1991

CHAPTER 241**OTHER BUSINESSES WITHIN HEALTH CARE FACILITIES***H.F. 285*

AN ACT relating to the approval of certain businesses or activities in a health care facility.

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

Section 1. Section 135C.5, Code 1991, is amended to read as follows:

135C.5 HEALTH CARE FACILITIES, ETC.

~~No other~~ Another business or activity shall not be carried on in a health care facility, ~~nor~~ or in the same physical structure with a health care facility ~~except as hereinafter provided,~~ unless such business or activity is under the control of and is directly related to and incidental to the operation of the health care facility or unless the business or activity is approved by the department and the state fire marshal. ~~No~~ A business or activity which is operated within the limitations of this section shall not interfere in any manner with the use of the facility by the residents or the services provided to the residents, ~~nor~~ and shall not be disturbing to them. The department and the state fire marshal, in accordance with chapter 17A, shall adopt rules which establish criteria for approval of a business or activity to be carried on in a health care facility or in the same physical structure with a health care facility.

Approved June 5, 1991

CHAPTER 242**INFECTIOUS AND RADIOACTIVE WASTE***H.F. 302*

AN ACT relating to infectious and radioactive waste treatment and disposal facilities by extending the moratorium on construction and operation, requiring operating permits for treatment and disposal facilities and collection and transportation operations, providing for emission limitations and standards, providing a severability clause, and providing an effective date.

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

Section 1. Section 455B.133, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Adopt, amend, or repeal emission limitations or standards relating to the maximum quantities of air contaminants that may be emitted from any air contaminant source. The standards or limitations adopted under this section shall not exceed the standards or limitations promulgated by the administrator of the United States environmental protection agency or the requirements of the federal Clean Air Act as amended to January 1, ~~1979~~ 1990. This does not prohibit the commission from adopting a standard for a source or class of sources for which the United States environmental protection agency has not promulgated a standard. This also does not prohibit the commission from adopting an emission standard or limitation for infectious medical waste treatment or disposal facilities which exceeds the standards or limitations promulgated by the administrator of the United States environmental protection agency or the requirements of the federal Clean Air Act as amended to January 1, 1991. The commission shall not adopt an emission standard or limitation for infectious medical waste treatment or disposal facilities prior to January 1, 1995, which exceeds the standards or limitations promulgated

by the administrator of the United States environmental protection agency or the requirements of the federal Clean Air Act, as amended to January 1, 1991, for a hospital, or a group of hospitals licensed under chapter 135B which has been operating an infectious medical waste treatment or disposal facility prior to January 1, 1991.

Sec. 2. NEW SECTION. 455B.335A PATHOLOGICAL WASTE INCINERATION FACILITIES – RADIOACTIVE MATERIALS – REQUIREMENTS.

1. The director shall require that a person who operates or proposes to operate a waste incinerator which provides for the incineration of pathological radioactive materials conduct dispersion modeling, under the direction of the Iowa department of public health, for radiological isotopes to measure the emission levels of alpha and gamma rays. The director shall allow a three-month period during which time the operator or person proposing operation of such an incinerator shall conduct the required dispersion modeling. In order to initiate or continue such incineration, the results of the modeling shall provide that the existing incinerator meets or the proposed incinerator will meet the emission standards established by the United States environmental protection agency for a selected isotope.

2. The department shall conduct a public hearing following submission to the director of the results of the dispersion modeling conducted by an operator or person proposing operation of a waste incinerator which provides for or will provide for the incineration of pathological radioactive materials.

3. If the dispersion modeling results do not meet the standards for emission limitations prescribed under subsection 1, the director shall require the operator or the person who proposes to operate a waste incinerator which provides for the incineration of pathological radioactive materials to employ or conduct an additional dispersion modeling test employing the best available control technology. Following employment of the best available control technology or the conducting of the additional dispersion modeling, if the incinerator or proposed incinerator does not or will not meet the standards prescribed under subsection 2, the operator's permit for incineration of pathological radioactive materials shall be revoked or the permit for such proposed incineration shall be denied.

Sec. 3. NEW SECTION. 455B.501A INFECTIOUS MEDICAL WASTE INCINERATORS – REGENTS' UNIVERSITIES – REQUIREMENTS.

1. The director shall require that a regents' university which operates an infectious medical waste incinerator shall conduct periodic monitoring, under the direction of the Iowa department of public health, and as required by the department of natural resources, to measure compliance with the emission limitations standards for toxic air pollutants adopted by rule of the department of natural resources. In order to continue incineration, the existing incinerator shall continue to meet the emission limitations standards for toxic air pollutants adopted by rule of the department of natural resources.

2. If monitoring results do not meet the emission limitations standards established, the director of the department of natural resources shall require that the university employ the best available control technology for toxics as defined by rule of the department of natural resources. Following employment of the best available control technology for toxics, if the incinerator does not meet the standards established, the permit for operation of the infectious medical waste incinerator shall be revoked.

Sec. 4. NEW SECTION. 455B.502 INFECTIOUS WASTE TREATMENT AND DISPOSAL FACILITIES – OPERATING PERMITS REQUIRED.

The commission shall adopt rules which require a person who owns or operates an infectious waste treatment or disposal facility to obtain an operating permit before initial operation of the facility. The rules shall specify the information required to be submitted with the application for a permit and the conditions under which a permit may be issued, suspended, modified, revoked, or renewed. The rules shall address but are not limited to the areas of operator safety, recordkeeping and tracking procedures, best available appropriate technologies,

emergency response and remedial action procedures, waste minimization procedures, and long-term liability. The department shall submit proposed rules to the commission by January 15, 1992.

Sec. 5. NEW SECTION. 455B.503 COLLECTION AND TRANSPORTATION OF INFECTIOUS MEDICAL WASTE — RULES.

The commission shall adopt rules which require a person who owns or operates an infectious medical waste collection or transportation operation to obtain an operating permit prior to initial operation. The rules shall address but are not limited to the areas of operator safety, recordkeeping and tracking procedures, best available appropriate technologies, emergency response and remedial action procedures, waste minimization procedures, and long-term liability.

Sec. 6. NEW SECTION. 455B.504 INFECTIOUS WASTE TREATMENT AND DISPOSAL FACILITIES — NATIONAL REGISTER OF HISTORIC PLACES.

The department of natural resources shall not grant a permit for the construction or operation of a commercial infectious waste treatment or disposal facility within one mile of a site or building which has been placed on the national register of historic places. This section does not apply to hospitals, health care facilities licensed pursuant to chapter 135C, physicians' offices or clinics, and other health service-related entities.

Sec. 7. 1990 Iowa Acts, chapter 1191, section 5, is amended to read as follows:

SEC. 5. MORATORIUM — COMMERCIAL INFECTIOUS WASTE INCINERATORS TREATMENT AND DISPOSAL FACILITIES.

1. The department of natural resources shall not grant a permit for the construction or operation of a commercial infectious waste incinerator prior to July 1, 1991 treatment or disposal facility until such time as the department adopts rules for operating permits for these facilities and in any event not earlier than July 1, 1992. The moratorium does not apply to an infectious waste treatment or disposal facility constructed or operated by a hospital licensed pursuant to chapter 135B, or by two or more hospitals licensed pursuant to chapter 135B that jointly construct or operate an infectious waste treatment or disposal facility, which in addition to its own waste only accepts infectious waste from other infectious waste generators if the total amount of infectious waste accepted from other generators is less than sixty-six percent of the infectious waste incinerated, including but not limited to hospitals, health care facilities licensed pursuant to chapter 135C, physicians' offices or clinics, and other health service-related entities in this state or within the service area of the hospital or hospitals operating the facility. Owners and operators of small quantity generators of infectious medical waste who do not treat or dispose of the waste generated by the small quantity generator shall take precautions to ensure the safety and well-being of the public and especially persons directly exposed to the waste in the course of disposal. The precautions shall include but are not limited to securing all sharps; separating and securing infectious waste apart from general waste; clearly marking the waste to indicate that the waste is infectious; and ensuring that the waste is stored, transported, treated, and disposed of in a safe and secure manner. The department, in cooperation with the Iowa department of public health, shall adopt rules defining small quantity generators of infectious waste subject to the provisions of this subsection and which establish criteria for fulfilling the precautionary requirements established.

2. An infectious waste treatment or disposal facility shall not be constructed or operated unless the facility meets all of the following conditions, if applicable:

a. The facility is designed to accept only medical waste generated in the state and communities within seventy-five miles of the state borders.

b. The facility is subject to monitoring and stack testing at least every three years.

c. The facility incorporates the best available control technology to ensure that the emissions from the facility approach the goal of zero emissions.

d. The facility complies with standards and limitations which are not less stringent, and may be more stringent, than those promulgated by the administrator of the United States environmental protection agency.

- e. The facility pays an operating fee as established by the commission.
- f. The facility requires large generators for which the facility provides treatment or disposal to certify that the generator submitted a comprehensive plan to the department to provide for reduction or recycling of infectious waste at the source. If the generator is a small quantity generator, however, the facility shall only require that the small quantity generator, or a representative of the small quantity generators, for which the facility provides treatment or disposal, has participated in the development of the comprehensive plan submitted by the city, county, or public agency, pursuant to section 455B.302.
Comprehensive plans developed under this subsection shall preferably be developed in conjunction with the city, county, or public agency developing the plan pursuant to section 455B.302.
- g. The facility has applied for and has qualified for all requisite federal, state, and local permits for construction and operation of the facility.
- h. The facility is in compliance with rules, following adoption, pursuant to sections 455B.502 and 455B.503.
- i. The facility has established a means of treating or disposing of any residue or ash which remains following treatment of the waste.
The commission shall give priority in the issuance of permits to facilities which present the least multimedia environmental threat.
- 3. The conditions imposed under subsection 2 shall apply as follows:
 - a. An existing infectious waste treatment or disposal facility shall comply with the standards and limitations adopted by July 1, 1993, or as federal standards and limitations become final, whichever is earlier.
 - b. An infectious waste treatment or disposal facility which is established or becomes operational on or after May 1, 1991, shall comply with standards and limitations as they are adopted.
- 4. The department, in cooperation with the Iowa department of public health, shall adopt rules defining small quantity generators of infectious waste subject to the provisions of this section.

Sec. 8. SEVERABILITY CLAUSE. If any provision of this Act or any application thereof to any person is invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end, the provisions of this Act are severable.

Sec. 9. EFFECTIVE DATE. Section 5 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 5, 1991

CHAPTER 243

BIRTH CERTIFICATES AND ADOPTION RECORDS

H.F. 380

AN ACT relating to vital records by requiring the state registrar to provide a certified copy of a birth certificate when the certificate is registered and by providing for access to certain adoption records.

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

Section 1. Section 144.13A, Code 1991, is amended to read as follows:
144.13A REGISTRATION FEE.

The county registrar ~~and~~ or state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth and a separate fee established under section 144.46 for

a certified copy of the certificate. The certified copy shall be mailed to the parent by the state registrar. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to 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 and certified copy fee are 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 county registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs.

Sec. 2. Section 144.24, Code 1991, is amended to read as follows:

144.24 SUBSTITUTING NEW FOR ORIGINAL BIRTH CERTIFICATES – INSPECTION.

When If a new certificate of birth is established, the actual place and date of birth shall be shown on the certificate. The certificate shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of adoption, paternity, legitimation or sex change shall not be subject to inspection except under order of a court of competent jurisdiction, including but not limited to an order issued pursuant to section 600.16, or as provided by ~~regulation~~ administrative rule for statistical or administrative purposes, only. However, the state registrar shall, upon the application of an adult adopted person, an adoptive parent, or the legal representative of either the adult adopted person or the adoptive parent, inspect the original certificate and the evidence of adoption and reveal to the applicant the name and address of the court which issued the adoption decree. Upon receipt of notice of annulment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of the district court.

Sec. 3. Section 600.16, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. An adopted person whose adoption became final prior to July 4, 1941, and whose adoption record was not required to be sealed at the time when the adoption record was completed, shall not be required to show good cause for an order opening the adoption record under this subsection, provided that the court shall consider any affidavit filed under this subsection.

Approved June 5, 1991

CHAPTER 244
HEALTH INSURANCE
H.F. 688

AN ACT relating to health insurance reforms by limiting small group premium rating practices, increasing access to affordable basic benefits health insurance, and authorizing certain premium credits and tax exemptions for qualifying health insurance plans and insureds.

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

Section 1. NEW SECTION. 513B.1 TITLE — PURPOSE.

1. This chapter shall be known and may be cited as the Model Small Group Rating Law.
2. The intent of this chapter is to promote the availability of health insurance coverage to small employers, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules for continuity of coverage for employers and covered individuals, and to improve the efficiency and fairness of the small group health insurance marketplace.

Sec. 2. NEW SECTION. 513B.2 DEFINITIONS.

1. "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 513B.4, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the small employer carrier in establishing premium rates for applicable health benefit plans.

2. "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health insurance plans with the same or similar coverage.

3. "Carrier" means any person who provides health insurance in this state. For the purposes of this chapter, carrier includes a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a multiple employer welfare arrangement or any other person providing a plan of health insurance subject to state insurance regulation.

4. "Case characteristics" means demographic or other relevant characteristics of a small employer, as determined by a small employer carrier, which are considered by the insurer in the determination of premium rates for the small employer. Claim experience, health status, and duration of coverage since issue are not case characteristics for the purpose of this chapter.

5. "Class of business" means all or a distinct grouping of small employers as shown on the records of the small employer carrier.

a. A distinct grouping may only be established by the small employer carrier on the basis that the applicable health benefit plans meet one or more of the following requirements:

(1) The plans are marketed and sold through individuals and organizations which are not participating in the marketing or sales of other distinct groupings of small employers for the small employer carrier.

(2) The plans have been acquired from another small employer carrier as a distinct grouping of plans.

(3) The plans are provided through an association with membership of not less than fifty small employers which has been formed for purposes other than obtaining insurance.

b. A small employer carrier may establish no more than two additional groupings under each of the subparagraphs in paragraph "a" on the basis of underwriting criteria which are expected to produce substantial variation in the health care costs.

c. The commissioner may approve the establishment of additional distinct groupings upon application to the commissioner and a finding by the commissioner that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

6. "Commissioner" means the commissioner of insurance.

7. "Division" means the division of insurance.

8. "Health benefit plan" or "plan" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical-payment insurance.

9. "Index rate" means for each class of business for small employers with similar case characteristics the average of the applicable base premium rate and the corresponding highest premium rate.

10. "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

11. "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier.

12. "Small employer" means a person actively engaged in business who, on at least fifty percent of the employer's working days during the preceding year, employed no more than twenty-five full-time equivalent eligible employees. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation are considered one employer.

13. "Small employer carrier" means any carrier which offers health benefit plans covering the employees of a small employer.

Sec. 3. NEW SECTION. 513B.3 SMALL GROUP HEALTH BENEFIT PLANS SUBJECT TO RATING RESTRICTIONS.

1. Except as provided in subsection 2, this chapter applies to any health benefit plan which provides coverage to two or more employees of a small employer.

2. This chapter does not apply to individual health insurance policies which are subject to policy form and premium rate approval by the commissioner.

3. A small employer group shall, at a minimum, have at least two participating employees at the date of issue of the health benefit plan.

Sec. 4. NEW SECTION. 513B.4 RESTRICTIONS RELATING TO THE PREMIUM RATES.

1. Premium rates for health benefit plans subject to this chapter are subject to the following requirements:

a. The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent.

b. For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates which could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent of the index rate.

c. The percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the small employer carrier shall use the percentage change in the base premium rate.

(2) An adjustment, not to exceed fifteen percent annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business.

(3) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

d. In the case of health benefit plans issued prior to the effective date of this chapter, a premium rate for a rating period may exceed the ranges described in subsection 1, paragraph "a" or "b" of this section, for a period of five years following the effective date of this chapter. In such case, the percentage increase in the premium rate charged to a small employer in such a class of business for a new rating period may not exceed the sum of the following:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the small employer carrier shall use the percentage change in the base premium rate.

(2) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

e. Rates for individual employees or dependents may be adjusted for claims experience or health status at the date of issue as long as the total rates for the small employer are in compliance with this section. An individual employee or dependent adjustment in rates for claims experience or health status shall not be increased subsequent to the date of issue. The commissioner may prohibit individual rating upon adoption of health insurance access rules pursuant to section 514H.11.

2. This section does not affect the use by a small employer carrier of legitimate rating factors other than claim experience, health status, or duration of coverage in the determination of premium rates. Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business.

3. A small employer shall not be involuntarily transferred by a small employer carrier into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless the offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status, or duration since issue.

Sec. 5. NEW SECTION. 513B.5 PROVISIONS ON RENEWABILITY OF COVERAGE.

1. Except as provided in subsection 2, a health benefit plan subject to this chapter is renewable to all eligible employees and dependents at the option of the small employer, except for one or more of the following reasons:

a. Nonpayment of required premiums.

b. Fraud or misrepresentation of the small employer, or with respect to coverage of an insured individual, fraud or misrepresentation by the insured individual or the individual's representative.

c. Noncompliance with plan provisions.

d. The number of individuals covered under the plan is less than the number or percentage of eligible individuals required by percentage requirements under the plan.

e. The small employer is no longer actively engaged in the business in which it was engaged on the effective date of the plan.

2. A small employer carrier may cease to renew all plans under a class of business, or all classes of business in a defined geographic region if the carrier is a health maintenance organization. The small employer carrier shall provide notice at least ninety days prior to termination of coverage to all affected health benefit plans and to the commissioner in each state in which an affected insured individual is known to reside. A small employer carrier which exercises its right to cease to renew all plans in a class of business shall not do either or both of the following:

a. Establish a new class of business for a period of five years after the nonrenewal of the plans without prior approval of the commissioner.

b. Transfer or otherwise provide coverage to any of the employers from the nonrenewed class of business unless the small employer carrier offers to transfer or provide coverage to all affected employers and eligible employees and dependents without regard to case characteristics, claim experience, health status, or duration of coverage.

Sec. 6. NEW SECTION. 513B.6 DISCLOSURE OF RATING PRACTICES AND RENEWABILITY PROVISIONS.

A small employer carrier shall make reasonable disclosure in solicitation and sales materials provided to small employers of all of the following:

1. The extent to which premium rates for a specific small employer are established or adjusted due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer.
2. The provisions concerning the small employer carrier's right to change premium rates and factors, including case characteristics, which affect changes in premium rates.
3. A description of the class of business in which the small employer is or will be included, including the applicable grouping of plans.
4. The provisions relating to renewability of coverage.

Sec. 7. NEW SECTION. 513B.7 MAINTENANCE OF RECORDS.

1. A small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation which demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

2. A small employer carrier shall file each March 1 with the commissioner an actuarial certification that the small employer carrier is in compliance with this section and that the rating methods of the small employer carrier are actuarially sound. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

3. A small employer carrier shall make the information and documentation described in subsection 1 available to the commissioner upon request. The information is not a public record or otherwise subject to disclosure under chapter 22, and is considered proprietary and trade secret information and is not subject to disclosure by the commissioner to persons outside of the division except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

Sec. 8. NEW SECTION. 513B.8 DISCRETION OF THE COMMISSIONER.

The commissioner may suspend all or any part of section 513B.4 as to the premium rates applicable to one or more small employers for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner that the suspension is reasonable in light of the financial condition of the carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

Sec. 9. NEW SECTION. 513B.9 EFFECTIVE DATE — APPLICABILITY.

This chapter shall apply to a health benefit plan for a small employer that is delivered, issued for delivery, renewed, or continued in this state after the effective date of this chapter. For purposes of this section, the date a plan is continued is the first rating period which commences after the effective date of this chapter.

Sec. 10. LEGISLATIVE INTENT. The legislature finds that the rising cost of comprehensive group health coverage is exceeding the affordability of many small businesses and their employees. The legislature further finds that preexisting standards for uniformity have had an adverse impact on the cost of health coverage. Statutorily imposed uniformity in benefit structures has discouraged innovation to develop affordable health insurance to assure access to cost-effective preventive care and to secure against catastrophic sickness and injury, by requiring coverage of less cost-effective discretionary or elective care on equally favorable terms. Those Iowans who now have health insurance, have comprehensive benefits, but the

cost has created a growing, disenfranchised class of uninsured Iowans dependent upon charitable care or public assistance. It is therefore the intent of the general assembly to reduce costs of health insurance and increase access to basic health care by enacting new chapter 514H authorizing the development of basic hospital and medical coverage for uninsured small groups.

Sec. 11. NEW SECTION. 514H.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Basic benefit coverage" means basic health care services rendered by health professionals licensed pursuant to state law together with hospital expenses.

2. "Basic health care services" means services which an enrollee might reasonably require in order to be maintained in good health, including at a minimum, emergency care, inpatient hospital and physician care, and outpatient medical services rendered within or outside of a hospital.

3. "Commissioner" means the commissioner of insurance.

4. "Eligible dependent" means an enrolled dependent of a subscriber entitled to coverage under a basic benefit coverage policy or subscription contract.

5. "Group" means a group composed of eligible employees of a single employer and their dependents. A group shall not have more than twenty-five full-time equivalent employees in number. Employees may not be segregated by division, job responsibilities, employment status, employment location, or any other rationale. For purposes of this chapter, group size will be determined at the time of application for the basic benefit coverage policy, and on each anniversary of the date of issue of the basic benefit coverage policy. Carriers shall confirm the size of groups by certification of the employer which certification shall be maintained in the carrier's file.

6. "Insurer" means any insurer issuing a group accident and sickness insurance policy on an expense incurred basis and any group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A, or any group health maintenance organization contract under chapter 514B.

7. "Policy" means the entire contract between the insurer and the insured, including the policy riders, endorsements, and the application, if attached, and includes individual subscriber contracts issued under chapter 514B.

8. "Subscriber" means an enrolled eligible employee with coverage under a basic benefit coverage policy.

Sec. 12. NEW SECTION. 514H.2 ISSUANCE OF BASIC BENEFIT COVERAGE POLICIES AND SUBSCRIPTION CONTRACTS PERMITTED.

An insurer may issue a basic benefit coverage policy or subscription contract meeting the criteria set forth in this chapter.

For purposes of this chapter, a basic benefit coverage policy or subscription contract means a policy or subscription contract which the insurer may choose to offer to individuals, spouses, families, or groups of twenty-five or less formed for purposes other than obtaining insurance coverage, and which meets the following criteria:

1. The individual, spouse, family, or group obtaining coverage under the policy or subscription contract has been without hospital and medical insurance coverage, a health services plan, or employer-sponsored health care coverage for all of the twelve-month period immediately preceding the effective date of the basic hospital and medical coverage policy or subscription contract, provided that for groups in existence for less than twelve months, the group has been without hospital and medical insurance coverage, a health services plan, or employer-sponsored health care coverage since inception of the group.

2. The insurer may include any or all of the following managed care provisions, subject to the approval of the commissioner, to control costs:

a. A procedure for preauthorization by the insurer, or its designees.

b. An exclusion for services that are not medically necessary or are not covered preventive health services.

- c. First-dollar coverage for preventive and emergency care.
 - d. Except as otherwise provided, copayments for all other physician visits.
 - e. Exclusions or limitations upon benefits or direct pay requirements otherwise mandated.
 - f. Deductibles or copayments which vary based upon the service provided.
3. The insurer may include any or all of the following managed care provisions to control costs:
- a. A preferred panel of providers who have entered into written agreements with the insurer to provide services at specified levels of reimbursement. Any such written agreement between a provider and an insurer shall contain a provision under which the parties agree that the insured individual or covered member will have no obligation to make payment for any medical service rendered by the provider that is determined not to be medically necessary.
 - b. Provisions requiring a second surgical opinion.
 - c. A procedure for utilization review by the insurer or its designees.
- This section does not prohibit an insurer from including in its policy or subscription contract additional managed care and cost control provisions which, subject to the approval of the commissioner, have the potential to control costs in a manner which does not result in inequitable treatment of insureds or subscribers.
4. The policy or subscription contract shall provide basic levels of primary, preventive, and hospital care for covered individuals, including, but not limited to, all of the following:
- a. A minimum of thirty days of inpatient hospitalization coverage per policy year.
 - b. Prenatal care, including a minimum of one prenatal office visit per month during the first two trimesters of pregnancy, two office visits per month during the seventh and eighth months of pregnancy, and one office visit per week during the ninth month and until term. Coverage for each such visit shall include necessary and appropriate screening, including history, physical examination, and such laboratory and diagnostic procedures as may be deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member.
 - c. Obstetrical care, including physician's services, delivery room, and other medically necessary hospital services.
 - d. For covered individuals, a basic level of primary and preventive care, including but not limited to, two physician office visits per calendar year.
 - e. Such other coverages as the commissioner may determine are cost-effective pursuant to section 514H.7.
5. The commissioner may also authorize the issuance of a basic benefit coverage family plan for spouses or dependents of employees, even if the employer currently provides individual health benefits exclusively for employees. The commissioner may also authorize the issuance of a basic benefit coverage plan for part-time employees or full-time, part-year employees, even if the employer currently offers health benefits for full-time employees.

Sec. 13. NEW SECTION. 514H.3 DISCLOSURE REQUIREMENTS FOR BASIC BENEFIT COVERAGE POLICIES AND SUBSCRIPTION CONTRACTS.

Upon offering coverage under a basic benefit coverage policy or subscription contract for an individual, spouse, family, or group member, the insurer shall provide such individual, spouse, family, or group member with a written disclosure statement containing at least the following:

1. An explanation of those mandated benefits and providers not covered by the policy or subscription contract.
2. An explanation of the managed care and cost control features of the policy or subscription contract, along with all appropriate mailing addresses and telephone numbers to be utilized by insureds in seeking information or authorization.
3. The written statement shall be provided to the prospective policyholder no later than at the time of policy delivery, and the original of the written statement shall be retained in the files of the insurer for the longer of the following:
 - a. The period of time that the policy or subscription contract remains in effect.
 - b. Five years.

4. Any material statement made by an applicant for coverage under a basic benefit coverage policy or subscription contract which falsely certifies as to the applicant's eligibility for coverage pursuant to section 514H.2 is a basis for termination of coverage under the policy or subscription contract.

5. All marketing communications intended to be utilized in the marketing of a basic benefit coverage policy or subscription contract in this state shall be submitted for review and their use is conditioned upon the prior approval of the commissioner. Marketing communications shall contain the disclosures required by this section.

Sec. 14. NEW SECTION. 514H.4 FORMS AND RATES TO BE FILED WITH AND APPROVED BY THE COMMISSIONER.

1. All basic hospital and medical coverage policy forms including applications, enrollment forms, policies, subscription contracts, certificates, evidences of coverage, riders, amendments, endorsements, and disclosure forms shall be submitted to the commissioner.

2. A basic benefit coverage policy or subscription contract shall be filed with, and is subject to the approval of, the commissioner before the basic benefit coverage policy or subscription contract is issued or issued for delivery in this state.

3. Each form filing submitted to the commissioner for approval shall contain a transmittal page as prescribed by the commissioner and the following materials arranged in this order:

- a. The printed form or forms, completed by using information concerning a fictitious applicant.
- b. Actuarial memorandum.
- c. Any additional enclosure required by the commissioner.

Sec. 15. NEW SECTION. 514H.5 STANDARDS FOR LOSS RATIOS.

Basic benefit coverage policies shall return a cumulative loss ratio of at least seventy percent. Such loss ratio is on the basis of incurred claims and earned premiums for all calculating or rating periods such that the cumulative loss ratio from inception equals or exceeds the seventy percent minimum loss ratio. Where coverage is provided on a direct service rather than indemnity basis, such loss ratio is on the basis of incurred health care expenses and earned premiums for such period. For purposes of achieving and maintaining the minimum cumulative loss ratio, the experience of all basic benefit coverage policies of a insurer is combined.

All claim experience for basic benefit coverage policies is pooled for the purposes of establishing premiums and rates, and the claim experience, and health status and duration from the date of issue of a given individual group shall not be a factor in determining the rates of a policy.

Sec. 16. NEW SECTION. 514H.6 RECORDKEEPING AND REPORTING REQUIREMENT.

Each basic benefit coverage policy or subscription contract in this state shall maintain separate and distinct records of enrollment, claim costs, premium income, utilization, and other information as required by the commissioner. Each insurer providing such policies or contracts shall furnish an annual report to the commissioner. The report shall be in a form prescribed by the commissioner and shall contain the information required by the commissioner to analyze the success of insurance coverage issued pursuant to this chapter.

Sec. 17. NEW SECTION. 514H.7 COST-BENEFIT ANALYSIS.

1. The commissioner may, based upon reasonable actuarial evidence as to cost-effectiveness, determine any of the following:

- a. What benefits or direct pay requirements must be minimally included in a basic benefit coverage policy or subscription contract.
- b. What otherwise mandated benefits or direct pay requirements may be exempted from coverage by a basic benefit coverage policy or subscription contract.
- c. What cost containment procedures must be minimally included in a basic benefit coverage policy or subscription contract.
- d. What cost containment procedures otherwise restricted may be utilized by a basic benefit coverage policy or subscription contract.

2. The commissioner may retain a consultant to assist in the analysis of any benefit or requirement, and may convene an advisory panel to assist the commissioner in the review of evidence and practices by the health care and insurance industries.

3. The commissioner may assess a fee against health insurers, hospital service plans, and health maintenance organizations issuing or issuing for delivery in this state basic benefit coverage policies or subscription contracts to defray consulting fees and expenses incurred by the commissioner under this section.

4. The commissioner may also require medical professional societies or providers associations requesting the inclusion of a benefit or requirement in a basic benefit coverage policy or subscription contract to contribute on a proportionate and reasonable basis to the payment of the commissioner's consultants and expenses under this section as a condition of reviewing a benefit or requirement impacting upon such medical professionals or providers.

Sec. 18. NEW SECTION. 514H.8 PRESUMED EXCLUSION OF MANDATED BENEFITS.

A mandated benefit or direct pay requirement otherwise imposed by state law, but excluded under section 514H.2, shall not be included in a basic benefit coverage policy or subscription contract unless the commissioner finds after actuarial review that the inclusion of the benefit or direct pay requirement is cost-effective. The commissioner's finding shall be based upon review of actuarial evidence, including a cost-benefit analysis, and the determination that inclusion of the mandated benefit or direct pay requirement is in the best interests of affordable health care coverage.

Sec. 19. NEW SECTION. 514H.9 PRESUMED ALLOWANCE OF COST-CONTAINMENT PROCEDURES.

A cost-containment restriction otherwise imposed by state law does not apply to a basic benefit coverage policy or subscription contract unless the commissioner finds after actuarial review that the restricted cost-containment measure is not cost-effective, and its exclusion is in the best interests of affordable health care coverage.

Sec. 20. NEW SECTION. 514H.10 SHARED COST OPTION FOR PRIVATE EMPLOYERS BASIC BENEFIT PLAN.

The commissioner, in cooperation with insurance carriers interested in participating, shall develop a group health insurance plan providing basic coverage, to be marketed to employers by insurance carriers approved by the commissioner, which employers have not offered health care benefits to their employees within the preceding twelve months and which are likely to have eligible employees under the employer-sponsored health care plan premium credit provided by section 514H.12. This shared cost option for private employers basic benefit coverage plan is subject to such additional requirements as the commissioner may impose to assure that an affordable policy is effectively marketed to benefit eligible low-income employees and their families. The premium credit under section 514H.12 is limited to the shared cost option for private employers plan approved by the commissioner under this section, and is not available to other basic benefit coverage plans generally authorized by this chapter, in order to facilitate administration of the participation limits imposed by section 514H.12.

Sec. 21. NEW SECTION. 514H.11 HEALTH INSURANCE ACCESS.

1. The commissioner shall with all due diligence adopt by rule the recommendations of the national association of insurance commissioners concerning health insurance access by small employer groups, provided that the final recommendations are generally consistent with the following principles:

a. Guaranteed transferability of benefits or eligibility, with no new preexisting condition waiting periods or individual underwriting, for employees transferring to new employers or employers switching insurance carriers, for persons who are receiving assistance pursuant to chapter 249A, or persons who are provided health insurance coverage pursuant to the person's service as a member of a branch of the armed forces of the United States of America.

b. A risk transfer or sharing device to equitably distribute the risk of adverse selection posed to insurers by guaranteed access.

2. Within six months of adopting any rule pursuant to subsection 1, the commissioner shall prepare and deliver a report to the general assembly regarding the success, if any, of the rules, and make such recommendations as necessary, including offering proposed legislation, to effectuate the general assembly's goals of guaranteeing access to health insurance by employees and employers and retention of currently insured persons within the private health insurance market, regardless of change in employer, employment status, or change in insurance carrier.

Sec. 22. NEW SECTION. 514H.12 EMPLOYER-SPONSORED HEALTH PLAN PREMIUM CREDIT.

1. The division shall adopt rules to implement and administer the premium credit authorized by this section, which rules shall include the minimum standard application form for premium credit eligibility. Forms shall be printed by participating insurance companies and provided to employers and employers' employees wishing to apply for premium credit eligibility.

2. The amount of the premium credit is equal to twenty-five dollars per month, per participating eligible employee for which the employer provides an employer-sponsored group basic benefit plan approved by the commissioner of insurance pursuant to section 514H.10, provided that the employer satisfies all of the following conditions:

a. The employer has not provided health insurance coverage, in whole or in part, to employees within the immediately preceding twelve months before contracting with an insurance carrier for basic benefit insurance approved pursuant to section 514H.10.

b. The employer employs twenty-five or fewer full-time equivalent employees.

c. The employer paid either of the following:

(1) Seventy-five percent or more of the premium for individual coverage of the participating eligible employee.

(2) Fifty percent or more of the premium for family coverage of the participating eligible employee and the employee's spouse and dependents.

3. An employee is eligible for participation in the subsidized insurance premium credit group health insurance plan if the family income of the employee is less than or equal to one hundred fifty percent of the federal poverty level as reported annually in the federal register. An employee application for eligibility is current for up to one year.

4. Earned premium credit is limited to the first five thousand full-year equivalent participating eligible employee applications under this section preapproved by the division in any single fiscal year.

5. The carrier shall credit to the participating employer's premium liability, an amount equal to the premium credit earned pursuant to subsection 2, against the premium due in the year after the credit is earned.

6. The premium credit provided by this section is only available in connection with a basic benefit plan approved by the commissioner which satisfies any conditions imposed by rules adopted pursuant to subsection 1 which the commissioner determines are necessary or convenient to implement and administer the premium credit.

7. a. A person submitting an intentionally fraudulent premium credit application forfeits the credit and shall pay to the division a liquidated damages penalty of one hundred percent of the credit forfeited.

b. A person submitting a premium credit application which that person should have known was false forfeits the credit and shall pay to the division a liquidated damages penalty of ten percent of the credit forfeited.

8. The insurance carrier shall receive a premium tax credit equal to, at a minimum, the premium credit earned by the carrier's insureds pursuant to subsection 2.

Sec. 23. NEW SECTION. 432.11 PREMIUM TAX EXEMPTION FOR BASIC BENEFIT HEALTH PLANS.

Premiums collected on sales of basic benefit health policies, approved by the commissioner pursuant to chapter 514H, are exempt from premium tax.

Sec. 24. NEW SECTION. 432.11A PREMIUM TAX CREDIT FOR EMPLOYER-SPONSORED HEALTH PLAN PREMIUM CREDIT.

An insurance carrier approved by the commissioner pursuant to section 514H.10 to offer a policy eligible for the premium credit provided by section 514H.12, shall receive a premium tax credit equal to the premium credit earned by participating employers pursuant to section 514H.12, subsection 2, and any additional amount allowed by the commissioner pursuant to a contract for administrative expenses.

Sec. 25. Section 509.1, subsection 1, paragraph c, Code 1991, is amended by striking the paragraph.

Sec. 26. RULES. The commissioner shall adopt rules to implement the basic benefit coverage policy program and the shared cost option plan established in section 514H.10.

Sec. 27. Section 509.17A, Code 1991, is repealed.

Approved June 5, 1991

CHAPTER 245

SALE OF ALCOHOLIC LIQUOR, WINE, AND BEER ON SUNDAY

H.F. 391

AN ACT relating to the sale of alcoholic liquor, wine, and beer on Sunday.

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

Section 1. Section 123.36, subsection 6, Code 1991, is amended to read as follows:

6. Any club, hotel, motel, or commercial establishment holding a liquor control license, 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 eight a.m. on Sunday and twelve midnight~~ two a.m. on Sunday the following Monday. A class "D" liquor control licensee may apply for and receive permission to sell and dispense alcoholic beverages to patrons for consumption on the premises only between the hours of ~~ten eight a.m. on Sunday and twelve midnight~~ two a.m. on Sunday the following Monday. 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.

Sec. 2. Section 123.49, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of ~~ten eight a.m. on Sunday and twelve midnight~~ two a.m. on Sunday the following Monday.

Sec. 3. Section 123.49, subsection 2, paragraph k, Code 1991, is amended to read as follows:

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

of ten eight a.m. on Sunday and twelve midnight two a.m. on Sunday the following Monday.

Sec. 4. Section 123.134, subsection 5, Code 1991, is amended to read as follows:

5. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit, 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 or off the premises between the hours of ten eight a.m. on Sunday and twelve midnight two a.m. on Sunday the following Monday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of ten eight a.m. on Sunday and twelve midnight two a.m. on Sunday the following Monday. 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.

Sec. 5. Section 123.150, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Notwithstanding section 123.36, subsection 6, section 123.49, subsection 2, paragraph "b", and section 123.134, subsection 5, a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer to patrons for consumption on the premises between the hours of ten eight a.m. on Sunday and two a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of ten eight a.m. on Sunday and midnight Sunday two a.m. on the following Monday when that Sunday is the day before New Year's Day. The liquor control license fee or beer permit fee of licensees and permittees permitted to sell or dispense liquor, wine, or beer on a Sunday when that Sunday is the day before New Year's Day shall not be increased because of this privilege.

Approved June 6, 1991

CHAPTER 246

MISSOURI RIVER PRESERVATION AND LAND USE AUTHORITY

H.F. 610

AN ACT to create a Missouri river preservation and land use authority and fund.

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

Section 1. NEW SECTION. 108B.1 LEGISLATIVE FINDINGS.

The general assembly finds that the Missouri river is an important natural resource to the state of Iowa and that the creation of comprehensive plans which lead to the purchase, development, and preservation of land adjacent to the Missouri river will provide recreational and economic benefits to the state and to the counties and cities which border on the river. The general assembly further finds that current planning and purchase efforts relating to development of Missouri riverfront property have fallen short of the goal of developing a comprehensive plan for the recreational development of the Missouri river and that the creation of an authority which has the mission of engaging in these efforts will have a greater likelihood of reaching the desired goal.

Sec. 2. NEW SECTION. 108B.2 MISSOURI RIVER PRESERVATION AND LAND USE AUTHORITY — CREATED.

1. A Missouri river preservation and land use authority is created to engage in comprehensive planning for and the development and implementation of strategies designed to preserve and restore the natural beauty of the land adjacent to and the water of the Missouri river through state land acquisition. Planning and implementation activities shall be coordinated

with plans and implementation activities of the department of natural resources for lands owned or acquired by the department. The authority shall be composed of a representative from each of the county conservation boards of the counties which border on the Missouri river, an elected official selected by the county board of supervisors of each of the counties which border on the Missouri river, six at-large public members, and four ex officio members. The board of supervisors of the counties which border on the Missouri river shall each appoint one of the at-large public members, who shall possess a demonstrated interest in or knowledge about natural resource conservation and protection and one of whom shall also be actively engaged in the business of farming. Interest or knowledge of an at-large member may be demonstrated by membership in an association or other organization which is involved in conservation, environmental protection, or related activities. The ex officio members of the authority shall be composed of a representative from the natural resource commission of the department of natural resources, a representative from the state department of transportation, a representative from the department of cultural affairs, and a representative from the office of attorney general. Members of the authority shall serve two-year terms. Members who are also members of a county conservation board or board of supervisors shall be reimbursed only for actual expenses incurred while performing duties of the authority. At-large members shall be reimbursed for actual expenses and shall receive a per diem as specified in section 7E.6 for their performance of duties for the authority.

2. The mission of the authority is to research, develop comprehensive plans, and implement strategies which emphasize the creation of multipurpose recreational areas that foster and accent the natural characteristics of the Missouri river and which provide for environmentally sound land and water use practices for land adjacent to the Missouri river; to designate and prioritize for purchase parcels of land which are located in areas critical for the environmental health of the Missouri river waterway; to develop plans for and to acquire parcels of land to establish a public greenbelt along the banks of the Missouri river; to develop plans for public recreational use of lands adjacent to the Missouri river, including but not limited to a public bicycle trail; and to cooperate with county and city authorities, and federal and state authorities in order to fulfill the mission of the authority.

3. The authority shall develop plans and proposals and conduct public hearings relating to the conservation, preservation, and acquisition of land adjacent to the Missouri river. In developing plans and proposals the authority shall consult with any person or organization, which has interests that would be affected by the acquisition and development of Missouri river property in accordance with the mission of the authority, including but not limited to utility companies, municipalities, agricultural organizations, the corps of engineers, rural water districts, soil and water conservation districts, private water suppliers, business and industry organizations, drainage and levee district associations, benefited recreational lake districts, and any soil conservation organizations. The authority shall include a copy of any plans and proposals and shall document the results and findings of those hearings in a report or series of reports. The authority shall submit an initial report, including an outline for a proposed ten-year plan and strategies for the attainment of the goals of this section, to the general assembly by the first day of the legislative session which commences in 1993. As part of the authority's planning and coordinating effort, the authority shall consult, at least annually, with the Iowa boundary commission and shall send copies of the minutes of all meetings of the authority to the commission. Within one year of the effective date of this Act, the authority shall meet with the Iowa boundary commission. Meetings with the Iowa boundary commission shall be held at a time and a place agreed to between the commission and the authority.

4. The authority shall administer the Missouri river preservation and land use fund, under section 108B.3, and shall deposit and expend moneys in the fund for the development of plans for, development of, and purchase of lands adjacent to the Missouri river and for annual payment of property taxes on any land purchased. The county treasurer shall certify the amount of taxes due to the authority. The assessed value of the property held by the authority shall be that value determined under section 427.1, subsection 31, and the authority may protest

the assessed value in the manner provided by law for any property owner to protest an assessment. For purposes of chapter 257, the assessed value of any property which was acquired by the authority shall be included in the valuation base of the school district and the payments made by the authority shall be considered as property tax revenues and not as miscellaneous income. The expenditure of funds may include, but is not limited to, use of moneys from the Missouri river preservation and land use fund to match funds from state, federal, and private resources.

5. The title to all property purchased by the authority shall be taken in the name of the state, but no land shall be acquired through condemnation proceedings and all purchases shall be from willing sellers. The authority may transfer jurisdiction over any lands the authority acquires to the department of natural resources, or may enter into agreements with the department or the appropriate county conservation board, for the management of the lands. All lands purchased shall be for public use, and not for private commercial purposes, but the authority may permit the expenditure of private funds for the improvement of land or water adjacent to or purchased by the authority. All surveys and plats of lands purchased by the authority shall be filed in the manner provided in section 111.22. Land purchased by the authority shall be managed and policed in the manner provided under agreements between the authority and the agency responsible for management of the property, except that, subject to the restrictions contained in chapter 455B, the authority shall not be required to obtain the prior permission of the natural resource commission when using private funds to establish land or water recreational areas, and any property purchased by the authority shall not be sold without the prior notification and consent of the authority.

Sec. 3. NEW SECTION. 108B.3 MISSOURI RIVER PRESERVATION AND LAND USE FUND.

A Missouri river preservation and land use fund is established in the office of treasurer of state, to be administered by and subject to the use of the Missouri river preservation and land use authority for the purposes established in section 108B.2. The Missouri river preservation and land use authority may accept gifts, grants, bequests, other moneys including but not limited to state or federal moneys, and in-kind contributions for deposit in the fund for the use of the authority to carry out the authority's mission. Gifts, grants, and bequests from public and private sources, state and federal moneys, and other moneys received by the authority shall be deposited in the fund and any interest earned on the fund shall be credited to the fund to be used for the purposes specified in section 108B.2. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of a fiscal year shall not revert to the general fund, but shall remain available for expenditure by the authority in succeeding fiscal years.

Sec. 4. Section 111.78, Code 1991, is amended to read as follows:

111.78 METHOD NOT EXCLUSIVE.

This division shall not be the exclusive method for establishing a water recreational area and shall not be construed to prohibit the establishment of public recreational areas by the Missouri river preservation and land use authority under chapter 108B.

Approved June 6, 1991

CHAPTER 247**PROPERTY TAX FOR MUNICIPAL TRANSIT SYSTEMS***H.F. 700*

AN ACT raising the city transit property tax levy limit.

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

Section 1. Section 384.12, subsection 10, Code 1991, is amended to read as follows:

10. A tax for the operation and maintenance of a municipal transit system, and for the creation of a reserve fund for the system, in an amount not to exceed fifty-four ninety-five cents per thousand dollars of assessed value each year, when the revenues from the transit system are insufficient for such purposes, but proceeds of the tax may not be used to pay interest and principal on bonds issued for the purposes of the transit system.

Approved June 6, 1991

CHAPTER 248**ADMINISTRATION OF STATE FAIR AND OTHER FAIRS***S.F. 452*

AN ACT relating to the administration of fairs, and providing for effective dates.

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

Section 1. Section 173.1, subsections 2, 3, and 4, Code 1991, are amended to read as follows:

2. ~~One director~~ Two directors 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 who shall serve as a nonvoting member.~~

Sec. 2. Section 173.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A secretary to be elected by the board who shall serve as a nonvoting member.

Sec. 3. Section 173.4, Code 1991, is amended to read as follows:

173.4 VOTING POWER.

On all questions arising for determination by the convention, each member present shall be entitled to but one vote, and no proxies shall be recognized by the convention. However, a member who is also a ~~board director at large~~ or a board congressional director shall not be entitled to vote for a ~~successor to each of the three directors at large~~ or a successor to each congressional director on the board.

Sec. 4. Section 173.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

173.5 DUTIES OF THE CONVENTION.

1. The convention shall establish staggered terms of office for the elected directors. Notwithstanding section 173.6, the convention may establish terms of office for initial elected directors for more or less than two years.

2. The convention shall elect a successor to each of the two district directors on the board whose term expires at noon on the day following the adjournment of the convention.

Sec. 5. Section 173.6, Code 1991, is amended to read as follows:

173.6 TERMS OF OFFICE.

The term of the president and vice president of the board shall be one year ~~and that of a director two years~~. ~~No~~ A person shall not hold the office of president for more than three consecutive years, plus any portion of a year in which the person was first elected by the board to fill a vacancy.

PARAGRAPH DIVIDED. A member of the board who is a director, elected as provided in section 173.1, shall serve a term of two years. The term of a director shall begin at noon on the day following the adjournment of the convention at which the director was elected and shall continue until a successor is elected and qualified as provided in this chapter. However, a person elected as a director pursuant to section 173.1 shall not serve for more than five consecutive terms. A director who has ever served five consecutive terms is again eligible to serve for an additional five consecutive terms after not serving as a director for at least one term.

Sec. 6. Section 173.7, Code 1991, is amended to read as follows:

173.7 VACANCIES.

If, after the adjournment of the convention, a vacancy occurs in the office of any member of the board elected by the convention the board shall fill the ~~same, and the vacancy by election~~. The elected member so elected shall qualify at once and serve until noon of the day following the adjournment of the next convention. If, by that time, the member elected by the board will not have completed the full term for which the member's predecessor was elected, said the convention shall elect a member to serve out for the unexpired portion of such the term. The member so elected by the convention shall qualify at the same time as other members elected by the convention.

Sec. 7. Section 173.11, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 8. Section 173.14, subsection 4, Code 1991, is amended to read as follows:

4. Appoint, as the president deems necessary, security personnel as the president deems necessary and peace officers qualified according to standards adopted by the board.

Sec. 9. Section 174.2, unnumbered paragraph 3, Code 1991, is amended to read as follows:

No salary or compensation of any kind shall be paid to the president, vice president, treasurer, or to ~~any~~ a director of the association for such duties. However, the president, vice president, treasurer, or a director of the association may be reimbursed for actual expenses incurred by carrying out duties under this chapter or chapter 173, including, but not limited to attending the convention provided under section 173.2. A person claiming expenses under this paragraph shall be reimbursed to the same extent that a state employee is entitled to be reimbursed for expenses.

Sec. 10. ELECTION OF MEMBERS TO THE IOWA STATE FAIR BOARD.

1. Notwithstanding chapter 173, a convention which meets pursuant to section 173.2 is not required to elect new directors in 1991, unless this Act becomes effective in that year.

2. The convention shall meet as early as determined practicable by the Iowa state fair board after the effective date of this section. The convention shall elect ten directors to the Iowa state fair board as provided in this Act who shall serve for staggered terms as determined by the convention.

3. The convention shall provide for staggered terms of office for directors elected pursuant to this Act. A limit shall be placed on the number of terms that original directors may serve on or after the effective date of this Act. At the time of the first election held pursuant to this Act, an original director who has served for the longest consecutive period shall not be eligible to serve for the next term. At each subsequent election, the original director who has served for the longest period shall not serve for the next term. A person who was an original director is again eligible to serve for an additional five consecutive terms after not serving as a director for at least one term, as provided in section 173.6.

As used in this subsection "original director" means a person who was elected as a director pursuant to section 173.1, and who served as a director immediately prior to the first election held pursuant to this Act.

Sec. 11. EFFECTIVE DATE.

1. Except as provided in subsection 2, this Act takes effect upon the date that five congressional districts are legally established pursuant to chapter 42, and according to the 1990 United States census.

2. Section 173.11, subsection 3, section 173.14, subsection 4, and section 174.2, unnumbered paragraph 3, as amended by this Act, take effect July 1, 1991. Section 10, subsection 1, of this Act also takes effect July 1, 1991.

Approved June 7, 1991

CHAPTER 249

INVESTMENT OF PUBLIC FUNDS

H.F. 707

AN ACT relating to the investment by the state and political subdivisions of bond proceeds and sinking funds in tax-exempt bonds or money market funds.

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

Section 1. Section 452.10, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. For the purpose of avoiding the complexity and administrative burdens associated with the required rebate of arbitrage profits to the United States treasury pursuant to section 148 of the Internal Revenue Code, as defined in section 422.3, the treasurer of state and the treasurer or other designated financial officer of each political subdivision may invest the proceeds of public bonds or obligations and funds being accumulated for the payment of principal and interest or reserves in tax-exempt bonds, as defined and permitted by section 148 of the Internal Revenue Code and applicable federal regulations under that section, and in tax-exempt money market funds, including but not limited to funds issued by an unincorporated investment company or investment trust registered under the federal Investment Company Act of 1940, having assets in excess of five hundred million dollars and having an average maturity in compliance with the federal securities exchange commission regulations for registered money market funds.

Sec. 2. Section 453.9, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. For the purpose of avoiding the complexity and administrative burdens associated with the required rebate of arbitrage profits to the United States treasury pursuant to section 148 of the Internal Revenue Code, as defined in section 422.3, the treasurer of state and the treasurer or other designated financial officer of each political subdivision may invest the proceeds of public bonds or obligations and funds being accumulated for the payment of principal and interest or reserves in tax-exempt bonds, as defined and permitted by section 148 of the Internal Revenue Code and applicable federal regulations under that section, and in tax-exempt money market funds, including but not limited to funds issued by an unincorporated investment company or investment trust registered under the federal Investment Company Act of 1940, having assets in excess of five hundred million

dollars and having an average maturity in compliance with the federal securities exchange commission regulations for registered money market funds.

Approved June 7, 1991

CHAPTER 250

ANNEXATION AND CITY DEVELOPMENT BOARD

S.F. 4

AN ACT relating to consideration of voluntary and involuntary annexation petitions which concern the same territory or city and providing an effective date and an applicability date.

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

Section 1. Section 368.1, subsection 13, Code 1991, is amended to read as follows:

13. "Urbanized area" means the land area within three miles of the boundaries of a city of fifteen thousand or more population a metropolitan statistical area as determined by the United States census bureau in the statistical abstract of the United States.

Sec. 2. **NEW SECTION. 368.6 INTENT.**

It is the intent of the general assembly to provide an annexation approval procedure which gives due consideration to the wishes of the residents of territory to be annexed, and to the interests of the residents of all territories affected by an annexation. The general assembly presumes that a voluntary annexation of territory more closely reflects the wishes of the residents of territory to be annexed, and, therefore, intends that the annexation approval procedure include a presumption of validity for voluntary annexation approval.

Sec. 3. Section 368.7, unnumbered paragraph 3, Code 1991, is amended to read as follows:

An application for annexation of territory within the urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. A copy of the application shall be mailed by certified mail, at least ten days prior to the filing of the application with the city council, to the council of each city whose boundary adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, and to the regional planning authority of the territory. Notice of the filing of the application shall be published in an official county newspaper in each affected county at least ten days prior to the filing of the application with the city council. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 4. Section 368.7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If one or more applications for a voluntary annexation and one or more petitions for an involuntary annexation for a common territory are submitted to the board within thirty days of each other, the board shall approve the application for voluntary annexation, provided that the application meets the applicable requirements of this chapter, unless the board determines by a preponderance of the evidence that the application was filed in bad faith, or that the application as filed is contrary to the best interests of the citizens of the urbanized area, or that the applicant cannot within a reasonable period of time meet its obligation to provide services to the territory to be annexed sufficient to meet

the needs of the territory. In consideration of the requests, the board may appoint a committee in the manner provided in section 368.14 to seek additional information from the applicant for voluntary annexation as necessary, including the information required of petitioners pursuant to section 368.11. The board, or the committee, if applicable, shall hold a public hearing on the application for voluntary annexation in the manner provided for involuntary petitions in section 368.15. The decision of the board under this paragraph shall be made within ninety days of receipt of the application by the board. The failure of the board to approve an application under this paragraph shall be deemed final agency action subject to judicial review. An applicant may appeal a decision of the board no earlier than one hundred eighty days after the decision is issued or not later than thirty days after a final decision is made by the special local committee under section 368.14A, whichever is earlier. If an application for voluntary annexation is not approved pursuant to this section, the board shall cause the conversion of the application to a petition pursuant to section 368.13 and shall proceed under section 368.14A. The conversion of an application to a petition shall not prejudice the status of the applicant. Judicial review of a board decision under this paragraph shall be limited to review of the testimony and documents presented to the board prior to issuing its decision on the application for voluntary annexation.

Sec. 5. Section 368.9, Code 1991, is amended to read as follows:

368.9 BOARD CREATED.

1. A city development board is created. The department of economic development shall provide office space and staff assistance, and shall budget funds to cover expenses of the board and committees. The board consists of ~~three~~ five members appointed by the governor subject to confirmation by the senate. The appointments must be for six-year staggered terms beginning and ending as provided by section 69.19, or to fill an unexpired term in case of a vacancy. Members are eligible for reappointment, but no member shall serve more than two complete six-year terms.

2. The board shall be composed of the following members:

a. One member appointed from a city with a population of more than forty-five thousand, according to the most recent certified federal census.

b. One member appointed from a city with a population of forty-five thousand or less, according to the most recent certified federal census.

c. One member appointed from a county with a population of more than fifty thousand, according to the most recent certified federal census.

d. One member appointed from a county with a population of fifty thousand or less, according to the most recent certified federal census.

e. One member appointed to represent the general public.

3. Each member is entitled to receive from the state actual and necessary expenses in performance of board duties and may also be eligible to receive compensation as provided in section 7E.6.

Sec. 6. Section 368.11, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. At least ten days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known to all affected parties by sending a letter of intent by certified mail to the council of each city, the board of supervisors of each county within the urbanized area, the regional planning authority of the territory involved, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

NEW UNNUMBERED PARAGRAPH. Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each affected county at least five days before

the date of the public meeting. The chairperson of the board of supervisors of the county containing the greatest area of the territory proposed to be annexed, or that person's designee, shall serve as chairperson of the public meeting. The auditor of the same county, or the auditor's designee, shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the board by the chairperson of the meeting.

Sec. 7. Section 368.12, Code 1991, is amended to read as follows:
368.12 DISMISSAL.

The board may dismiss a petition only if it finds that the petition does not meet the requirements of this ~~part~~ chapter, or that substantially the same incorporation, discontinuance, or boundary adjustment has been disapproved by a committee formed to consider the proposal, or by the voters, within the two years prior to the date the petition is filed with the board, or that the territory to be annexed, or a portion of that territory, has been voluntarily annexed under section 368.7. The board shall file for record a statement of each dismissal and the reason for it, and shall promptly notify the parties to the proceeding of its decision.

Sec. 8. Section 368.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If a an involuntary petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state the representative's actual and necessary expenses spent in performance of committee duties. ~~Two~~ Three board members and one local representative, or if the number of local representatives exceeds one, ~~two~~ three board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a qualified elector of the territory or city which the representative represents, and must be selected as follows:

Sec. 9. NEW SECTION. 368.14A SPECIAL LOCAL COMMITTEES.

When two or more involuntary petitions or voluntary applications for boundary adjustment describing common territory are being considered together, the board shall direct the appointment of representatives for each of the petitions to serve on one special committee to consider the petitions. Expense reimbursement and qualifications of these representatives shall be as provided in section 368.14. Three board members and at least one-half of the appointed local representatives are required for a quorum of the special local committee. The manner of appointment of representatives shall be the same as for single petition committees except that if one or more of the territories to be annexed is in more than one county, the board of supervisors of the county containing the greatest area of the territory proposed to be annexed shall appoint one representative. The special committee shall consider the petitions in conformity with the provisions of this chapter, and shall resolve common territory issues between petitioners. The special committee shall conduct a public hearing on the petitions pursuant to section 368.15. If the common territory issue is resolved, the special local committee may approve the resulting compatible petitions by a single vote or separately, in its discretion.

Sec. 10. Section 368.19, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall set a date within not less than thirty days nor more than ninety days after approval for a special election on the proposal and the county commissioner of elections shall conduct the election. In a case of incorporation or discontinuance, qualified electors of the territory or city may vote, and the proposal is authorized if a majority of those voting approves it. In a case of annexation or severance, qualified electors of the territory and of the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it. In a case of consolidation, qualified electors of each city to be consolidated may vote, and the proposal is authorized

only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section 49.53 and shall conduct the election in the same manner as other special city elections.

Sec. 11. TRANSITION.

1. The members of the city development board serving unexpired terms of office immediately before the effective date of this Act may continue to serve their unexpired terms unless they are otherwise disqualified under this Act. Within thirty days of the effective date of this Act, the governor shall appoint only those additional members needed to comply with section 368.9, subsection 2. Of the board members appointed by the governor pursuant to section 368.9, subsection 2, paragraphs "a" through "e", one shall be appointed to an initial term of two years, two shall be appointed to an initial term of four years, and the remainder to an initial term of six years.

2. Any voluntary application or involuntary city development petition which is pending before the board or a committee of the board on or after April 1, 1991, shall be remanded to the board for action under chapter 368 as amended by this Act. Notice of the remand shall be served upon the council of each city whose boundary adjoins the territory or is within two miles of the territory, the board of supervisors of each county which contains a portion of the territory, and the regional planning authority of the territory involved.

Sec. 12. EFFECTIVE DATES.

1. Except as provided in subsection 2 of this section, this Act, being deemed of immediate importance, takes effect upon enactment.

2. Section 6 of this Act takes effect July 1, 1991, and is applicable to petitions for involuntary annexation filed on or after July 1, 1991.

Approved June 10, 1991

CHAPTER 251

AIR POLLUTION CONTROL

S.F. 324

AN ACT relating to authorized actions of local air pollution programs under the jurisdiction of the department of natural resources and providing penalties.

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

Section 1. Section 455B.146, Code 1991, is amended to read as follows:

455B.146 **CIVIL ACTION FOR COMPLIANCE — LOCAL PROGRAM ACTIONS.**

If any order, permit, or rule of the department is being violated, the attorney general shall, at the request of the department or the director, institute a civil action in any district court for injunctive relief to prevent any further violation of the order, permit, or rule, or for the assessment of a civil penalty as determined by the court, not to exceed five ten thousand dollars per day for each day such violation continues, or both such injunctive relief and civil penalty. Notwithstanding sections 331.302 and 331.307, a city or county which maintains air pollution control programs authorized by certificate of acceptance under this division may provide civil penalties consistent with the amount established for such penalties under this division.

Approved June 10, 1991

CHAPTER 252

PETROLEUM UNDERGROUND AND ABOVEGROUND STORAGE TANKS

S.F. 362

AN ACT relating to petroleum underground and aboveground storage tanks by raising the maximum use taxes deposited in the Iowa comprehensive underground storage tank fund and adjusting the diminution cost factor, establishing monitoring certificates, requiring certain corrective action rules, defining free product, providing for double-walled tanks as a corrective action cost, providing for payment of corrective action costs for certain not-for-profit organizations, establishing requirements for site cleanup reports, changing copayment schedules for remedial action, extending property liens, limiting cleanup payments, extending loan maturity dates and offering a special interest rate buy-down, extending upgrade dates, offering insurance coverage for certified tank installers and for property transfers, limiting rights of recovery and subrogation under the insurance account, requiring certification and registration of groundwater professionals, imposing an environmental damage offset, making technical changes, and providing an effective date.

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

Section 1. Section 423.24, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. Twenty-five percent of all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, up to a maximum of three million eight hundred twenty-five thousand dollars per quarter, shall be deposited into the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

Sec. 2. Section 424.2, subsections 5, 9, and 12, Code 1991, are amended to read as follows:

5. "Depositor" means the person who deposits petroleum into a an underground storage tank subject to regulation under chapter 455G or an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet.

9. "Owner or operator" means "owner or operator" of an underground storage tank as used in chapter 455G or the "owner" or "operator" of an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet.

12. "Tank" means an underground storage tank subject to regulation under chapter 455G or an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet.

Sec. 3. Section 424.3, subsection 5, Code 1991, is amended to read as follows:

5. The cost factor is an amount per gallon of diminution determined by the board pursuant to this subsection. The board, after public hearing, ~~may~~ shall determine, or ~~may~~ shall adjust, the cost factor to the greater of either an amount reasonably calculated to generate an annual average revenue, year to year, of twelve fifteen million three hundred thousand dollars from the charge, excluding penalties and interest, if any or ten dollars. The board may determine or adjust the cost factor at any time ~~after May 5, 1989,~~ but shall at minimum determine the cost factor at least once each fiscal year.

Sec. 4. Section 455B.301, subsection 20, Code 1991, is amended to read as follows:

20. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by section 321.1, subsection 1. However, this division does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal project. Solid waste does not include hazardous waste as defined in section 455B.411 or source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979, or petroleum contaminated soil which has been remediated to acceptable state or federal standards.

Sec. 5. Section 455B.474, subsection 1, paragraphs d and f, Code 1991, are amended by striking the paragraphs and inserting in lieu thereof the following:

d. Establishing criteria for classifying sites according to the release of a regulated substance in connection with an underground storage tank.

(1) The classification system shall consider the actual or potential threat to public health and safety, and to the environment posed by the contaminated site and shall take into account relevant factors, including the presence of contamination in soils, groundwaters, and surface waters, and the effect of conduits, barriers, and distances on the contamination found in those areas according to the following factors:

(a) Soils shall be evaluated based upon the depth of the existing contamination and its distance from the ground surface to the contamination zone and the contamination zone to the groundwater; the soil type and permeability, including whether the contamination exists in clay, till or sand and gravel; and the variability of the soils, whether the contamination exists in soils of natural variability or in a disturbed area.

(b) Groundwaters shall be evaluated based upon the depth of the contamination and its distance from the ground surface to the groundwater and from the contamination zone to the groundwater; the flow pattern of the groundwater, the direction of the flow in relation to the contamination zone and the interconnection of the groundwater with the surface or with surface water and with other groundwater sources; the nature of the groundwater, whether it is located in a high yield aquifer, an isolated, low yield aquifer, or in a transient saturation zone; and use of the groundwater, whether it is used as a drinking water source for public or private drinking water supplies, for livestock watering, or for commercial and industrial processing.

(c) Surface water shall be evaluated based upon its location, its distance in relation to the contamination zone, the groundwater system and flow, and its location in relation to surface drainage.

(d) The effect of conduits, barriers, and distances on the contamination found in soils, groundwaters, and surface waters. Consideration should be given to the following: the effect of contamination on conduits such as wells, utility lines, tile lines and drainage systems; the effect of conduits on the transport of the contamination; whether a well is active or abandoned; what function the utility line serves, whether it is a sewer line, a water distribution line, telephone line, or other line; the existence of barriers such as buildings and other structures, pavement, and natural barriers, including rock formations and ravines; and the distance which separates the contamination found in the soils, groundwaters, or surface waters from the conduits and barriers.

(2) A site shall be classified as either high risk, low risk, or no action required.

(a) A site shall be considered high risk under any of the following conditions:

(i) Contamination is affecting or likely to affect groundwater which is used as a source water for public or private water supplies, to a level rendering them unsafe for human consumption.

(ii) Contamination is actually affecting or is likely to affect surface water bodies to a level where surface water quality standards, under section 455B.173, will be exceeded.

(iii) Harmful or explosive concentrations of petroleum substances or vapors affecting structures or utility installations exist or are likely to occur.

(b) A site shall be considered low risk under any of the following conditions:

(i) Contamination is present and is affecting groundwater, but high risk conditions do not exist and are not likely to occur.

(ii) Contamination is above action level standards, but high risk conditions do not exist and are not likely to occur.

(c) A site shall be considered no action required if contamination is below action level standards and high or low risk conditions do not exist and are not likely to occur.

(d) A site shall be reclassified as a site with a higher or lower classification when the site falls within a higher or lower classification as established under this subparagraph.

f. Establishing corrective action response requirements for the release of a regulated substance in connection with an underground storage tank. The corrective action response requirements shall include, but not be limited to, all of the following:

(1) A requirement that the site cleanup report do all of the following:

(a) Identify the nature and level of contamination resulting from the release.

(b) Provide supporting data and a recommendation of the degree of risk posed by the site relative to the site classification system adopted pursuant to paragraph "d".

(c) Provide supporting data and a recommendation of the need for corrective action.

(d) Identify the corrective action options which shall address the practical feasibility of implementation, costs, expected length of time to implement, and environmental benefits.

(2) To the fullest extent practicable, allow for the use of generally available hydrological, geological, topographical, and geographical information and minimize site specific testing in preparation of the site cleanup report.

(3) Require that at a minimum the source of a release be stopped either by repairing, upgrading, or closing the tank and that free product be removed or contained on site.

(4) High risk sites shall comply with corrective action standards.

(5) Low risk sites shall be monitored according to the following schedule:

(a) Up to three times per year from years one through three.

(b) Up to two times per year from years four through six.

(c) One time per year from years seven through nine.

(d) In the twelfth year the site shall be monitored one time. If there has been no significant increase in contamination or the contamination has not moved, the site shall be reclassified as a no action required site. If at any time the contamination has increased or moved by a significant amount, the site shall be monitored according to the previous higher monitoring schedule as established under this subparagraph.

(e) The department shall have the authority to order monitoring in addition to the requirements as specified in this subparagraph with approval by the board.

(f) If at any time monitoring indicates that contamination has fallen below action level standards, the site shall be reclassified as a no action required site.

(5A) No action required sites shall not be required to be remediated or monitored.

(6) Notwithstanding other provisions to the contrary and to the extent permitted by federal law, the department shall allow for bioremediation of soils and groundwater. For purposes of this subparagraph, "bioremediation" means the use of biological organisms, including microorganisms or plants, to degrade organic pollutants to common natural products.

(7) Replacement or upgrade of a tank on a site classified as a high or low risk site shall be equipped with a secondary containment system with monitoring of the space between the primary and secondary containment structures or other board approved tank system or methodology.

(8) The commission and the board shall cooperate to ensure that remedial measures required by the corrective action rules adopted pursuant to this paragraph are reasonably cost-effective and shall, to the fullest extent possible, avoid duplicating and conflicting requirements.

(9) The director may order an owner or operator to immediately take all corrective actions deemed reasonable and necessary by the director if the corrective action is consistent with the prioritization rules adopted under this paragraph. Any order taken by the director pursuant to this subparagraph shall be reviewed at the next meeting of the environmental protection commission.

Sec. 6. Section 455B.474, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Issuance of a monitoring certificate for sites classified as low risk pursuant to paragraph "f". A monitoring certificate shall be valid until the site is reclassified as a no action required site. A site which has been issued a monitoring certificate shall not be eligible to receive a clean site certificate under section 455B.304, subsection 15, until the site is reclassified as a no risk site.

Sec. 7. Section 455G.1, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

This chapter applies to a petroleum underground storage tank tanks for which an owner or operator is required to maintain proof of financial responsibility under federal or state law, from the effective date of the regulation of the federal environmental protection agency governing that tank, and not from the effective compliance date, unless the effective compliance date of the regulation is the effective date of the regulation. An owner or operator of a petroleum underground storage tank required by federal or state law to maintain proof of financial responsibility for that underground storage tank, or who will be required on a date definite, is subject to this chapter and chapter 424.

Sec. 8. Section 455G.1, subsection 2, paragraph b, subparagraph (1), Code 1991, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) Underground storage tank systems not in operation on or after the applicable compliance date.

Sec. 9. Section 455G.2, Code 1991, is amended by adding the following new subsections: NEW SUBSECTION. 3A. "Claimant" means an owner or operator who has received assistance under the remedial account or who has coverage under the insurance account with respect to a release, or an installer or inspector who has coverage under the insurance account.

NEW SUBSECTION. 3B. "Community remediation" means a program of coordinated testing, planning, or remediation, involving two or more tank sites potentially connected with a continuous contaminated area, pursuant to rules adopted by the board. A community remediation does not expand the scope of coverage otherwise available or relieve liability otherwise imposed under state or federal law.

Sec. 10. Section 455G.2, subsection 4, Code 1991, is amended to read as follows:

4. "Corrective action" means an action taken to minimize, eliminate, or clean up a release to protect the public health and welfare or the environment. Corrective action includes, but is not limited to, excavation of an underground storage tank for the purposes of repairing a leak or removal of a tank, removal of contaminated soil, and cleansing of groundwaters or surface waters. Corrective action does not include replacement of an underground storage tank or other capital improvements to the tank. Corrective action specifically excludes third-party liability. Corrective action includes the expenses incurred to prepare an assessment plan a site cleanup report for approval by the department of natural resources detailing the planned response to a release or suspected release, but not necessarily all actions proposed to be taken by an assessment plan a site cleanup report.

Sec. 11. Section 455G.2, Code 1991, is amended by adding the following new subsections: NEW SUBSECTION. 6A. "Free product" means a regulated substance that is present as a nonaqueous phase liquid.

NEW SUBSECTION. 11A. "Potentially responsible party" means a person who may be responsible or liable for a release for which the fund has made payments for corrective action or third-party liability.

NEW SUBSECTION. 12A. "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or dispersing from an underground storage tank into groundwater, surface water, or subsurface soils.

Sec. 12. Section 455G.2, subsection 15, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 13. Section 455G.4, subsection 3, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Rules to facilitate and encourage the use of community remediation whenever possible shall be adopted.

Sec. 14. Section 455G.9, subsection 1, paragraph a, subparagraph (1), Code 1991, is amended to read as follows:

(1) Corrective action for an eligible release reported to the department of natural resources on or after July 1, 1987, but prior to May 5, 1989. Third-party liability is specifically excluded from remedial account coverage. For a claim for a release for a small business under this subparagraph, the remedial program shall pay no more than the lesser of twenty-five thousand dollars or one-third of the total costs of corrective action for that release, in accordance with subsection 4 notwithstanding. For all other claims under this subparagraph, the remedial program shall pay the lesser of fifty thousand dollars of the total costs of corrective action for that release or total corrective action costs for that release as determined under subsection 4. For a release to be eligible for coverage under this subparagraph the following conditions must be satisfied:

(a) The owner or operator applying for coverage shall not be a person who is maintaining, or has maintained, proof of financial responsibility for federal regulations through self-insurance.

(b) The owner or operator applying for coverage shall not have claimed bankruptcy any time on or after July 1, 1987.

(c) The claim for coverage pursuant to this subparagraph must have been filed with the board prior to January 31, 1990, except that cities and counties must have filed their claim with the board by September 1, 1990.

(d) The owner or operator at the time the release was reported to the department of natural resources must have been in compliance with then current monitoring requirements, if any, or must have been in the process of compliance efforts with anticipated requirements, including installation of monitoring devices, a new tank, tank improvements or retrofit, or any combination.

Total payments for claims pursuant to this subparagraph are limited to no more than eight million dollars. Claims for eligible retroactive releases shall be prorated if claims filed in a permitted application period or for a particular priority class of applicants exceed eight million dollars or the then remaining balance of eight million dollars. If claims remain partially or totally unpaid after total payments equal eight million dollars, all remaining claims are void, and no entitlement exists for further payment.

Sec. 15. Section 455G.9, subsection 1, paragraph a, subparagraph (2), Code 1991, is amended to read as follows:

(2) Corrective action, up to one million dollars total, and subject to prioritization rules as established pursuant to section 455G.12A, for a release reported to the department of natural resources after May 5, 1989, and on or before October 26, 1990. Third-party liability is specifically excluded from remedial account coverage. Corrective action coverage provided pursuant to this paragraph may be aggregated with other financial assurance mechanisms as permitted by federal law to satisfy required aggregate and per occurrence limits of financial responsibility for both corrective action and third-party liability, if the owner's or operator's effective financial responsibility compliance date is prior to October 26, 1990. School districts who reported a release to the department of natural resources prior to December 1, 1990, shall have until July 1, 1991, to report a claim to the board for remedial coverage under this subparagraph.

Sec. 16. Section 455G.9, subsection 1, paragraph a, subparagraph (3), unnumbered paragraph 1, Code 1991, is amended to read as follows:

Corrective action for an eligible release reported to the department of natural resources on or after January 1, 1985, but prior to July 1, 1987. Third-party liability is specifically excluded from remedial account coverage. For a claim for a release for a small business under this subparagraph, the remedial program shall pay no more than the lesser of twenty-five thousand dollars or one-third of the total costs of corrective action for that release, in accordance with subsection 4 notwithstanding. For all other claims under this subparagraph, the remedial program shall pay the lesser of fifty thousand dollars of the total costs of corrective action for

that release or total corrective action costs for that release as determined under subsection 4. For a release to be eligible for coverage under this subparagraph the following conditions must be satisfied:

Sec. 17. Section 455G.9, subsection 1, paragraph a, Code 1991, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (4) One hundred percent of the costs of corrective action for a release reported to the department of natural resources on or before July 1, 1991, if the owner or operator is not a governmental entity and is a not-for-profit organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code with a net annual income of twenty-five thousand dollars or less for the year 1990, and if the tank which is the subject of the corrective action is a registered tank and is under one thousand one hundred gallons capacity.

NEW SUBPARAGRAPH. (5) For the purposes of calculating corrective action costs under this paragraph, corrective action shall include the cost of a tank system upgrade required by section 455B.474, subsection 1, paragraph "f", subparagraph (7). Payments under this subparagraph shall be limited to a maximum of ten thousand dollars for any one site.

NEW SUBPARAGRAPH. (6) For the purposes of calculating corrective action costs under this paragraph, corrective action shall include the costs associated with monitoring required by the rules adopted under section 455B.474, subsection 1, paragraph "f", but corrective action shall exclude monitoring used for leak detection required by rules adopted under section 455B.474, subsection 1, paragraph "a".

Sec. 18. Section 455G.9, subsection 1, paragraphs b, c, and d, Code 1991, are amended to read as follows:

b. Corrective action and third-party liability for a release discovered on or after January 24, 1989, for which a responsible owner or operator able to pay cannot be found and for which the federal underground storage tank trust fund or other federal moneys do not provide coverage. For the purposes of this section property shall not be deeded or quitclaimed to the state or board in lieu of cleanup. Additionally, the ability to pay shall be determined after a claim has been filed. The board is not liable for any cost where either the responsible owner or operator, or both, have a net worth greater than fifteen thousand dollars, or where the responsible party can be determined. Third-party liability specifically excludes any claim, cause of action, or suit, for personal injury including, but not limited to, loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

c. Corrective action and third-party liability for a tank owned or operated by a financial institution eligible to participate in the remedial account under section 455G.16 if the prior owner or operator is unable to pay, if so authorized by the board as part of a condition or incentive for financial institution participation in the fund pursuant to section 455G.16. Third-party liability specifically excludes any claim, cause of action, or suit, for personal injury including, but not limited to, loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

d. One hundred percent of the costs of corrective action and third party liability for a release situated on property acquired by a county for delinquent taxes pursuant to chapters 445 through 448, for which a responsible owner or operator able to pay, other than the county, cannot be found. A county is not a "responsible party" for a release in connection with property which it acquires in connection with delinquent taxes, and does not become a responsible party by sale or transfer of property so acquired. Third-party liability specifically excludes any claim, cause of action, or suit, for personal injury including, but not limited to, loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

Sec. 19. Section 455G.9, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. One hundred percent of the costs up to twenty thousand dollars incurred by the board under section 455G.12A, subsection 2, unnumbered paragraph 2, for site cleanup reports. Costs of a site cleanup report which exceed twenty thousand dollars shall be considered a cost of corrective action and the amount shall be included in the calculations for corrective action cost copayments under section 455G.9, subsection 4. The board shall have the discretion to authorize a site cleanup report payment in excess of twenty thousand dollars if the site is participating in community remediation.

NEW PARAGRAPH. h. Corrective action for the costs of a release under all of the following conditions:

(1) The property upon which the tank causing the release was situated was transferred by inheritance, devise, or bequest.

(2) The property upon which the tank causing the release was situated has not been used to store or dispense petroleum since January 1, 1974.

(3) The person who received the property by inheritance, devise, or bequest was not the owner of the property during the period of time when the release which is the subject of the corrective action occurred.

(4) The release was reported to the board by July 1, 1991.

Corrective action costs and copayment amounts under this paragraph shall be paid in accordance with subsection 4.

A person requesting benefits under this paragraph may establish that the conditions of subparagraphs (1), (2), and (3) are met through the use of supporting documents, including a personal affidavit.

NEW PARAGRAPH. i. One hundred percent of the costs of corrective action for a governmental subdivision in connection with a tank which was in place on the date the release was discovered or reported if the governmental subdivision did not own or operate the tank which caused the release and if the governmental subdivision did not obtain the property upon which the tank giving rise to the release is located on or after May 3, 1991. Property acquired pursuant to eminent domain in connection with a United States department of housing and urban development approved urban renewal project is eligible for payment of costs under this paragraph whether or not the property was acquired on or after May 3, 1991.

Sec. 20. Section 455G.9, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. MINIMUM COPAYMENT SCHEDULE.

a. An owner or operator who reports a release to the department of natural resources after May 5, 1989, and on or before October 26, 1990, shall be required to pay the following copayment amounts:

(1) If a site's total anticipated expenses are not reserved for more than, or actual expenses do not exceed eighty thousand dollars, the owner or operator shall pay the greater of five thousand dollars or eighteen percent of the total costs of corrective action for that release.

(2) If a site's total anticipated expenses are reserved for more than, or actual expenses exceed eighty thousand dollars, the owner or operator shall pay the amount as designated in subparagraph (1) plus thirty-five percent of the total costs of the corrective action for that release which exceed eighty thousand dollars.

b. The remedial account shall pay the remainder, as required by federal regulations, of the total costs of the corrective action for that release, except that a county shall not be required to pay a copayment in connection with a release situated on property acquired in connection with delinquent taxes, as provided in subsection 1, paragraph "d", unless subsequent to acquisition the county actively operates a tank on the property for purposes other than risk assessment, risk management, or tank closure.

Sec. 21. Section 455G.9, subsection 6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If an owner or operator ceases to own or operate a tank site for which remedial account benefits were received within five ten years of the receipt of any account benefit and sells or transfers a property interest in the tank site for an amount which exceeds one hundred twenty percent of the precorrective action value, adjusted for equipment and capital improvements, the owner or operator shall refund to the remedial account an amount equal to ninety percent of the amount in excess of one hundred twenty percent of the precorrective action value up to a maximum of the expenses incurred by the remedial account associated with the tank site plus interest, equal to the interest for the most recent twelve-month period for the most recent bond issue for the fund, on the expenses incurred, compounded annually. An owner or operator under this subsection shall notify the board of the sale or transfer of the property interest in the tank site. Expenses incurred by the fund are a lien upon the property recordable and collectible in the same manner as the lien provided for in section 424.11 at the time of sale or transfer, subject to the terms of this section.

Sec. 22. Section 455G.9, subsection 7, Code 1991, is amended to read as follows:

7. **RECURRING RELEASES TREATED AS A NEWLY REPORTED RELEASE.** A release shall be treated as a release reported on or after May 5, 1989, if prior to May 5, 1989, a release was reported to the department, corrective action was taken pursuant to ~~an assessment plan~~ a site cleanup report approved by the department, and the work performed was accepted by the department. For purposes of this subsection, work performed is accepted by the department if the department did not order further action within ninety days of the date on which the department had notice that the work was completed, unless the department clearly indicated in writing to the owner, operator, contractor, or other agent that additional work would be required beyond that specified in the ~~assessment plan~~ site cleanup report or in addition to the work actually performed.

Sec. 23. Section 455G.9, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION. 8. EXPENSES OF CLEANUP NOT REQUIRED.** When an owner or operator who is eligible for benefits under this chapter is allowed by the department of natural resources to monitor in place, the expenses incurred for cleanup beyond the level required by the department of natural resources are not covered under any of the accounts established under the fund. The cleanup expenses incurred for work completed beyond what is required is the responsibility of the person contracting for the excess cleanup.

Sec. 24. Section 455G.9, Code 1991, is amended by adding the following new subsections: **NEW SUBSECTION. 9. OWNER OR OPERATOR DEFINED.** For purposes of receiving benefits under this section, "owner or operator" means the then current tank owner or operator or the owner of the land for which a covered release was reported or application for benefits was submitted on or before the relevant application deadlines of this section.

NEW SUBSECTION. 10. For a self-insured as determined under IAC 567-136.6, to qualify for remedial benefits under this section, tanks shall be upgraded by January 1, 1995, as specified by the United States environmental protection agency in 40 C.F.R. § 280.21, as amended through January 1, 1989. A self-insured who qualifies for benefits under this section shall repay any benefits received if the upgrade date is not met.

Sec. 25. Section 455G.10, subsection 6, Code 1991, is amended to read as follows:

6. The maturity for each financial assistance package made by the board pursuant to this chapter shall be the shortest feasible term commensurate with the repayment ability of the small business borrower. However, the maturity date of a loan shall not exceed ten twenty years and the guarantee is ineffective beyond the agreed term of the guarantee or ten twenty years from initiation of the guarantee, whichever term is shorter.

Sec. 26. Section 455G.11, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. To the extent that coverage under this section includes third-party liability, third-party liability specifically excludes any claim, cause of action, or suit, for personal injury including, but not limited to, loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

Sec. 27. Section 455G.11, subsection 3, paragraph c, Code 1991, is amended to read as follows:

c. The applicant certifies in writing to the board that the tank to be insured will be brought into compliance with either paragraph "a" or "b", on or before October 26, 1992 1993, provided that prior to the provision of insurance account coverage, the tank site tests release free. For a tank qualifying for insurance coverage pursuant to this paragraph at the time of application or renewal, the owner or operator shall pay a per tank premium equal to two times the normally scheduled premium for a tank satisfying paragraph "a" or "b". An owner or operator who fails to comply as certified to the board on or before October 26, 1992 1993, shall not insure that tank through the insurance account unless and until the tank satisfies the requirements of paragraph "a" or "b".

Sec. 28. Section 455G.11, subsection 6, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

6. INSTALLER'S AND INSPECTOR'S INSURANCE COVERAGE.

a. Coverage. The board shall offer insurance coverage under the fund's insurance account to installers and inspectors of certified underground storage tank installations within the state for an environmental hazard arising in connection with a certified installation as provided in this subsection. Coverage shall be limited to environmental hazard coverage for both corrective action and third-party liability for a certified tank installation within the state in connection with a release from that tank.

b. Annual premiums. The annual premium shall be:

(1) For the year July 1, 1991, through June 30, 1992, two hundred dollars per insured tank.

(2) For the year July 1, 1992, through June 30, 1993, two hundred fifty dollars per insured tank.

(3) For the year July 1, 1993, through June 30, 1994, three hundred dollars per insured tank.

(4) For subsequent years, installers and inspectors shall pay an annually adjusted insurance premium to maintain coverage on each tank previously installed or newly insured by the insurance account. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis. The premium paid shall be fully earned and is not subject to refund or cancellation. If coverage is purchased for any part of a year the purchaser shall pay the full annual premium.

(5) The board may offer coverage at rates based on sales if the qualifying installer or inspector cannot be rated on a per tank basis, or if the work the installer or inspector performs involves more than tank installation. The rates to develop premiums shall be based on the premium charged per tank under subparagraphs (1), (2), and (3).

c. Limits of coverage available. Installers and inspectors may purchase coverage up to one million dollars per occurrence and two million dollars aggregate, subject to the terms and conditions under this section and those adopted by the board.

d. Deductible. The insurance account may offer, at the buyer's option, a range of deductibles. A ten thousand dollar deductible policy shall be offered.

e. Excess coverage. Installers and inspectors may purchase excess coverage of up to five million dollars upon such terms and conditions as determined by the board.

f. Certification of tank installations. The board shall adopt certification rules requiring certification of a new tank installation as a precondition to offering insurance to an owner or operator or an installer or inspector. The board shall set in the rule the effective date for the certification requirement. Certification rules shall at minimum require that an installation be

personally inspected by an independent licensed engineer, local fire marshal, state fire marshal's designee, or other person who is unaffiliated with the tank owner, operator, installer or inspector, who is qualified and authorized by the board to perform the required inspection and that the tank and installation of the tank comply with applicable technical standards and manufacturer's instructions and warranty conditions. An inspector may be an owner or operator of a tank, or an employee of an owner, operator, or installer.

Sec. 29. Section 455G.11, subsection 7, Code 1991, is amended to read as follows:

7. **COVERAGE ALTERNATIVES.** The board shall provide for insurance coverage to be offered to installers and inspectors for a tank installation certified pursuant to subsection 6, through ~~at least one~~ both of the following methods:

a. Directly through the fund with premiums and deductibles as provided ~~for owners and operators~~ in subsection 4 6.

b. In cooperation with a private insurance carrier with excess or stop loss coverage provided by the fund to reduce the cost of insurance to such installers or inspectors, and including such other terms and conditions as the board deems necessary and convenient to provide adequate coverage for a certified tank installation at a reasonable premium. An installer or inspector obtaining insurance coverage pursuant to this paragraph, may purchase excess coverage of up to five million dollars, subject to the terms and conditions as determined by the board.

The insurance coverage offered pursuant to this subsection shall, at a minimum, cover environmental hazards for both corrective action and third-party liability.

Sec. 30. Section 455G.11, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 10. PROPERTY TRANSFER INSURANCE.

a. **Additional cleanup requirements.** An owner, operator, landowner, or financial institution may purchase insurance coverage under the insurance account to cover environmental damage caused by a tank in the event that governmental action requires additional cleanup beyond action level standards in effect at the time a certificate of clean was issued under section 455B.304, subsection 15, or a monitoring certificate was issued under section 455B.474, subsection 1, paragraph "h".

b. **Eligibility for coverage.** An owner, operator, landowner, or financial institution, subject to underwriting requirements and such terms and conditions deemed necessary and convenient by the board, may purchase insurance coverage from the insurance account to provide proof of financial responsibility if the following conditions are satisfied:

(1) A certificate of clean has been issued for the site under section 455B.304, subsection 15, or a monitoring certificate has been issued for the site under section 455B.474, subsection 1, paragraph "h". Property transfer coverage shall be effective on a monitored site only for the time period for which monitoring is allowed as specified in the monitoring certificate. A site which has not been issued a certificate of clean or a monitoring certificate shall not be eligible for property transfer coverage.

(2) The tank location is not covered by other environmental hazard liability insurance coverage, or is eligible for remedial benefits as provided under section 455G.9.

(3) The environmental damage is not caused by a new release.

(4) The additional cleanup is required to meet new corrective action level standards mandated by governmental action.

c. **Premiums.** The annual premium for insurance coverage shall be two hundred fifty dollars per party, per location, with an overall limit of liability per site of five hundred thousand dollars. The premiums are fully earned. Each party purchasing coverage at that site will have the total limit of liability prorated over the total limit among the policies issued, so as to avoid stacking beyond the total coverage limit of five hundred thousand dollars. If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium.

After June 30, 1994, an owner, operator, landowner, or financial institution applying for coverage shall pay an annually adjusted insurance premium for coverage by the insurance account. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis.

d. Coverage exclusions. Property transfer insurance coverage offered under this subsection does not include coverage of the following:

- (1) Third-party liability.
- (2) Cleanup beyond the actual costs associated with the site.
- (3) Loss of use of the property and other economic damages.
- (4) Costs associated with additional remediation required by a voluntary change in usage of the site.
- (5) Cleanup costs for additional corrective action required due to the spread of contamination on a site which has been issued a monitoring certificate.

e. Annual monitoring. Annual monitoring is required, for any site for which coverage is purchased. Failure to comply with monitoring as prescribed by the board will invalidate insurance coverage under this subsection. For a site which has been issued a monitoring certificate, the annual monitoring requirements imposed under this paragraph shall be satisfied by the annual monitoring requirements imposed under the corrective action rules for a site which is allowed to monitor in place.

f. Transfer of coverage. Coverage may be transferred upon payment of a transfer fee.

g. Rules. The board shall adopt rules pursuant to chapter 17A as necessary to implement this subsection.

h. Federal approval. Property transfer insurance coverage issued under this subsection is conditioned upon continued approval by the United States environmental protection agency of the state's underground storage tank program.

Sec. 31. Section 455G.12A, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board shall have authority to contract for site cleanup reports. The board's responsibility for site cleanup reports is limited to those site cleanup reports subject to approval by the department of natural resources and required in connection with the remediation of a release which is eligible for benefits under section 455G.9. The site cleanup report shall address existing and available remedial technologies and the costs associated with the use of each technology. The board shall not have the authority to affect a contract which has been given written approval under section 455G.12A.

Sec. 32. Section 455G.12A, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. PRIOR APPROVAL BY ADMINISTRATOR. Unless emergency conditions exist, a contractor performing services pursuant to this section shall have the budget for the work approved by the administrator prior to commencement of the work. No expense incurred which is above the budgeted amount shall be paid unless the administrator approves such expense prior to it being incurred. All invoices or bills shall be submitted with appropriate documentation as deemed necessary by the board, no later than thirty days after the work has been performed. Neither the board nor an owner or operator is responsible for payment for work incurred which has not been previously approved by the board.

Sec. 33. Section 455G.13, subsections 1, 6, 8, and 9 and subsection 10, unnumbered paragraph 1, Code 1991, are amended to read as follows:

1. FULL RECOVERY SOUGHT FROM OWNER. The board shall seek full recovery from the owner, ~~or operator of the tank which, or other potentially responsible party liable for the released the petroleum and~~ which is the subject of a corrective action, for which the fund expends moneys for corrective action or third-party liability, and for all other costs; ~~or including reasonable attorney fees and costs of litigation for which moneys are expended by the fund in connection with the release.~~ When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.

6. JOINDER OF PARTIES. The department of natural resources has standing in any case or contested action related to the fund or a tank to assert any claim that the department may have regarding the tank at issue in the case or contested action, and upon motion and sufficient showing by a party to a cost recovery or subrogation action provided for under this

section, the court or the administrative law judge shall join to the action any person potentially responsible party who may be liable for costs and expenditures of the type recoverable pursuant to this section.

8. **THIRD-PARTY CONTRACTS NOT BINDING ON BOARD, PROCEEDINGS AGAINST RESPONSIBLE PARTY.** An insurance, indemnification, hold harmless, conveyance, or similar risk-sharing or risk-shifting agreement shall not be effective to transfer any liability for costs recoverable under this section. The fund, board, or department of natural resources may proceed directly against the owner or operator or other allegedly responsible party. This section does not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs or expenditures under this chapter, and does not modify rights between the parties to an agreement, except to the extent the agreement shifts liability to an owner or operator eligible for assistance under the remedial account for any damages or other expenses in connection with a corrective action for which another potentially responsible party is or may be liable. Any such provision is null and void and of no force or effect.

9. **LATER PROCEEDINGS PERMITTED AGAINST OTHER PARTIES.** The entry of judgment against a party to the action does not bar a future action by the board or the department of natural resources against another person who is later alleged to be or discovered to be liable for costs and expenditures paid by the fund. Notwithstanding section 668.5 no other potentially responsible party may seek contribution or any other recovery from an owner or operator eligible for assistance under the remedial account for damages or other expenses in connection with corrective action for a release for which the potentially responsible party is or may be liable. Subsequent successful proceedings against another party shall not modify or reduce the liability of a party against whom judgment has been previously entered.

Payment of a claim by the fund for corrective action or third-party liability pursuant to this chapter shall be conditioned upon the board's acquiring by subrogation the rights of the claimant to recover those costs and expenditures for corrective action for which the fund has compensated the claimant, from the person responsible or liable for the unauthorized release payment from any potentially responsible party. A claimant is precluded from receiving double compensation for the same injury.

Sec. 34. Section 455G.13, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 4A. RECOVERY OR SUBROGATION — INSTALLERS AND INSPECTORS. Notwithstanding any other provision contained in this chapter, the board or a person insured under the insurance account has no right of recovery or right of subrogation against an installer or an inspector insured by the fund for the tank giving rise to the liability other than for recovery of any deductibles paid.

Sec. 35. Section 455G.13, subsection 10, Code 1991, is amended to read as follows:

10. **SUBROGATION RIGHTS CLAIMS AGAINST POTENTIALLY RESPONSIBLE PARTIES.** Payment Upon payment of a claim by the fund pursuant to this chapter, shall be conditioned upon the board's acquiring by subrogation the rights of the claimant to recover those costs and expenditures for corrective action for which the fund has compensated the claimant, from the person responsible or liable for the unauthorized release any potentially responsible party, are assumed by the board to the extent paid by the fund. A claimant is precluded from receiving double compensation for the same injury.

In an action brought pursuant to this chapter seeking damages for corrective action or third-party liability, the court shall permit evidence and argument as to the replacement or indemnification of actual economic losses incurred or to be incurred in the future by the claimant by reason of insurance benefits, governmental benefits or programs, or from any other source.

Sec. 36. Section 455G.13, subsection 10, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A claimant may elect to permit the board to pursue the claimant's cause of action for any injury not compensated by the fund against any potentially responsible party, provided the attorney general determines such representation would

not be a conflict of interest. If a claimant so elects, the board's litigation expenses shall be shared on a pro rata basis with the claimant, but the claimant's share of litigation expenses are payable exclusively from any share of the settlement or judgment payable to the claimant.

Sec. 37. Section 455G.16, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Third-party liability expenses under this section specifically exclude any claim, cause of action, or suit, for personal injury including, but not limited to loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

Sec. 38. Section 455G.17, subsection 3, Code 1991, is amended to read as follows:

3. The board shall adopt approved curricula for training persons to install underground storage tanks in such a manner that the resulting installation may be certified under section 455G.11, subsection 6, and provide fire safety and environmental protection guidelines for persons removing tanks.

Sec. 39. Section 455G.17, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 40. **NEW SECTION.** 455G.17A GROUNDWATER PROFESSIONALS — REGISTRATION.

1. The department of natural resources shall adopt rules pursuant to chapter 17A requiring that groundwater professionals register with the department of natural resources.

2. A groundwater professional is a person who provides subsurface soil contamination and groundwater consulting services or who contracts to perform remediation or corrective action services and is one or more of the following:

a. A person certified by the American institute of hydrology, the national water well association, the American board of industrial hygiene, or the association of groundwater scientists and engineers.

b. A professional engineer registered in Iowa.

c. A professional geologist certified by a national organization.

d. Any person who has five years of direct and related experience and training as a groundwater professional or in the field of earth sciences as of the effective date of this Act.

e. Any other person with a license, certification, or registration to practice hydrogeology or groundwater hydrology issued by any state in the United States or by any national organization, provided that the license, certification, or registration process requires, at a minimum, all of the following:

(1) Possession of a bachelor's degree from an accredited college.

(2) Five years of related professional experience.

3. The department of natural resources may provide for a civil penalty of no more than fifty dollars for the failure to register. An interested person may obtain a list of registrants from the department of natural resources. The department of natural resources may impose a fee for the registration of persons under this section.

4. The registration of groundwater professionals shall not impose liability on the board, the department, or the fund for any claim or cause of action of any nature, based on the action or inaction of groundwater professionals registered pursuant to this section.

Sec. 41. **NEW SECTION.** 455G.18 ENVIRONMENTAL DAMAGE OFFSET.

1. The fund's payment of a remedial claim by an owner or operator reporting a release under section 455G.9, subsection 1, paragraph "a", subparagraph (2), shall be subject to an environmental damage offset if the owner or operator closed or removed the tank and did not replace it. An owner or operator who has declared bankruptcy shall not be subject to the offset. A site which is not being used for commercial purposes is not subject to the offset unless offered for sale. If a site is exempt under this subsection from the offset, but is later subject to the lien imposed under section 455G.13, subsection 5, the amount of the lien shall include the amount of the offset which would have been imposed if the site was not exempt during remediation.

2. The offset shall be equal to the average annual environmental protection charge on diminution imposed under chapter 424 which would be paid for tanks of similar size. The offset shall be based on the rate of diminution presently in force, regardless of the date on which the tank was closed. The offset shall apply to the release which is still subject to remedial fund payments under section 455G.9.

3. Offsets under this section shall be credited to cost recovery enforcement proceeds under section 455G.8, subsection 5.

4. The board shall adopt rules as necessary and convenient for the implementation and administration of the offset.

Sec. 42. Notwithstanding any limitations on division or department full-time equivalent positions in any enacted legislation, the department of natural resources may utilize funding, other than general fund moneys, to employ up to 4.00 additional full-time equivalent positions to work on the underground storage tank program for the fiscal year beginning July 1, 1991, and ending June 30, 1992.

Sec. 43. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 10, 1991

CHAPTER 253

ENERGY EFFICIENCY

S.F. 508

AN ACT relating to energy efficiency by expanding the entities entitled to financial assistance for implementing energy conservation measures, requiring implementation of life cycle cost analyses and providing exemptions from the implementation requirements, requiring the appropriation of abandoned utility refunds and deposits, establishing energy efficiency standards for certain products and establishing various energy efficiency-related programs and projects.

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

Section 1. Section 18.115, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Of all new passenger vehicles and light pickup trucks purchased by the state vehicle dispatcher, institutions under the control of the state board of regents, community colleges, and any other state agency purchasing such new vehicles and trucks, beginning July 1, 1992, a minimum of five percent, and beginning July 1, 1994, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion including but not limited to those propelled by flexible fuels, compressed natural gas, propane, solar energy, or electricity. For the purpose of this subsection, "flexible fuels" means fuels which are blended with eighty-five percent ethanol and fifteen percent gasoline. The provisions of this subsection do not apply to such vehicles and trucks purchased for the following purposes: law enforcement, off-road maintenance work, or work vehicles used to pull loaded trailers. This subsection also does not apply to school corporations, with the exceptions of those designated above. It is the intent of the general assembly that the members of the midwest energy compact promote the development and purchase of motor vehicles equipped with engines which utilize alternative methods of propulsion.

Sec. 2. Section 93.11, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. Unless prohibited by the conditions applying to a settlement, the petroleum overcharge moneys in the energy conservation trust 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 trust subject to the approval of the attorney general.

Sec. 3. Section 93.11, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The moneys deposited in the energy research and development fund shall be used for research and development of selected projects to improve Iowa's energy independence by developing improved methods of energy efficiency, or by increased development and use of Iowa's renewable nonresource-depleting energy resources. The moneys credited to the fund under section 556.18 shall be used for energy conservation and alternative energy resource projects. The projects shall be selected by the director and administered by the department. Selection criteria for funded projects shall include consideration of indirect restitution to those persons in the state in the utility customer classes and the utility service territories affected by unclaimed utility refunds or deposits.

Notwithstanding the provisions of this section directing that moneys be deposited into the energy research and development fund, for the fiscal period beginning July 1, 1991, and ending June 30, 1993, all moneys shall be deposited into the general fund of the state. There is appropriated annually from the general fund of the state the sum of one hundred fifty thousand dollars to be used for the purposes of this section.

Sec. 4. Section 93.11, subsection 5, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The energy research and development fund.

Sec. 5. Section 93.11, subsection 6, Code 1991, is amended to read as follows:

6. The moneys in the fund in the energy conservation trust 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 petroleum overcharge moneys from the fund in the trust for other projects only if the project meets one or more of the following conditions:

Sec. 6. Section 93.13A, Code 1991, is amended to read as follows:

93.13A ENERGY CONSERVATION MEASURES IDENTIFIED AND IMPLEMENTED.

The state, state agencies, political subdivisions of the state, ~~schools~~ school districts, area education agencies, and community colleges shall identify and implement, through energy audits and engineering analyses, all energy conservation measures identified for which financing is made available by the department to the entity. The energy conservation measure financings shall be supported through payments from energy savings.

The department shall not require a school district, ~~area school~~ community college, area education agency, city, or county to perform an engineering analysis if the school district, community college, area education agency, city, or county demonstrates to the department that the facility which is the subject of the proposed engineering analysis at issue is unlikely to be in use or operation in six years by the governmental entity currently using or occupying the facility.

Sec. 7. Section 93.19, Code 1991, 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 community colleges the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations:

1. Providing moneys from the petroleum overcharge fund for conducting energy audits for school districts under section 279.44 for conducting comprehensive engineering analyses for

school districts and for conducting energy audits and comprehensive engineering analyses for state agencies, and political subdivisions of the state.

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, community colleges, area education agencies, cities and counties the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations 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, community colleges, area education agencies, cities, and counties, the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations pursuant to section 93.20A.

For the purpose of this section, section 93.20, and section 93.20A, "energy conservation measure" means construction, rehabilitation, acquisition, or modification of an installation in a building facility or vehicle 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. "Nonprofit organization" means an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

Sec. 8. Section 93.20, Code 1991, 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.

1. The department may make loans to school districts, community colleges, area education agencies, cities, and counties the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations 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, community college, area education agency, city and county state, state agency, political subdivision of the state, school district, area education agency, community college, or nonprofit organization as an entity to recoup the actual or projected cost of construction and acquisition of the improvements; and cost of the engineering plans and specifications. For a school district, community college, area education agency, city or county the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations 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.

2. 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 community colleges may enter into financing arrangements with the department or its duly authorized agents or representatives obligating the school district or community college to make payments on the loans beyond the current budget year of the school district or community college. Chapter 75 shall not be applicable. School districts shall repay the loans from moneys in either their general fund or schoolhouse fund. Community colleges shall repay the loans from their general fund. Other entities receiving loans under this section shall repay the loans from any moneys available to them.

3. 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.

4. For the purpose of this section, "loans" means loans, leases, or alternative financing arrangements.

5. ~~A school district, community college, area education agency, city, or county~~ The state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges shall design and construct the most energy cost-effective facilities feasible and shall use the financing made available by the department to cover the incremental costs above minimum building code energy efficiency standards of purchasing energy efficient devices and materials unless other lower cost financing is available. As used in this section, "facility" means a structure that is heated or cooled by a mechanical or electrical system, or any system of physical operation that consumes energy to carry out a process.

6. The department shall not require a ~~school district, community college, area education agency, city, or county~~ the state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges to implement a specific energy conservation measure identified in a comprehensive engineering analysis if the ~~political subdivision~~ entity which prepared the analysis demonstrates to the department that the facility which is the subject of the energy conservation measure is unlikely to be used or operated for the full period of the expected payback of the energy conservation measure.

Sec. 9. Section 93.20A, Code 1991, is amended to read as follows:

93.20A SELF-LIQUIDATING FINANCING.

1. The department of natural resources may enter into financing agreements with ~~school districts, community colleges, area education agencies, cities, or counties~~ the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations 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, community college, area education agency, city, or county~~ the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations.

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, community colleges, cities, or counties~~ the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations 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, community colleges, area education agencies, cities, or counties~~ The state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations may enter into financing agreements and issue obligations necessary to carry out the provisions of the chapter. Chapter 75 shall not be applicable.

Sec. 10. NEW SECTION. 93.42 EXIT SIGNS — STANDARDS.

The department shall adopt rules which require the use of compact fluorescent bulbs in exit signs at the time of replacement, but no later than July 1, 2001. Prior to the adoption of rules,

the department shall promote, through educational materials, the use of compact fluorescent bulbs or lighting of greater efficiency in exit signs.

Sec. 11. NEW SECTION. 93.44 PLUMBING PRODUCTS EFFICIENCY STANDARDS.

1. The department shall adopt rules which prescribe water use standards for each product classified as a covered product under this section. The standards adopted shall be designed to achieve the maximum efficiency of water use which the department determines is technologically and economically feasible. The department shall consult with the state building code commissioner, the Iowa department of public health, and the plumbing manufacturers' institute, and shall review all applicable provisions under chapter 103A and chapter 135 in establishing the standards.

2. A person who knowingly violates this section is subject to a civil penalty of not more than one hundred dollars for each violation. Local government subdivisions which enforce the standards adopted under this section may collect and utilize receipts from the penalties imposed for building code inspections and enforcement of this section.

3. For the purposes of this section, "covered products" means water closets, urinals, showerheads, lavatory faucets and replacement aerators, and kitchen faucets and replacement aerators.

Sec. 12. NEW SECTION. 93A.1 MIDWEST ENERGY COMPACT.

The midwest energy compact is enacted into law and entered into with all other states which legally join in the compact in substantially the following form:

INTERSTATE COMPACT ON ENERGY
ARTICLE I – PURPOSE

It is the purpose of this compact to protect, preserve, and enhance:

- a. The economic and general welfare of citizens of the joining states by increasing energy efficiency and energy independence.
- b. The economies and very existence of local communities in such states, the economies of which are dependent upon imported energy sources.

ARTICLE II – COMMISSION

a. Organization and management

1. There is hereby created an agency of the member states to be known as the interstate midwest energy commission, hereinafter called the commission. The commission shall consist of three residents of each member state who shall have a background in energy efficiency and who shall be appointed as follows: One member appointed by the governor, who shall serve at the pleasure of the governor; one senator appointed in the manner prescribed by the senate of the state, except that in Iowa the appointment shall be made by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and except that two senators may be appointed by the governor of the state of Nebraska from the unicameral legislature of the state of Nebraska; and one member of the house of representatives appointed in the manner prescribed by the house of representatives of the state. The member first appointed by the governor shall serve for a term of one year and the senator and representative first appointed shall each serve for a term of two years. Thereafter all members appointed shall serve for two-year terms. The attorneys general of member states or assistants designated by the attorneys general shall be nonvoting members of the commission.

2. Each member shall be entitled to one vote. A member must be present to vote and no voting by proxy shall be permitted. The commission shall not act unless a majority of the voting members are present, and no action shall be binding unless approved by a majority of the total number of voting members present.

3. The commission shall be a body corporate of each member state and shall adopt an official seal to be used as it may provide.

4. The commission shall hold an annual meeting and other regular meetings as its bylaws may provide and special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

5. The commission shall elect annually, from among its voting members, a chairperson, a vice chairperson, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and shall fix the duties and compensation of the director. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of those of its officers and employees as it may deem appropriate.

6. Irrespective of the civil service, personnel, or other merit system laws of any member state, the executive director shall appoint or discharge personnel as may be necessary for the performance of the functions of the commission and shall fix, with the approval of the commission, their duties and compensation. The commission bylaws shall provide for personnel policies and programs. The commission may establish and maintain, independently of or in conjunction with any one or more of the member states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors insurance provided that the commission takes steps as may be necessary pursuant to federal law to participate in the program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in additional programs of employee benefits as may be appropriate. The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

7. The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

8. The commission may establish one or more offices for the transacting of its business.

9. The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the member states.

10. The commission annually shall make to the governor and legislature of each member state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

b. Committees

1. The commission may establish committees from its membership as its bylaws may provide for the carrying out of its functions.

ARTICLE III — POWERS AND DUTIES OF COMMISSION

a. The commission shall conduct comprehensive and continuing studies and investigations of energy efficiency measures and their relationship to and effect upon the citizens and economies of the member states.

b. The commission shall make recommendations for the correction of weaknesses and solutions to problems in present energy efficiency measures or the development of alternatives thereto, including the development, drafting, and recommendation of proposed state or federal legislation.

c. The commission is hereby authorized to do all things necessary and incidental to the administration of its functions under this compact.

ARTICLE IV — FINANCE

a. The commission shall submit to the governor of each member state a budget of its estimated expenditures for the period required by the laws of that state for presentation to the legislature of that state.

b. The moneys necessary to finance the general operations of the commission not otherwise provided for in carrying forth its duties, responsibilities, and powers as stated herein shall be appropriated to the commission by the member states, when authorized by the respective legislatures. Appropriations by member states for the financing of the operations of the commission in the initial biennium of the compact shall be in the amount of fifty thousand dollars for each member state. Thereafter the total amount of appropriations requested shall be apportioned among the member states in the manner determined by the commission. Failure of a member state to provide its share of financing is cause for the state to lose its membership in the compact.

c. The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

d. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

e. The accounts of the commission shall be open for inspection at any reasonable time.

ARTICLE V — ELIGIBLE PARTIES, ENTRY INTO FORCE, WITHDRAWAL, AND TERMINATION

a. Any state contiguous to Iowa may become a member of this compact.

b. This compact shall become effective initially when enacted into law by any five states and in additional states upon their enactment of the same into law.

c. Any member state may withdraw from this compact by enacting a statute repealing the compact, but such withdrawal shall not become effective until one year after the enactment of the repealing statute and the notification of the commission thereof by the governor of the withdrawing state. A withdrawing state shall be liable for any obligations which it incurred on account of its membership up to the effective date of withdrawal, and if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of that obligation.

d. This compact shall terminate one year after the notification of withdrawal by the governor of any member state which reduces the total membership in the compact to less than five states.

Sec. 13. Section 266.39C, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 6. The Iowa energy center shall develop a program to provide assistance to rural residents for energy efficiency efforts.

NEW SUBSECTION. 7. The Iowa energy center, in cooperation with the state department of transportation, shall conduct a feasibility study of the development and implementation of a "rail through rural Iowa" program to provide interstate passenger rail service connections. The center shall submit a report to the governor and the general assembly by January 1992 regarding the feasibility of such a program. Funding for the center derived from the assessment on the revenues of utilities pursuant to section 476.10A shall not be expended to fulfill the requirements of this subsection.

NEW SUBSECTION. 8. The Iowa energy center shall cooperate with the state board of education in developing a curriculum which promotes energy efficiency and conservation.

Sec. 14. Section 307.10, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 8. Promote the efforts of political subdivisions in developing energy efficient public transit systems including bus and rail systems.

NEW SUBSECTION. 9. Promote the development of rural bus systems.

NEW SUBSECTION. 10. Develop and implement a bus system subsidization program.

NEW SUBSECTION. 11. Act as a resource and referral source for vanpoolers in the state.

NEW SUBSECTION. 12. Conduct a comprehensive transportation planning study to examine pedestrian accessibility in new commercial development.

NEW SUBSECTION. 13. Establish transit accessibility impact guidelines by July 1, 1992, to be used in evaluating proposals for the construction or acquisition of publicly financed facilities.

NEW SUBSECTION. 14. Develop statistical measures to ascertain the impact of public transit systems on the minimization of motor vehicle accidents and reduction in fuel utilization by July 1, 1992, and the impact of public transit systems on the reduction of hazardous emissions of mobile sources, as identified pursuant to Title II of the federal Clean Air Act of 1990, Pub. L. No. 101-549, by July 1, 1993.

NEW SUBSECTION. 15. By July 1, 1992, create a statewide transit services marketing steering committee which includes providers, consumer advocates, and public relations representatives. The committee shall develop criteria for the evaluation of the adequacy and public awareness of transit service delivery by January 1, 1993.

Sec. 15. Section 364.24, Code 1991, is amended to read as follows:

364.24 TRAFFIC LIGHT SYNCHRONIZATION.

After July 1, 1992, all cities with more than three traffic lights within the corporate limits shall establish a traffic light synchronization program for energy efficiency in accordance with rules adopted by the state department of transportation. The state department of transportation shall adopt rules required by this section by July 1, 1990. This section does not require that a city replace lighting, which has not completed its useful life, in order to comply with the requirements of this section. However, all lighting shall be replaced, whether or not it has completed its useful life, by July 1, 2001.

Sec. 16. Section 364.23, Code 1991, is amended to read as follows:

364.23 ENERGY EFFICIENT LIGHTING REQUIRED.

All city-owned exterior flood lighting, including but not limited to, street and security lighting but not including era or period lighting which has a minimum efficiency rating of fifty-eight lumens per watt, shall be replaced, when worn-out, exclusively with high pressure sodium lighting or lighting with equivalent or better energy efficiency as approved in rules adopted by the utilities board within the utilities division of the department of commerce.

Sec. 17. Section 470.1, subsections 1 and 2, Code 1991, are amended to read as follows:

1. "Public agency" means a ~~county, city, school district, school corporation or combination thereof or an executive board, commission, bureau, division, office or department of the state agency, political subdivision of the state, school district, area education agency, or community college.~~

2. "Facility" means a building having twenty thousand square feet or more of usable floor space that is heated or cooled by a mechanical or electrical system or any building, system, or physical operation which consumes more than forty thousand British thermal units (BTUs) per square foot per year.

Sec. 18. Section 470.1, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 8. "Commissioner" means the state building code commissioner.

NEW SUBSECTION. 9. "Department" means the department of natural resources.

NEW SUBSECTION. 10. "Director" means the director of the department of natural resources.

Sec. 19. Section 470.3, subsection 2, Code 1991, is amended to read as follows:

2. A public agency or a person preparing a life cycle cost analysis for a public agency shall consider the methods and analytical models provided by the department of natural resources and available through the state building code commissioner, which are suited to the purpose for which the project is intended. Within sixty days of final selection of a design architect or engineer, a public agency, which is also a state agency under section 19.34, shall notify the

state building code commissioner and the department of natural resources of the methodology to be used to perform the life cycle cost analysis on forms provided by the department of natural resources.

Sec. 20. Section 470.7, Code 1991, is amended to read as follows:

470.7 LIFE CYCLE COST ANALYSIS – APPROVAL.

The public agency responsible for the new construction or renovation of a public facility shall submit a copy of the life cycle cost analysis for review by the state building code commissioner who shall consult with the department of natural resources. If the public agency is also a state agency under section 19.34, comments by the department of natural resources or the state building code commissioner, including any recommendation for changes in the analysis, shall, within thirty days of receipt of the analysis, be forwarded in writing to the public agency. If either the department or the commissioner disagrees with any aspects of the life cycle cost analysis, the public agency affected shall timely respond in writing to the state building code commissioner and the department of natural resources. The response shall indicate whether the agency intends to implement the recommendations and, if the agency does not intend to implement them, the public agency shall present its reasons. The reasons may include, but are not limited to, a description of the purpose of the facility or renovation, preservation of historical architectural features, architectural and site considerations, and health and safety concerns.

Within thirty days of receipt of the response of the public agency affected, the department, the commissioner, or both, shall notify in writing the public agency affected of the department's, the commissioner's, or both's agreement or disagreement with the response. In the event of a disagreement, the department, the commissioner, or both, shall at the same time transmit the notification of disagreement with response and related papers to the executive council for resolution pursuant to section 19.34. The life cycle cost analysis process, including submittal and approval, and implementation exemption requests pursuant to section 470.8, shall be completed prior to the letting of contracts for the construction or renovation of a facility.

Sec. 21. NEW SECTION. 470.8 LIFE CYCLE COST ANALYSIS – IMPLEMENTATION AND EXEMPTIONS.

The public agency responsible for the new construction or renovation of a public facility shall implement the recommendations of the life cycle cost analysis.

The commissioner, in consultation with the director, shall, by rule, develop criteria to exempt facilities from the implementation requirements of this section. Using the criteria, the commissioner, in cooperation with the director, shall exempt facilities on a case by case basis. Factors to be considered when developing the exemption criteria shall include, but not be limited to a description of the purpose of the facility or renovation, the preservation of historical architectural features, site considerations, and health and safety concerns. The commissioner and the director shall grant or deny a request for exemption from the requirements of this section within thirty days of receipt of the request.

Sec. 22. Section 476.6, subsection 19, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A rate-regulated utility required to submit an energy efficiency plan under this subsection shall, upon the request of a state agency or political subdivision to which it provides service, provide advice and assistance regarding measures which the state agency or political subdivision might take in achieving improved energy efficiency results. The cooperation shall include assistance in accessing financial assistance for energy efficiency measures.

Sec. 23. Section 476.10A, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, any unexpended moneys remitted to the treasurer of state under this section shall be retained for the purposes

designated. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the moneys remitted under this section shall be retained and used for the purposes designated.

Sec. 24. Section 556.18, subsection 3, Code 1991, is amended to read as follows:

3. After July 1, 1988, the treasurer of state shall annually credit ~~the first one hundred fifty thousand dollars~~ of all moneys received under section 556.4 to the energy research and development fund ~~created under section 93.14, and shall credit all additional moneys received under section 556.4 to the energy crisis fund created under section 601K.102~~ established in the energy conservation trust under section 93.11.

Sec. 25. TELECOMMUTING PILOT PROJECT — STATE EMPLOYEES. The state department of transportation, in cooperation with the department of natural resources, division of energy and geological resources, shall conduct a pilot project to implement telecommuting as an alternative for state employees, including but not limited to those whose primary duties and services are typically performed by phone or upon a computer, and who currently have access to a computer or other telecommunication equipment at work. The state department of transportation shall submit a report of the progress of the pilot project to the general assembly by January 15, 1992.

Sec. 26. Section 93.14, Code 1991, is repealed.

Sec. 27. 1990 Iowa Acts, chapter 1252, section 49, subsection 1, unnumbered paragraph 1, is amended to read as follows:

The state department of transportation, in consultation with units of local government, including representatives of cities of 200,000 or more population, cities of 50,000 or more but less than 200,000 population, and cities under 50,000 population, shall conduct, ~~conditioned upon the availability of funds,~~ a comprehensive study of the relationship between transportation planning, systems development, and management to urban and rural development, land use planning, and energy demand. The study shall include an analysis of the relationship between parking development and pricing structure and transit usage and shall include an analysis of the relationship between commercial and industrial site selection and transportation energy consumption. The purpose of the study shall be to identify opportunities to improve the long-term energy efficiency of transportation, as well as to improve traffic safety and service. The results of the study shall be reported to the general assembly and shall contain recommended policies and legislation.

Approved June 10, 1991

CHAPTER 254
RENEWABLE FUEL
S.F. 545

AN ACT relating to fuel, by providing for the production and consumption of renewable fuel, and providing for the imposition of taxes upon certain fuel.

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

Section 1. Section 18.115, subsection 3, Code 1991, is amended to read as follows:

3. The state vehicle dispatcher shall install a record system for the keeping of records of the total number of miles state-owned motor vehicles are driven and the per-mile cost of operation of each motor vehicle. Every state officer or employee shall keep a record book to be furnished by the state vehicle dispatcher in which the officer or employee shall enter all purchases of gasoline, lubricating oil, grease, and other incidental expense in the operation of the motor vehicle assigned to the officer or employee, giving the quantity and price of each purchase, including the cost and nature of all repairs on the motor vehicle. Each operator of a state-owned motor vehicle shall promptly prepare a report at the end of each month on forms furnished by the state vehicle dispatcher and forward the same to the dispatcher at the statehouse, giving the information the state vehicle dispatcher may request in the report. The state vehicle dispatcher shall each month compile the costs and mileage of state-owned motor vehicles from the reports and keep a cost history card on each motor vehicle and the costs shall be reduced to a cost-per-mile basis for each motor vehicle. It shall be the duty of the state vehicle dispatcher to call to the attention of the head of any department to which a motor vehicle has been assigned any evidence of the mishandling or misuse of any state-owned motor vehicle which is called to the dispatcher's attention. A motor vehicle operated under this subsection shall not operate on gasoline other than gasoline blended with at least ten percent ethanol, unless under emergency circumstances. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 2. Section 19A.3, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 22. The appointee serving as the coordinator of the office of renewable fuel, as provided in section 159A.3.

Sec. 3. Section 20.4, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 13. The appointee serving as the coordinator of the office of renewable fuel, as provided in section 159A.3.

Sec. 4. Section 159.20, Code 1991, is amended to read as follows:
159.20 POWERS OF DIVISION.

~~A farm commodity~~ An agricultural marketing division, hereinafter referred to as the division, is created within the Iowa department of agriculture and land stewardship. ~~It is the duty of the~~ The division to do or cause to be done those things shall perform duties designed to lead to more advantageous marketing of Iowa ~~farm~~ agricultural commodities. ~~To implement this purpose the~~ The division is authorized to may do any of the following:

1. Investigate the ~~subject of~~ marketing farm of agricultural commodities.
2. Promote ~~their sales~~ the sale, distribution, and merchandising of agricultural commodities.
3. Furnish information and assistance concerning farm agricultural commodities to the public.
4. Cooperate with the college of agriculture of the Iowa state university of science and technology in its farm encouraging agricultural marketing education and research.

5. ~~Gather~~ Accumulate and diffuse useful information concerning all phases of the marketing of Iowa farm agricultural commodities in cooperation with other public or private agencies and, in that context, persons, agencies, or the federal government. The division shall establish a farm an agricultural commodity informational data base.

6. Investigate methods and practices in ~~connection with~~ related to the processing, handling, grading, classifying, sorting, weighing, packing, transportation, storage, inspection, and or merchandising of farm agricultural commodities within this state.

7. Ascertain sources of supply of for Iowa farm agricultural commodities, and. The department shall prepare and periodically publish lists of names and addresses of producers and consignors of farm agricultural commodities, to be available upon request.

8. Perform inspection or grading, ~~or both~~, of any farm an agricultural commodity if requested by the a person engaged in the production, marketing, or processing of the farm agricultural commodity; ~~except that~~. However, the person shall must pay for the services as provided by the rules of adopted by the department.

9. Cooperate with the Iowa department of economic development to avoid duplication of efforts between the division and the agricultural marketing program operated by the Iowa department of economic development.

10. Assist the office of renewable fuel and the renewable fuel advisory committee in administering the provisions of chapter 159A.

The division shall have a division administrator appointed by the secretary of agriculture.

As used in this division of this chapter subchapter, "farm agricultural commodity" means any unprocessed agricultural product, including animals, agricultural crops, and forestry products grown, raised, produced, or fed in Iowa for sale in commercial channels. "Commercial channels" means the processes of sale of a farm commodity or unprocessed product from the farm commodity to any person, public or private, who resells the farm commodity for breeding, processing, slaughter, or distribution.

Sec. 5. Section 159.22, Code 1991, is amended to read as follows:

159.22 GRANTS AND GIFTS OF FUNDS.

The division may with the approval of the secretary of agriculture accept grants and allotments of funds from the federal government and enter into co-operative agreements with the ~~secretary of agriculture of the United States~~ department of agriculture for projects to effectuate any of the purposes of this division as a purpose described herein; ~~and to in this subchapter~~. The division may accept grants, gifts or allotments of funds from any person; firm, co-operative, corporation, or association for the purpose of carrying out the provisions of this chapter for which subchapter. If funds are accepted from a person, the director shall prepare an itemized accounting must be made by the director to the Iowa secretary of agriculture department at the end of each fiscal year.

Sec. 6. NEW SECTION. 159A.1 FINDINGS.

The general assembly finds and declares the following:

1. The production and processing of agricultural commodities and products represents the foundation of this state's economy, and the economic viability of this nation is contingent upon the production of wealth generated primarily from materials, including food and fiber, produced on this nation's family farms.

2. It is necessary to support industries using agricultural commodities to produce sources of energy in order to reduce the state's dependency upon petroleum products, and to ameliorate threats to this state's environment resulting from the atmospheric contamination of carbon monoxide.

3. This state adopts a policy of enhancing agricultural production through support of the renewable fuel industry as provided in this chapter, including rules adopted by the office of renewable fuel and the renewable fuel advisory committee.

Sec. 7. NEW SECTION. 159A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Committee" means the "renewable fuel advisory committee" established pursuant to section 159A.4.
2. "Coordinator" means the administrative head of the office of renewable fuel appointed by the department as provided in section 159A.3.
3. "Fund" means the renewable fuel fund established pursuant to section 159A.7.
4. "Office" means the office of renewable fuel created pursuant to section 159A.3.
5. "Renewable fuel" means an energy source derived from an organic compound, including a photosynthate, which may be used to power an engine.
6. "Renewable fuel activities" means either of the following:
 - a. The research, development, production, promotion, marketing, or consumption of a renewable fuel.
 - b. The research, development, transfer, or use of technologies which directly or indirectly increase the supply or demand of a renewable fuel.

Sec. 8. NEW SECTION. 159A.3 OFFICE OF RENEWABLE FUEL.

1. An office of renewable fuel is created within the agricultural marketing division of the department and shall be staffed by a coordinator who shall be appointed by the division administrator. It shall be the policy of the office to further renewable fuel activities. The office shall first further renewable fuel activities based on the following considerations:
 - a. The price competitiveness of the fuel.
 - b. The production capacity and supply of the fuel.
 - c. The ease and safety of transporting and storing the fuel.
 - d. The degree to which the fuel is currently developed for ready transfer to current engine technology.
 - e. The degree to which the fuel is environmentally protective.
 - f. The degree to which the fuel provides economic development opportunities.
2. The duties of the office include, but are not limited to, the following:
 - a. Serving as advisor to the department regarding regulations, including federal and state standards, relating to oxygenate octane enhancers, as defined in section 214A.1.
 - b. Serving as advisor to the department regarding renewable fuel programs.
 - c. Serving as monitor of regulations administered in the state, in other states, or by the federal government. The office shall collect information and data prepared by state agencies related to these regulations, and provide referral and assistance to interested persons and agencies.
 - d. Cooperating with persons and agencies involved in renewable fuel activities, including other states and the federal government, to standardize regulations and coordinate programs, in order to increase administrative effectiveness and reduce administrative duplication.
 - e. Implementing policies and procedures designed to facilitate communication between persons involved in renewable fuel activities.
 - f. Assisting state or federal agencies, or assisting commercial enterprises or commodity organizations which are located in or desiring to locate in the state. The assistance may include support of public research relating to renewable fuel activities.
 - g. Conducting studies relating to the viability of producing or using a renewable fuel, and methods and schedules required to ensure a practicable transition to the use of a renewable fuel.
 - h. Preparing an annual report to the secretary regarding renewable fuel activities. The report shall include a review of research and research results, areas of study with promising potential, a summary of initiatives in other states, and an analysis of state and federal regulations and programs.
 - i. Promoting the use of by-products resulting from the production of renewable fuel.
 - j. Cooperating with the committee in carrying out the purposes of the committee as provided in section 159A.5. The office shall regularly inform the committee regarding its operations and programs administered under this chapter, including financial reports concerning the fund.
3. A chief purpose of the office is to further the production and consumption of ethanol fuel in this state. The office shall be the primary state agency charged with the responsibility to promote public consumption of ethanol fuel.

4. The office shall cooperate with the Wallace technology transfer foundation of Iowa in formulating long-range strategic plans to guide state investment in applied research, development, and commercial transfer of selected scientific and technological innovation relating to renewable fuel technology.

5. The office and state entities, including the department, the committee, the Iowa department of economic development, the state department of transportation, the department of natural resources, regents' institutions, and the Wallace technology transfer foundation of Iowa, shall cooperate to implement this section.

Sec. 9. NEW SECTION. 159A.4 ADVISORY COMMITTEE.

1. A renewable fuel advisory committee is established within the department. The committee shall be composed of the following persons:

a. The secretary, or a person designated by the secretary, representing the department of agriculture and land stewardship who shall be the chairperson of the committee.

b. The director of the Iowa department of economic development, or a person designated by the director, representing the Iowa department of economic development.

c. The director of the state department of transportation, or a person designated by the director, representing the state department of transportation.

d. A person representing retail dealers as defined in section 214A.1 who shall be actively engaged in the business of selling motor vehicle fuel on a retail basis.

e. A person representing refiners of petroleum products who shall be actively engaged in the business of refining petroleum into motor vehicle fuel for the purpose of sale within the state.

f. A person representing an organization serving livestock producers in this state.

g. A person representing the Iowa corn growers association.

h. One person actively engaged in farming, as defined in section 172C.1.

The governor shall appoint persons who shall be confirmed by the senate, pursuant to section 2.32, to serve as voting members of the committee. However, the secretary of agriculture shall appoint the person representing the department of agriculture and land stewardship, the director of the Iowa department of economic development shall appoint the person representing that department, and the director of the state department of transportation shall appoint the person representing that department. The governor may make appointments of persons representing organizations listed under paragraphs "f" and "g" of this subsection from a list of candidates which shall be provided by the organization upon request by the governor.

2. The members appointed pursuant to subsection 1, paragraphs "d" through "h", shall serve three-year terms beginning and ending as provided in section 69.19. However, the governor shall appoint initial members to serve for less than three years to ensure members serve staggered terms. A member is eligible for reappointment. A vacancy on the committee shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

3. The committee shall include four ex officio nonvoting members who shall be legislative members. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, one appointed by the speaker of the house of representatives, after consultation with the majority leader of the house of representatives, and one appointed by the minority leader of the house of representatives, from their respective parties.

4. The committee shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more voting members.

5. The members other than those enumerated in subsection 1, paragraphs "a" through "c", are entitled to receive compensation as provided in section 7E.6.

6. Five voting members constitute a quorum and the affirmative vote of a majority of the voting members present is necessary for any substantive action to be taken by the committee. The majority shall not include any member who has a conflict of interest and a statement

by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the committee.

7. The committee shall be staffed by the agricultural marketing division of the department. The coordinator shall serve as secretary to the committee.

Sec. 10. NEW SECTION. 159A.5 PURPOSE OF THE COMMITTEE.

1. The purpose of the committee is to provide general oversight of operations of the office and to advise the office about all aspects concerning the production and consumption of renewable fuels. However, the committee shall not control policy decisions or direct the administration of this chapter.

2. The committee shall monitor conditions, practices, policies, programs, and procedures affecting the production and consumption of renewable fuels.

3. The committee shall monitor the condition of the fund and financial reports concerning the fund submitted by the office.

4. The committee shall review the annual report to the secretary regarding ethanol fuel activities, as provided in section 159A.3. The committee may make written comments concerning the contents of the report. Upon request of the committee, the coordinator shall include the comments as part of the report.

5. The committee, in cooperation with the coordinator, shall do all of the following:

a. Review the operations of the office and shall make recommendations regarding the effectiveness of programs provided under this chapter.

b. Establish performance goals for the office and adopt recommendations relating to improving the functions of the office and furthering the purposes of this chapter.

c. Encourage full support of programs designed to inform the public or targeted groups regarding renewable fuel production and consumption.

d. Support promotional programs or marketing strategies designed to encourage public consumption of renewable fuel.

Sec. 11. NEW SECTION. 159A.6 POINT-OF-SALE PUBLIC PROMOTION PROGRAM.

The office shall establish a program to promote the advantages related to the use of renewable fuel as an alternative to nonrenewable fuel. Promotions shall be designed to inform the ultimate consumer of advantages associated with using renewable fuel, and emphasize the benefits to the natural environment. The promotion shall inform consumers at the businesses of retail dealers of the motor vehicle fuel.

The committee shall develop standards for decals required pursuant to section 214A.16, which shall be designed to promote the advantages of using renewable fuel. The standards may be incorporated within a model decal adopted by the board and approved by the office.

Sec. 12. NEW SECTION. 159A.7 RENEWABLE FUEL FUND.

1. A renewable fuel fund is created in the state treasury under the control of the office of renewable fuel. The fund is composed of moneys accepted by the office. The fund may include moneys appropriated by the general assembly, and other moneys available to and obtained or accepted by the office, including moneys from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

2. Moneys in the fund shall be used only to administer this chapter. Moneys in the fund shall be allocated at the beginning of each fiscal year as follows:

a. Up to forty percent may be dedicated to support promotion and advertising of ethanol fuel.

b. Up to thirty percent may be dedicated to support research at the university of Iowa.

c. Up to thirty percent may be dedicated to support research at Iowa state university of science and technology.

d. The remaining balance shall be used by the office to support other projects or programs developed by the office.

3. Moneys in the fund shall be subject to an annual audit by the auditor of state. The fund shall be subject to warrants by the director of revenue and finance, drawn upon the written requisition of the coordinator.

4. In administering the fund, the office may do all of the following:

a. Contract, sue and be sued, and adopt procedures necessary to administer this section. However, the office shall not in any manner, directly or indirectly, pledge the credit of the state.

b. Authorize payment from the fund, from any income received by investment of moneys in the fund, for administrative costs, commissions, attorney and accountant fees, and other reasonable expenses related to and necessary for administering the fund and administering the program.

5. Section 8.33 shall not apply to moneys in the fund.

Sec. 13. Section 185C.11, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 5. Promote the production and marketing of ethanol.

Sec. 14. Section 214A.16, Code 1991, is amended to read as follows:

214A.16 NOTICE OF BLENDED FUEL.

All motor vehicle fuel kept, offered, or exposed for sale, or sold at retail containing over one percent ethanol, methanol, or any combination of oxygenate octane enhancers shall be identified as "with" either "ethanol", "methanol", "ethanol/methanol", or similar wording on a white adhesive decal. The design and location of the decals may be prescribed by rules adopted by the department. A decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6. If the department does not establish standards for a decal relating to a specific oxygenate octane enhancer, the wording shall be on a white adhesive decal with black letters at least one-half inch high and at least one-quarter inch wide placed between thirty and forty inches above the driveway level on the front sides of any container or pump from which the motor fuel is sold. The department may approve an application to place a decal in a special location on a pump or container or use a decal with special lettering or colors, if the decal appears clear and conspicuous to the consumer. The application shall be made in writing pursuant to procedures adopted by the department. Designs for a decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6.

Sec. 15. Section 262.25A, Code 1991, is amended to read as follows:

262.25A PURCHASE OF FUEL EFFICIENT AUTOMOBILES.

1. Institutions under the control of the state board of regents shall purchase only new automobiles which have at least the fuel economy required for purchase of new automobiles by the state vehicle dispatcher under section 18.115, subsection 4. This section subsection does not apply to automobiles purchased for law enforcement purposes.

2. A motor vehicle purchased by the institutions shall not operate on gasoline other than gasoline blended with at least ten percent ethanol. A state issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 16. NEW SECTION. 279.34 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased by or used under the direction of the board of directors to provide services to a school corporation shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 17. NEW SECTION. 280A.19A MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased by or used under the direction of the board of directors to provide services to a merged area shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed

with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 18. Section 307.21, subsection 4, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A motor vehicle purchased by the administrator shall not operate on gasoline other than gasoline blended with at least ten percent ethanol. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 19. Section 324.3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of ~~sixteen cents per gallon for the period beginning January 1, 1986, and ending March 31, 1988, and eighteen cents per gallon for the period beginning April 1, 1988, and ending December 31, 1988, and twenty cents per gallon beginning January 1, 1989,~~ is imposed upon the use of all motor fuel used for any purpose except aviation gasoline and except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period ~~beginning July 1, 1978, and ending June 30, 1992~~ 2000, and except as otherwise provided in this division. For the privilege of operating aircraft in this state an excise tax of eight cents per gallon ~~beginning July 1, 1988,~~ is imposed on the use of all aviation gasoline.

Sec. 20. Section 324.3, unnumbered paragraph 4, Code 1991, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of ~~fifteen cents per gallon for the period beginning January 1, 1986, and ending March 31, 1988, and seventeen cents per gallon for the period beginning April 1, 1988, and ending December 31, 1988, and nineteen cents per gallon beginning January 1, 1989, and ending until June 30, 1992~~ 2000, is imposed upon the use of gasohol motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States and used for any purpose except as otherwise provided in this division.

Sec. 21. NEW SECTION. 331.908 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased or used by a county to provide county services shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 22. NEW SECTION. 364.20 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased or used by a city to provide city services shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 23. Section 601L.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. A motor vehicle purchased by the commission shall not operate on gasoline other than gasoline blended with at least ten percent ethanol. A state issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol.

Sec. 24. ETHANOL PROJECTS.

1. The office of renewable fuel, as provided in chapter 159A, shall administer or supervise the following projects:

a. A project administered by the office to demonstrate the effectiveness of producing ethanol by using biomass products derived from corn stalks and woody grasses. The project shall encourage the production of woody grasses on land dedicated to permanent grass and buffer zones as provided in section 467A.48. The soil conservation division of the department of agriculture and land stewardship together with the state soil conservation committee as provided in chapter 467A shall cooperate in encouraging the planting of such grasses which may be harvested for purposes of ethanol production.

b. A project administered by the office to encourage and support the conversion of engines in motor vehicles to operate on conventional unblended gasoline and neat ethanol.

c. A project administered by the university of Iowa to perform an economic analysis of direct and indirect costs incurred in this state by using petroleum-based fuels as compared to the projected costs incurred in the state by using ethanol blended or neat ethanol fuels. The analysis shall be performed on microeconomic and macroeconomic scales. The cost and analysis shall include short-term and long-term projections regarding cost relating to converting from petroleum to ethanol based fuels.

d. A project administered by the department of general services to test engines operating on neat ethanol fuel. The department shall purchase neat ethanol fuel for storage in at least one underground storage tank maintained by the department. The department shall convert at least five engines mounted in state-purchased vehicles to operate on neat ethanol fuel and conventional unblended gasoline. The motor vehicles shall be used by state employees. The department shall conduct a study relating to the performance and reliability of the engines. The study shall be conducted in cooperation with state employees operating the motor vehicles.

2. The office of renewable fuel may, to the extent practicable, allocate moneys to support the projects required pursuant to this section.

3. The soil conservation division, the university of Iowa, and the department of general services shall report the results of projects required to be administered under this section to the office of renewable fuel. The office shall submit the results in a report to the general assembly which shall be submitted by January 13, 1992, to the secretary of the senate, the chief clerk of the house of representatives, and to the chairpersons of the standing committees on agriculture in the senate and the house of representatives.

Approved June 10, 1991

CHAPTER 255**TOXICS POLLUTION PREVENTION PROGRAM**

H.F. 683

AN ACT relating to the establishment of a toxics pollution prevention program, establishing fees, and providing an effective date.

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

Section 1. **FINDINGS.** The general assembly finds:

1. That the state annually produces millions of pounds of pollution and expends millions of dollars controlling this pollution.

2. That there are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw material use. These

changes would afford industry substantial savings in raw materials, pollution control, and liability costs and would also reduce environmental harm and risks to worker health and safety.

3. That the opportunities for pollution prevention are often not realized, due to a focus upon treatment and disposal rather than pollution prevention, the lack of an emphasis on a multimedia management approach to pollution prevention, and the lack of necessary information and technical assistance available to businesses in adopting pollution prevention practices.

4. That pollution prevention is fundamentally different from and should be encouraged in preference to waste management or pollution control and that the state should address the lack of attention to pollution prevention.

Sec. 2. **POLLUTION PREVENTION GOAL AND POLICY.** The goal of the state is to encourage pollution prevention through the use of pollution prevention techniques in preference to waste management or pollution control, and through coordination and cooperation between federal, state, and local departments, agencies, and institutions in the development and administration of a pollution prevention program.

Sec. 3. **NEW SECTION. 455B.502 DEFINITIONS.**

As used in this part, unless the context otherwise requires:

1. "Authority" means the waste management authority created pursuant to section 455B.483.

2. "Commission" means the environmental protection commission established pursuant to section 455A.6.

3. "Department" means the department of natural resources created pursuant to section 455A.2.

4. "Emergency Planning and Community Right-to-know Act" or "EPCRA" means the federal Emergency Planning and Community Right-to-know Act as defined in section 30.1.

5. "Environmental waste" means a pollutant, waste, or release regardless of the type or existence of regulation and regardless of the media affected by the pollutant, waste, or release.

6. "Existing toxics user" means a toxics user installation or source constructed prior to July 1, 1991.

7. "Multimedia" means any combination of air, water, land, or workplace environments into which toxic substances or wastes are released.

8. "Release" means emission, discharge, or disposal into any environmental media including air, water, or land.

9. "Toxics pollution prevention" means employment of a practice which reduces the industrial use of toxic substances or reduces the environmental and health hazards associated with an environmental waste without diluting or concentrating the waste before the release, handling, storage, transport, treatment, or disposal of the waste. The term includes toxics pollution prevention techniques but does not include a practice which is applied to an environmental waste after the waste is generated or comes into existence on or after the waste exits a production or commercial operation.

"Toxics pollution prevention" does not include, promote, or require any of the following:

a. Waste burning in industrial furnaces, boilers, smelters, or cement kilns for the purpose of energy recovery.

b. The transfer of an environmental waste from one environmental medium to another environmental medium, the workplace environment, or a product.

c. Offsite waste recycling.

d. Any other method of end-of-pipe management of environmental wastes including waste exchange and the incorporation or embedding of regulated environmental wastes into products or by-products.

10. "Toxics pollution prevention techniques" means any of the following practices by a toxics user:

a. Input substitution, which refers to replacing a toxic substance or raw material used in a production process with a nontoxic or less toxic substance.

b. Product reformulation, which refers to substituting for an existing end product an end product which is nontoxic or less toxic upon use or release.

c. Production process redesign or modification, which refers to developing and using production processes of a different design other than those currently in use.

d. Production process modernization, which refers to upgrading or replacing existing production process equipment or methods with other equipment or methods based on the same production process.

e. Improved operation and maintenance of existing production process equipment and methods, which refers to modifying or adding to existing equipment or methods, including but not limited to, such techniques as improved housekeeping practices, system adjustments, product and process inspections, and production process control equipment or methods.

f. Recycling, reuse, or extended use of toxic substances by using equipment or methods which become an integral part of the production process.

11. "Toxic substance" means any chemical substance in a gaseous, liquid, or solid state which is identified as a reportable substance under the federal Resource Conservation and Recovery Act, EPCRA, or defined as a hazardous air pollutant under the Clean Air Act of 1990. However, "toxic substance" does not include a chemical substance present in the article; used as a structural component of a facility; present in a product used for routine janitorial or facility grounds maintenance; present in foods, drugs, cosmetics, or other personal items used by employees or other persons at a toxics user facility; present in process water or noncontact cooling water as drawn from the environment or from municipal sources; present in air used either as compressed air or as part of combustion; present in a pesticide or herbicide when used in agricultural applications; or present in crude, fuel, or lube oils for direct wholesale or retail sale.

12. "Toxics" means toxic substances.

13. "Toxics user" means a large quantity generator as defined pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. or a person required to report pursuant to Title III of the federal Superfund Amendments and Reauthorization Act of 1986.

14. "Waste exchange" means a method of end-of-pipe management of environmental wastes that involves the transfer of environmental wastes between businesses or facilities owned or operated by the same business for recovery or to serve a productive purpose.

Sec. 4. NEW SECTION. 455B.503 DUTIES OF THE AUTHORITY.

The waste management authority shall do all of the following:

1. Establish the criteria for the development of the toxics pollution prevention program.
2. Develop and implement a toxics pollution prevention program.
3. Assist toxics users in the completion of toxics pollution prevention plans and inventories, and provide technical assistance as requested by the toxics user.

4. a. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for the uses designated pursuant to section 455B.133B. The authority shall also coordinate existing resources and oversee the disbursement of federal grant moneys to provide consistency in achieving the toxics pollution prevention goal of the state.

b. Provide, through the use of moneys collected pursuant to section 455B.133A, the state matching funds for grants under the federal Pollution Prevention Act of 1990, Pub. L. No. 101-508, § 6604 and 6605.

5. Develop and implement guidelines regarding assistance to toxics users to ensure that the plans are multimedia in approach and are not duplicated by the department or other agencies of the state.

6. Identify obstacles to the promotion, within the toxics user community, of toxics pollution prevention techniques and practices.

7. Compile an assessment inventory, through solicitation of recommendations of toxics users and owners and operators of air contaminant sources, of the informational and technical assistance needs of toxics users and air contaminant sources.

8. Function as a repository of research, data, and information regarding toxics pollution prevention activities throughout the state.

9. Provide a forum for public discussion and deliberation regarding toxic substances and toxics pollution prevention.

10. Promote increased coordination between the department, the Iowa waste reduction center at the university of northern Iowa, and other departments, agencies, and institutions with responsibilities relating to toxic substances.

11. Coordinate state and federal efforts of clearinghouses established to provide access to toxics reduction and management data for the use of toxics users.

12. Make recommendations to the general assembly by January 1, 1992, regarding a funding structure for the long-term implementation and continuation of a toxics pollution prevention program.

13. Work with the Iowa waste reduction center at the university of northern Iowa to assist small business toxics users with plan preparation and technical assistance.

Sec. 5. NEW SECTION. 455B.504 TOXICS POLLUTION PREVENTION PLANS.

1. A toxics user required to report under section 313 of EPCRA, 42 U.S.C. § 11023, or a large quantity generator, as defined pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., shall be encouraged to develop a facility-wide multimedia toxics pollution prevention plan, as described pursuant to this section.

2. The authority shall adopt criteria for the information required in a multimedia toxics pollution prevention plan. To the extent possible, the plans shall coordinate reporting requirements in order to minimize unnecessary duplication. The plans shall include, but are not limited to, all of the following:

a. A policy statement which articulates upper management and corporate support for the toxics pollution prevention plan and its implementation.

b. The identification and quantities of toxic substances used and released by groups of related production processes or by processes used in producing an identifiable product.

c. An assessment of the applicability of the approaches designated as toxic pollution prevention techniques including the following: input substitution; production reformulation; production process redesign or modification; production process modernization; improved operation and maintenance of existing production process equipment and methods; and recycling, reuse, or extended use of toxic substances, to the toxic users production processes as identified in paragraph "b".

d. A description of current and previous techniques used to reduce or eliminate toxics used or released.

e. An economic analysis of the proposed toxics pollution prevention plan. The economic analysis shall also include an evaluation of the impact upon the toxics user's existing labor force by division or department, and the projected impact upon future expansion of the toxics user's labor force.

f. A clear statement listing specific reduction objectives.

g. A method for employees of a toxics user to provide input and to be involved in the development of the plans. If the employees are represented by a labor union, organization, or association, a representative of the union, organization, or association shall be included in the development of the plans.

3. The plans developed under this section shall not promote the use of pollution control or waste management approaches that address waste or pollution after the creation of the waste or pollution.

4. A toxics pollution prevention plan developed under this section shall be reviewed by the authority for completeness, adequacy, and accuracy.

5. A toxics user shall maintain a copy of the plan on the premises, and shall submit a summary of the plan to the department.

Sec. 6. Section 30.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department of employment services shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, by county, and shall make the compiled reports available, annually, to each county in the state by providing the report to at least one public library in the named county.

Sec. 7. Section 30.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department of natural resources shall compile the data collected pursuant to section 313 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11023, and shall make the compiled data available to the public upon request.

Sec. 8. Section 455B.133, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Adopt rules consistent with the federal Clean Air Act of 1990, Pub. L. No. 101-549, which require the owner or operator of an air contaminant source to obtain an operating permit prior to operation of the source. The rules shall specify the information required to be submitted with the application for a permit and the conditions under which a permit may be granted, modified, suspended, terminated, revoked, reissued, or denied. The commission may impose fees, including fees upon regulated pollutants emitted from an air contaminant source, in an amount sufficient to cover all reasonable costs, direct and indirect, required to develop and administer the permit program in conformance with the federal Clean Air Act of 1990, Pub. L. No. 101-549. In the case of affected sources and affected units regulated under Title IV of the federal Clean Air Act of 1990, Pub. L. No. 101-549, such fees shall be collected only as provided in and upon submission of an application pursuant to section 408 of the federal Act. The fees collected pursuant to this subsection shall be deposited in the air contaminant source fund created pursuant to section 455B.133B, and shall be utilized solely to cover all reasonable costs required to develop and administer the programs required by Title V of the federal Clean Air Act of 1990, Pub. L. No. 101-549, including the permit program pursuant to section 502 of the federal Act and the small business stationary source technical and environmental assistance program pursuant to section 507 of the federal Act.

Sec. 9. **NEW SECTION.** 455B.133A TEMPORARY AIR TOXICS FEE IMPOSED.

1. Beginning July 1, 1991, and thereafter until such time as the operating permit fee is established by rule of the commission, and approved by the United States environmental protection agency under section 502(b) of the federal Clean Air Act of 1990, an annual fee of twenty-five dollars per ton of the hazardous air pollutants included in Title III of the federal Clean Air Act of 1990 shall be paid by the affected sources. The fee paid shall be based upon the air emissions of such pollutants as reported or estimated by the source in the previous calendar year.

A source required to report hazardous air pollutant emissions under section 313 of EPCRA shall pay a fee based upon the most recently reported emissions. A person shall pay the established fee for hazardous air pollutants which are not included in section 313 of EPCRA, but which are included in Title III of the federal Clean Air Act of 1990, based upon the facility's estimates of emissions as required by section 313 of EPCRA including threshold determinations and de minimus exclusions.

2. Moneys collected shall be deposited in the air contaminant source fund created pursuant to section 455B.133B. Notwithstanding section 8.33, any unexpended balance remaining in the fund, which was generated pursuant to this section, shall remain in the fund for the purposes designated under section 455B.133, subsection 8. Notwithstanding section 453.7, any interest and earnings on investments from moneys in the fund shall be used for the purposes of the fund.

Sec. 10. **NEW SECTION.** 455B.133B AIR CONTAMINANT SOURCE FUND CREATED.

1. An air contaminant source fund is created in the office of the treasurer of state under the control of the department. Moneys received from the fees assessed pursuant to sections

455B.133A and 455B.133, subsection 8, shall be deposited in the fund. Moneys collected pursuant to section 455B.133, subsection 8, shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the federal Clean Air Act of 1990, sections 502 and 507, Pub. L. No. 101-549. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 453.7, any interest and earnings on investments from money in the fund shall be credited to the fund.

2. Moneys collected pursuant to section 455B.133A shall be used by the department for the following:

a. To prepare, submit, and obtain approval of the permit program plan required by section 502(d) of the federal Clean Air Act of 1990.

b. To provide technical and other assistance to toxics users, relating to toxics pollution prevention and to provide funding for the costs of compiling data pursuant to section 30.7, subsection 5, and section 30.8, subsection 4.

Sec. 11. Section 455B.134, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, or modified, or existing air contaminant sources and for related control equipment, and conditional permits for electric power generating facilities subject to chapter 476A and other major stationary sources, subject to the rules adopted by the commission. The department shall furnish necessary application forms for such permits.

Sec. 12. Section 455B.134, subsection 3, Code 1991, is amended by adding the following new paragraph e, and relettering the subsequent paragraph:

NEW PARAGRAPH. e. A regulated air contaminant source for which a construction permit or conditional permit has been issued shall not be operated unless an operating permit also has been issued for the source. However, if the facility was in compliance with permit conditions prior to the requirement for an operating permit and has made timely application for an operating permit, the facility may continue operation until the operating permit is issued or denied. Operating permits shall contain the requisite conditions and compliance schedules to ensure conformance with state and federal requirements. If construction of a new air contaminant source is proposed, the department may issue an operating permit concurrently with the construction permit, if possible and appropriate.

Sec. 13. Section 455B.134, subsection 9, Code 1991, is amended to read as follows:

9. Issue orders consistent with rules to cause the abatement or control of air pollution, or to secure compliance with permit conditions. In making the orders, the director shall consider the facts and circumstances bearing upon the reasonableness of the emissions involved, including but not limited to, the character and degree of injury to, or interference with, the protection of health and the physical property of the public, the practicability of reducing or limiting the emissions from the air pollution source, and the suitability or unsuitability of the air pollution source to the area where it is located. An order may include advisory recommendations for the control of emissions from an air contaminant source and the reduction of the emission of air contaminants.

Sec. 14. Section 455B.141, Code 1991, is amended to read as follows:

455B.141 LEGAL ACTION.

If action to prevent, control, or abate air pollution is not taken in accordance with the rules established, or orders or permits issued by the department, or if the director has evidence that an emergency exists by reason of air pollution which requires immediate action to protect the public health or property, the attorney general, at the request of the director, shall commence legal action, in the name of the state, for an injunction to prevent any further or continued violation of such rule or order.

Sec. 15. Section 455D.19, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. Packaging or packaging components with a code indicating a date of manufacture prior to July 1, 1990, and packaging or packaging components used by the alcoholic beverage industry prior to July 1, 1992.

Sec. 16. CODIFICATION. The Code editor shall codify sections 455B.502 through 455B.504, as enacted in this Act, as a new part of division VII of chapter 455B.

Sec. 17. USES OF AIR CONTAMINANT SOURCE FUND – REASSESSMENT. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, if five hundred thousand dollars or less is deposited in the air contaminant source fund created in section 455B.133B, fifty thousand dollars of the moneys shall be used for the purpose designated pursuant to section 455B.133B, subsection 2, paragraph “b”, and the remainder of the moneys shall be used for the purposes designated pursuant to section 455B.133B, subsection 2, paragraph “a”. Of the amount allocated for the purposes of paragraph “b”, two thousand dollars shall be used by the department of employment services to compile data as required pursuant to section 30.7, subsection 5. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, if more than five hundred thousand dollars is deposited in the air contaminant source fund, however, not more than ninety percent of the moneys shall be used for the purpose designated pursuant to section 455B.133B, subsection 2, paragraph “a”, and not more than ten percent of the moneys shall be used for the purposes designated pursuant to section 455B.133B, subsection 2, paragraph “b”, with two thousand dollars of this portion being allocated to the department of employment services to compile data as required pursuant to section 30.7, subsection 5. Notwithstanding any limitations on division or department full-time equivalent positions in any enacted legislation, the moneys deposited in the air contaminant source fund may be expended to employ additional staff as necessary to carry out the provisions of this Act.

For the fiscal year beginning July 1, 1991, and ending June 30, 1992, a person required to pay the fee imposed pursuant to section 455B.133A shall pay the fee assessed to the department by November 1, 1991, but no later than November 30, 1991. A person who does not pay the fee by November 30, 1991, shall be assessed a penalty of ten percent of the assessed fees due. The department shall report to the general assembly no later than February 15, 1992, as to the total amount of fees collected and deposited in the air contaminant source fund, with the amount needed to satisfy the difference between the fees collected and five hundred thousand dollars.

Sec. 18. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 10, 1991

CHAPTER 256

ALTERNATIVE FORMS OF LOCAL GOVERNMENT

H.F. 693

AN ACT relating to alternative forms of local government and creating a new alternative form of local government for cities known as a consolidated metropolitan corporation, with provisions relating to its charter process, legislative body, tax collection, and service delivery, and to a new alternative form of county government.

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

Section 1. **NEW SECTION. 28E.40 REGIONAL METROPOLITAN SERVICE AREA.**

Two or more contiguous counties, cities, or cities and counties may establish a regional metropolitan service area to provide for the joint delivery of services by an agreement under this chapter, subject to the limitations and requirements of sections 331.232, 331.260, 331.261, and 331.262, subsection 2.

Sec. 2. Section 331.231, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 7. Community commonwealth form as provided in sections 331.260 through 331.263.

Sec. 3. Section 331.231, subsection 6, Code 1991, is amended to read as follows:

6. ~~County-county~~ **Multicounty** consolidated form as provided in section 331.253.

Sec. 4. Section 331.232, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. The council of any city wishing to participate in a city-county consolidation charter commission must notify the board by resolution within thirty days of the creation of the commission pursuant to subsection 1. A city's participation in a city-county consolidation charter commission may be proposed by the city council adopting a resolution in favor of participation or by eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last regular city election petitioning the council to adopt a resolution in favor of participation. The council shall within ten days of the filing of a valid petition adopt such a resolution.

Sec. 5. Section 331.233, subsection 1, Code 1991, is amended to read as follows:

1. ~~Within The members of a commission created to study the alternative forms of county government under division II, part 1, and sections 331.239, 331.241, 331.246, and 331.253, shall be appointed within forty-five days after the adoption of the resolution creating the commission; the members of the commission shall be appointed as follows:~~

Sec. 6. Section 331.233, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. The membership shall be bipartisan and gender balanced and each appointing authority under subsection 1 shall provide for representation of various age groups, racial minorities, economic groups, and representatives of identifiable geographically defined populations, all in reasonable relationship to the proportions in which these groups are present in the population of the commission area. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

The legislative appointing authorities shall be considered one appointing authority for the purpose of complying with this subsection. The senior legislative appointing authority in terms of length of legislative service shall convene the legislative appointing authorities to consult for the purpose of complying with this subsection.

Sec. 7. Section 331.233, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 3. If at any time during the commission process, the commission adopts a resolution by majority vote to prepare a charter proposing city-county consolidation or the community commonwealth form, additional members shall be appointed to the commission in order to comply with section 331.233A. The life of the commission shall be extended up to six months after the appointment of the additional members.

Sec. 8. NEW SECTION. 331.233A APPOINTMENT OF COMMISSION MEMBERS – CITY-COUNTY CONSOLIDATION OR COMMUNITY COMMONWEALTH.

1. The members of a commission created to study city-county consolidation or the community commonwealth form shall be appointed within forty-five days after the adoption of a resolution creating the commission as follows:

a. One member shall be appointed by the city council of each city participating in the charter process.

b. One member shall be appointed by the board of each county participating in the charter process. The member must be a resident of the unincorporated area of the county.

c. One member shall be appointed by each state legislator whose legislative district is located in the commission area if a majority of the constituents of that legislative district resides in the commission area. However, if a commission area does not have a state legislative district which has a majority of its constituents residing in the commission area, the legislative district having the largest plurality of constituents residing in the commission area shall appoint one member.

d. An additional member shall be appointed by each city council and each county board for every 25,000 residents in the participating city or unincorporated area of the county, whichever is applicable.

2. The commission members shall be appointed in compliance with section 331.233, subsection 2. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

3. If at any time during the commission process, the commission adopts a resolution by majority vote to prepare a charter proposing an alternative form other than city-county consolidation or the community commonwealth form, the resolution shall be submitted to the board of supervisors of the participating county, and the board shall proceed pursuant to section 331.233. The life of the commission shall be extended up to six months after the appointment of the new members.

Sec. 9. Section 331.234, subsections 3 and 4, Code 1991, are amended to read as follows:

3. The board shall provide make available to the commission in-kind services such as office space, rooms printing, supplies, and equipment for the commission and shall pay the other necessary expenses of the commission including compensation for secretarial, clerical, professional, and consultant services. The total annual expenses, not including the value of in-kind expenses, to be paid from public funds shall not exceed one hundred thousand dollars or an amount equal to thirty cents times the population of the commission area, according to the most recent certified federal census. The commission may employ staff as necessary.

4. The expenses of the commission may be paid from the general fund of the county or from any combination of public or private funds available for that purpose. The commission's annual expenses may exceed the amount in subsection 3 only if the excess is paid from private funds. If a proposed charter is submitted to the electorate, private funds donated to the commission may be used to promote passage of the proposed charter.

Sec. 10. Section 331.235, Code 1991, is amended to read as follows:

331.235 COMMISSION PROCEDURES AND REPORTS.

1. Within sixty days after its organization, the commission shall hold at least one public hearing for the purpose of receiving information and material which will assist in the drafting of a charter. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21.

2. Within nine months after the organization of the commission, the commission shall submit a preliminary report to the board, which report may include the text of the proposed charter. If a proposed charter is included in the preliminary report, the report shall also include an analysis of the fiscal impact of the proposed charter. Sufficient copies of the report shall be made available for distribution to residents of the county who request a copy. The commission shall hold at least one public hearing after submission of the preliminary report to obtain public comment.

3. Within fifteen ~~twenty~~ months after organization, the commission shall submit the final report to the board. If the commission recommends a charter including a form of government other than the existing form of government, the final report shall include the full text and an explanation of the proposed charter, an analysis of the fiscal impact of the proposed charter, any comments deemed desirable by the commission, ~~a written opinion by the attorney general stating that the proposed charter is not in conflict with constitutional or statutory law,~~ and any minority reports. The final report may recommend no change to the existing form of government and that no charter be submitted to the electorate. The final report shall be made available to the residents of the county upon request. A summary of the final report shall be published in the official newspaper ~~newspapers~~ of the county. ~~If a charter is not recommended, the commission is dissolved upon submission of its final report to the board.~~

4. The commission is dissolved on the date of the general election at which the proposed charter is submitted to the electorate. If a charter is not recommended, the commission is dissolved upon submission of its final report to the board.

Sec. 11. Section 331.236, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

331.236 BALLOT REQUIREMENTS.

Unless otherwise provided, the question of adopting the proposed alternative form of government shall be submitted to the electors in substantially the following form:

Should the (charter or amendment) described below be adopted for (insert name of local government)?

The ballot must contain a brief description and summary of the proposed charter or amendment.

Sec. 12. Section 331.237, subsection 1, Code 1991, is amended to read as follows:

1. If a proposed charter for county government is received not later than sixty days before the next general election, the board shall direct the county commissioner of elections to submit to the qualified electors of the county at the next general election the question of whether the proposed charter shall be adopted. A summary of the proposed charter or amendment must be published in the official county newspapers and in a newspaper of general circulation in each participating city, if applicable, at least ten but not more than twenty days before the date of the election. If a majority of the votes cast on the question is in favor of the proposal, the proposal is adopted.

Sec. 13. Section 331.237, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The former governing bodies shall continue to perform their duties until the new governing body is sworn into office, and shall assist the new governing body in planning the transition to the charter government.

Sec. 14. Section 331.237, subsection 3, Code 1991, is amended to read as follows:

3. If a charter is submitted to the electorate but is not adopted, another charter shall not be submitted to the electorate for ~~six~~ two years. If a charter is adopted, it may be amended at any time. If a charter is adopted, a proposed charter for another alternative form of county government shall not be submitted to the electorate for six years.

Sec. 15. Section 331.238, subsection 2, paragraph f, Code 1991, is amended to read as follows:
f. The combining of duties of elected county officials or the elimination of elected offices and the assumption of the duties of those offices by appointed officials which may differ from the requirements of section 331.323.

Sec. 16. Section 331.238, subsection 2, paragraph k, Code 1991, is amended by striking the paragraph.

Sec. 17. Section 331.238, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph after lettered paragraph k:

NEW UNNUMBERED PARAGRAPH. This subsection does not apply to the board of trustees of a county hospital.

Sec. 18. Section 331.238, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 3. An alternative form of county government shall provide for the partisan election of its officers.

Sec. 19. Section 331.247, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 5. A city may join an existing city-county consolidated government by resolution of the city council or upon petition of eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the city council of the petitioning city shall adopt a resolution in favor of participation and shall immediately forward the resolution to the legislative body of the city-county consolidated government. If a majority of the city-county consolidated legislative body approves the resolution, the question of joining the city-county consolidated government shall be submitted to the electorate of the petitioning city within sixty days after approval of the resolution.

Sec. 20. Section 331.247, Code 1991, is amended to read as follows:
331.247 CITY-COUNTY CONSOLIDATION FORM.

1. A county and one or more cities within the county may unite to form a single unit of local government in accordance with this part. If more than fifty percent of the population of a city resides within the affected county, it is a city within the county for the purposes of this section.

2. An alternative form of government, including a charter form, for a consolidated unit of government may be submitted to the voters only by a commission established under this chapter ~~and one or more commissions established by the affected cities under section 372.9 that have cooperated in the formulation of the charter.~~ A majority vote by each of the affected county charter commission ~~and city charter commission~~ is required for the submission of an alternative form of government for a consolidated unit of local government. ~~The affected county charter commission and city charter commission~~ submitting a consolidated form shall issue a ~~single joint final~~ report and proposal.

3. An alternative form of government for a consolidated unit of local government does not need to include more than one city. A city shall not be included unless ~~the charter commission of the affected city participates in the cooperative study, its commission by a majority vote approves the proposed charter for consolidated government commission process,~~ and a majority of the electors of the affected city voting approves the proposed charter for the consolidated government.

Sec. 21. Section 331.248, subsection 1, Code 1991, is amended to read as follows:

1. The affected ~~county~~ charter commission and ~~city charter~~ ~~commission~~ proposing consolidation shall prepare, adopt, and submit to the voters a consolidation charter including an alternative form of government.

Sec. 22. Section 331.248, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. Provide for establishment of service areas, except that formation of a city-county consolidation government form shall not affect the assignment of electric utility service territories pursuant to chapter 476, and shall not affect the rights of a city to grant a franchise under chapter 364.

Sec. 23. Section 331.249, subsections 1 and 2, Code 1991, are amended by striking the subsections and inserting in lieu thereof the following:

1. The consolidation of one or more cities and one or more counties shall create a unified government which includes a municipal corporation and a county. The consolidated unit shall have the separate status of a county and a city for all purposes and shall constitute two political subdivisions, a consolidated city and a county, under combined governance. The consolidated unit shall retain one separate constitutional debt limitation with respect to its status as a city and a separate constitutional debt limitation with respect to its status as a county.

2. A consolidated unit of local government may include an area which is located in another county, but which is within the corporate boundaries of one of the consolidated cities. County services shall be provided in the extra-county area and taxes to fund those services shall be collected in the extra-county area by the consolidated government, to the extent permitted by the Constitution of the State of Iowa. In addition to the right to vote in the county of residence, electors residing in the extra-county area shall have the right to vote on any matter related to the consolidated unit of local government, including election of its officials.

If a city-county consolidation charter is proposed, within ninety days following the final report of the commission, a resident or property owner of the commission area proposed to be consolidated may bring an action in district court for declaratory judgment to determine the legality of the proposed charter and to otherwise declare the effect of the charter. The referendum on the proposed charter shall be stayed during pendency of the action and for such additional time during which the proposed charter or its enabling legislation does not conform to the constitution or laws of the state of Iowa. If in its final judgment the court determines that the proposed charter fails to conform to the constitution or laws of this state, the commission shall have a period of six months in which to revise and resubmit the proposed charter.

Sec. 24. Section 331.249, subsection 3, Code 1991, is amended to read as follows:

3. All provisions of law authorizing contributions of any kind, in money or otherwise, from the state or federal government to counties and cities shall remain in full force with respect to each city and the county comprising a consolidated local government.

Sec. 25. Section 331.250, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

331.250 GENERAL POWERS OF CONSOLIDATED LOCAL GOVERNMENTS.

The consolidation charter shall provide for the delivery of services to specified areas of the consolidated local government. The governing body of the consolidated government shall administer the provision of services in each of the designated service areas and shall have the authority to determine the boundaries of the service areas. For each service provided by the consolidated government, the consolidated government shall assume the same statutory rights, powers, and duties relating to the provision of the service as if the member city were itself providing the service to its citizens.

Sec. 26. Section 331.252, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

331.252 FORM OF BALLOT — CITY-COUNTY CONSOLIDATION.

The question of city-county consolidation shall be submitted to the electors in substantially the following form:

Should the corporate existence and governments of the county of and the cities of and be consolidated into one joint city-county corporation government?

If section 331.247, subsection 4, applies, the following question shall be placed on the ballot of each participating city:

Should the (name of city or second county) participate in the consolidation charter?

The ballot must contain a brief description and summary of the proposed charter or amendment.

Sec. 27. Section 331.253, Code 1991, is amended to read as follows:

331.253 ~~REQUIREMENTS FOR COUNTY-COUNTY~~ MULTICOUNTY GOVERNMENT CONSOLIDATION.

1. Consolidation may be placed on the ballot only by a joint report by ~~contiguous two~~ two or more counties.

2. A final report must contain a consolidation charter if ~~county-county~~ multicounty consolidation is recommended. The consolidation charter must conform to the provisions and requirements in accordance with this part.

Sec. 28. Section 331.254, unnumbered paragraph 1 and subsection 5, Code 1991, are amended to read as follows:

When ~~county~~ multicounty consolidation is recommended, a petition must contain a consolidation charter which provides for:

5. The transfer, reorganization, abolition, ~~absorption~~, and adjustment of boundaries, ~~or absorption~~ of existing boards, subordinate service districts, local improvement districts, and agencies of the consolidated counties.

The consolidation charter may include other provisions that are not inconsistent with state law.

Sec. 29. Section 331.254, Code 1991, is amended by adding the following new subsections: NEW SUBSECTION. 6. The retention of each county's geographic boundaries as the boundaries existed before consolidation.

NEW SUBSECTION. 7. The merger of the elective offices of each consolidating county with the election of new officers within sixty days after the effective date of the charter. The elections shall be conducted by the county commissioner of elections of each county pursuant to section 69.13.

NEW SUBSECTION. 8. The merger of the appointive offices of each consolidating county.

Sec. 30. Section 331.255, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

331.255 FORM OF BALLOT – MULTICOUNTY CONSOLIDATION.

The question of multicounty consolidation shall be submitted to the electors in substantially the following form:

Should the consolidation charter described below be adopted for (name of applicable county)?

The ballot must contain a brief description and summary of the proposed charter.

Sec. 31. NEW SECTION. 331.256 JOINING EXISTING MULTICOUNTY CONSOLIDATED GOVERNMENT.

A county may join an existing multicounty consolidated government by resolution of the board of supervisors or upon petition of eligible electors of the county equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the board of the petitioning county shall adopt a resolution in favor of participation and shall immediately forward the resolution to the legislative body of the multicounty consolidated government. If a majority of the multicounty consolidated board of supervisors approves the resolution, the question of joining the multicounty consolidated government shall be submitted to the electorate of the petitioning county within sixty days after approval of the resolution.

Sec. 32. NEW SECTION. 331.260 COMMUNITY COMMONWEALTH.

1. A county and one or more cities or townships within the county, a contiguous county, and a city or a township within a contiguous county may unite to establish an alternative form of local government for the purpose of making more efficient use of their resources by providing for the delivery of regional services.

2. A charter proposing a community commonwealth as an alternative form of government may be submitted to the voters only by a commission established under section 331.232. A majority vote by the commission is required for the submission of a charter proposing a community commonwealth as an alternative form of local government. The commission submitting a community commonwealth form of government shall issue a final report and proposal. If an alternative form of government for a community commonwealth form of local government is proposed, approval of the commonwealth charter shall be a separate ballot issue from approval of the alternative form of government in those cities proposed to be included in the commonwealth. The commonwealth charter shall be effective in regard to a city government only if a majority of the voters of the city voting on the question voted for participation in the commonwealth charter.

The question of forming a community commonwealth shall be submitted to the electorate in substantially the same form as provided in section 331.252.

Sec. 33. NEW SECTION. 331.261 CHARTER — COMMUNITY COMMONWEALTH.

The community commonwealth charter shall provide for the following:

1. The official name of the community commonwealth government.
2. An elective legislative body established in the manner provided for county boards of supervisors under sections 331.201 through 331.216 and section 331.238.
3. Appointment of a manager pursuant to sections 331.241 through 331.243.
4. Adjustment of existing bonded indebtedness and other obligations to the extent it relates to the delivery of services.
5. The transfer or other disposition of property and other rights, claims, assets, and franchises as they relate to the delivery of services.
6. The transfer, reorganization, abolition, adjustment, and absorption of existing boards, existing subordinate service districts, local improvement districts, and agencies of the participating county and cities.
7. A system of delivery of services to the entire community commonwealth pursuant to section 331.263.
8. A formula for the transfer of taxing authority from member cities to the community commonwealth governing body to fund the delivery of regional services.
9. The transfer into the community commonwealth of area-wide services which had been provided by other boards, commissions, and local governments, except that formation of a community commonwealth shall not affect the assignment of electric utility service territories pursuant to chapter 476, and shall not affect the rights of a city to grant a franchise under chapter 364.
10. A process by which the governing body of the community commonwealth and the governing bodies of the member cities provide by mutual agreement for the delivery of specified services to the community commonwealth.
11. The partisan election of community commonwealth government officials.

The community commonwealth charter may include other provisions not inconsistent with state law.

Sec. 34. NEW SECTION. 331.262 ADOPTION OF CHARTER — EFFECT.

1. As a political subdivision of the state, the community commonwealth unit of local government shall have the statutory and constitutional status of a county and of a city to the extent the community commonwealth governing body assumes the powers and duties of cities as those powers and duties relate to the delivery of services. For each service provided by the community commonwealth, the community commonwealth shall assume the same statutory rights, powers, and duties relating to the provision of the service as if the member city were itself providing the service to its citizens.

On its effective date, the community commonwealth charter operates to replace the existing county government structure. The governments of participating cities shall remain in existence to render those services not transferred to the community commonwealth government.

2. A city or county wishing to terminate its membership in the community commonwealth government must do so pursuant to the existing charter procedure under this chapter or chapter 372, whichever is applicable.

A city or county may join an existing community commonwealth government by resolution of the board or council, whichever is applicable, or upon petition of eligible electors of the city or county, whichever is applicable, equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the applicable governing body shall adopt a resolution in favor of participation and shall immediately forward the resolution to the governing body of the community commonwealth. If a majority of the community commonwealth governing body approves the resolution, the question of joining the community commonwealth shall be submitted to the electorate of the petitioning city or county within sixty days after approval of the resolution.

Sec. 35. NEW SECTION. 331.263 SERVICE DELIVERY.

1. The governing body of the community commonwealth government shall administer the provision of services in each of the designated service areas and shall have the authority to determine the boundaries of the service areas.

2. The governing body of the community commonwealth shall have the authority to levy county taxes and shall have the authority to levy city taxes to the extent the city tax levy authority is transferred by the charter to the community commonwealth. A city participating in the community commonwealth shall transfer a portion of the city's tax levy authorized under section 384.1 or 384.12, whichever is applicable, to the governing body of the community commonwealth. The maximum rates of taxes authorized to be levied under sections 384.1 and 384.12 by a city participating in the community commonwealth shall be reduced by an amount equal to the rates of the same or similar taxes levied in the city by the governing body of the community commonwealth.

Sec. 36. Section 372.4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A city governed by the mayor-council form has a mayor and five council members elected at large, ~~unless by ordinance a city so governed chooses to have a mayor elected at large and an odd number of council members but not less than five, including at least two council members elected at large and one council member elected by and from each ward~~ the council representation plan is changed pursuant to section 372.13, subsection 11. The council may, by ordinance, provide for a city manager and prescribe the manager's powers and duties, and as long as the council contains an odd number of council members, may change the number of wards, abolish wards, or increase the number of council members at large without changing the form.

Sec. 37. Section 372.5, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A city governed by the commission form has a council composed of a mayor and four council members elected at large, ~~unless the council representation plan is changed pursuant to section 372.13, subsection 11.~~ The mayor administers the department of public affairs and each other council member is elected to administer one of the other four departments.

Sec. 38. Section 372.10, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A council representation plan pursuant to section 372.13, subsection 11.

Sec. 39. Section 372.13, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Council members shall be elected according to the council representation plans under sections 372.4 and 372.5. However, the council representation plan may be changed, by petition and election, to one of those described in this subsection. Upon receipt

of a valid petition, as defined in section 362.4, requesting a change to a council representation plan, the council shall submit the question at a special city election to be held within sixty days. If a majority of the persons voting at the special election approves the changed plan, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve the changed plan, the council shall not submit another proposal to change a plan to the voters within the next two years.

Eligible electors of a city may petition for one of the following council representation plans:

- a. Election at large without ward residence requirements for the members.
- b. Election at large but with equal-population ward residence requirements for the members.
- c. Election from single-member, equal-population wards, in which the electors of each ward shall elect one member who must reside in that ward.
- d. Election of a specified number of members at large and a specified number of members from single-member, equal-population wards.

Sec. 40. NEW SECTION. 372A.1 CREATION OF COMMISSION.

1. Cities within a county may unite to form a single unit of local government in accordance with this chapter. Any city located in two or more counties shall be allowed to participate in a metropolitan consolidation in the county where at least fifty percent of its population resides. An alternative form of metropolitan government shall be submitted to the electorate by a commission in the form of a charter or charter amendment proposed in accordance with this chapter.

2. Participation in a charter commission under this chapter may be proposed by:

- a. The city council adopting a resolution calling for participation.
- b. By petition of the number of eligible electors of the city equal to at least twenty-five percent of the votes cast in the city at the last regular city election petitioning the council to adopt a resolution calling for participation. The council shall within thirty days of the filing of a valid petition adopt such a resolution.

Sec. 41. NEW SECTION. 372A.2 APPOINTMENT OF COMMISSION MEMBERS.

1. Within forty-five days after the establishment of a commission, the members of the commission shall be appointed as follows:

- a. One member shall be appointed by the city council of each city participating in the charter process.
- b. An additional member shall be appointed by each city council for every twenty-five thousand residents in the participating city.
- c. One member shall be appointed by each state legislator whose legislative district is located in the commission area if a majority of the constituents of that legislative district resides in the commission area. However, if a commission area does not have a state legislative district which has a majority of its constituents residing in the commission area, the legislative district having the largest plurality of constituents residing in the commission area shall appoint one member.

2. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. The membership shall be bipartisan and gender balanced and each appointing authority under subsection 1 shall provide for representation of various age groups, racial minorities, economic groups, and representatives of identifiable geographically defined populations, all in reasonable relationship to the proportions in which these groups are present in the population of the commission area. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

The legislative appointing authorities shall be considered one appointing authority for the purpose of complying with this subsection. The senior legislative appointing authority in terms of length of legislative service shall convene the legislative appointing authorities to consult for the purpose of complying with this subsection.

Sec. 42. NEW SECTION. 372A.3 ORGANIZATION AND EXPENSES.

1. Within thirty days after the appointment of the members of the commission, the city clerk of the participating city with the largest population shall give written notice of the date, time, and location of the first meeting of the commission. At the first meeting the commission shall organize by electing a chairperson, vice chairperson, and other officers as necessary. The commission shall adopt rules governing the conduct of its meetings, subject to chapter 21.

2. The members of the commission shall serve without compensation, but they are entitled to travel and other necessary expenses relating to their duties of office.

3. The participating cities shall make available to the commission in-kind services such as office space, printing, supplies, and equipment and shall pay the other necessary expenses of the commission, including compensation for secretarial, clerical, professional, and consultant services. The total annual expenses, not including the value of in-kind expenses, to be paid from public funds shall not exceed one hundred thousand dollars or an amount equal to thirty cents times the population of the commission area, according to the most recent certified federal census. The commission may employ staff as necessary.

4. The expenses of the commission may be paid from the general fund of the participating cities or from any combination of public or private funds available for that purpose. The commission's annual expenses may exceed the amount in subsection 3 only if the excess is paid from private funds. If a proposed charter is submitted to the electorate, private funds donated to the commission may be used to promote passage of the proposed charter.

Sec. 43. NEW SECTION. 372A.4 COMMISSION PROCEDURES AND REPORTS.

1. Within sixty days after its organization, the commission shall hold at least one public hearing for the purpose of receiving information and material which will assist in the drafting of a charter. Notice of the date, time, and place of the hearing shall be published in the official county newspapers of each county in which the participating cities are located.

2. Within nine months after the organization of the commission, the commission shall submit a preliminary report to the councils of the participating cities, which report may include the text of the proposed charter. If a proposed charter is included in the preliminary report, the report shall also include an analysis of the fiscal impact of the proposed charter. Sufficient copies of the report shall be made available for distribution to residents of the participating cities who request a copy. The commission shall hold at least one public hearing after submission of the preliminary report to obtain public comment.

3. Within twenty months after organization, the commission shall submit the final report to the councils of the participating cities. If the commission recommends a charter of consolidation, the final report shall include the full text and an explanation of the proposed charter, an analysis of the fiscal impact of the proposed charter, any comments deemed desirable by the commission, and any minority reports. The final report may recommend no change to the existing form of government and that no charter be submitted to the electorate, or it may recommend consolidation of the participating cities with the county. If the board of supervisors by resolution agrees to participate in consolidation, then the participating cities and county shall proceed under sections 331.231 through 331.252.

4. The final report of the commission shall be made available to the residents of the participating cities upon request. A summary of the final report shall be published in the official newspapers of the county. If a charter is not recommended, the commission is dissolved upon submission of its final report to the councils of the participating cities.

Sec. 44. NEW SECTION. 372A.5 CONSOLIDATION CHARTER.

A proposed charter written by a charter commission shall specify the consolidated metropolitan form of government. The proposed consolidation charter shall do all of the following:

1. Provide the official name of the consolidated unit of local government and establish its geographic boundaries.

2. Establish an elective legislative body pursuant to section 372A.9, including provisions on terms of office, initial compensation, meetings, and rules of procedure.

- 3. Provide for the at large election of an officer to preside over the metropolitan council and perform other duties as specified, and provide for the election of other necessary officers.
- 4. Provide for the nonpartisan election of officers of the consolidated metropolitan corporation government.
- 5. Specify the powers and duties of the metropolitan council, its administrative officers, and elected officials.
- 6. Provide for delivery of certain services to the member cities, pursuant to section 372A.11, and may provide for the abolition or consolidation of a department, agency, board, or commission and the assumptions of its powers and duties by the metropolitan council or another officer.
- 7. Provide for a system of revenue collection pursuant to section 372A.10.
- 8. Provide for the orderly transition to the charter form of metropolitan consolidation.
- 9. Include other provisions which the consolidation charter commission elects to include and which are not inconsistent with state law.
- 10. Specify a charter amendment process pursuant to section 372.11.
- 11. Provide for the appointment of a manager by the metropolitan council pursuant to section 372.8.

Sec. 45. NEW SECTION. 372A.6 REFERENDUM – EFFECTIVE DATE.

- 1. If a proposed charter for consolidation is received not later than sixty days before the next general election, the council of the participating city with the largest population shall direct the county commissioner of elections to submit to the qualified electors of the participating cities at the next general election the question of whether the proposed charter shall be adopted. A summary of the proposed charter shall be published in a newspaper of general circulation in each city participating in the charter commission process at least ten but not more than twenty days before the date of the election. The proposed charter shall be effective in regard to a city only if a majority of the electors of the city voting approves the proposed charter.
- 2. If a proposed charter for consolidation is adopted:
 - a. The adopted charter shall take effect July 1 following the election at which it is approved unless the charter provides a later effective date. A special election shall be called to elect the new elective officers.
 - b. The adoption of the consolidated metropolitan corporation form of government does not alter any right or liability of any participating city in effect at the time of the election at which the charter was adopted.
 - c. All departments and agencies shall continue to operate until replaced.
 - d. All ordinances or resolutions in effect remain effective until amended or repealed, unless they are irreconcilable with the adopted charter.
 - e. Upon the effective date of the adopted charter, the participating cities shall adopt the consolidation form by ordinance, and shall file a copy with the secretary of state, and maintain available copies for public inspection.
- 3. If a charter is submitted to the electorate but is not adopted, another charter shall not be submitted to the electorate for two years. If a charter is adopted, it may be amended at any time. If a charter is adopted, a proposed charter for another alternative form of city government shall not be submitted to the electorate for six years.
- 4. Section 372.2 shall not apply to a charter commission established under this chapter.

Sec. 46. NEW SECTION. 372A.7 FORM OF BALLOT.

The question of metropolitan consolidation shall be submitted to the electors in substantially the following form:

Should the cities of and unite to form one joint metropolitan corporation government?

The ballot must contain a brief description and summary of the proposed charter or amendment.

Sec. 47. NEW SECTION. 372A.8 EFFECT OF CONSOLIDATION.

Cities consolidating pursuant to this chapter shall retain all the rights, powers, and duties conferred upon them by the Constitution of the State of Iowa and shall retain all the rights, powers, and duties conferred upon them by the laws of the state of Iowa, except to the extent those statutory rights, powers, and duties are limited by the charter government in fulfilling its duty to provide efficient administration and delivery of services to its citizens.

The consolidation charter may provide for the replacement of the city government of the member city with the largest population, according to the most recent certified federal census. That city shall be known as the home city of the consolidated metropolitan corporation. If its government is replaced, the consolidation charter shall provide that the home city be governed either directly by the metropolitan council or by those members of the metropolitan council who reside within the corporate boundaries of the home city. The home city shall retain its geographic boundaries for the purposes of taxation.

Cities participating in consolidation shall be referred to as member cities of the consolidated metropolitan corporation.

A city may join an existing consolidated metropolitan corporation government by resolution of the city council or upon petition of eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last general election for the office of governor or president of the United States, whichever is fewer. Within fifteen days after receiving a valid petition, the city council of the petitioning city shall adopt a resolution in favor of participation and shall immediately forward the resolution to the metropolitan council. If a majority of the metropolitan council approves the resolution, the question of joining the consolidated metropolitan corporation shall be submitted to the electorate of the petitioning city within sixty days after approval of the resolution.

Sec. 48. NEW SECTION. 372A.9 METROPOLITAN COUNCIL.

1. A consolidated metropolitan corporation shall be governed by a metropolitan council. The council shall consist of an odd number of members, not less than eleven and not more than seventeen. If a vacancy on the metropolitan council occurs more than sixty days before the next general election, the council shall direct the county commissioner of elections to conduct a special election to fill the vacancy until the next general election.

2. Unless otherwise specified in the consolidation charter, the council shall act by a majority vote of the members on the council.

Sec. 49. NEW SECTION. 372A.10 TAXING AUTHORITY.

The metropolitan council shall have the authority to levy city taxes to the extent the city tax levy authority is transferred by the charter to the metropolitan council. A member city shall transfer a portion of the city's tax levy authorized under section 384.1 or 384.12, whichever is applicable, to the metropolitan council. The maximum rates of taxes authorized to be levied under sections 384.1 and 384.12 by a member city shall be reduced by an amount equal to the rates of the same or similar taxes levied in the city by the metropolitan council.

Sec. 50. NEW SECTION. 372A.11 SERVICE DELIVERY.

1. The charter of consolidation shall provide for the transfer into the metropolitan consolidated corporation of areawide services which had been provided by other boards, commissions, and local governments. The metropolitan council shall have the authority to determine the boundaries of the service areas, except that formation of a consolidated metropolitan corporation shall not affect the assignment of electric utility service territories pursuant to chapter 476, and shall not affect the rights of a city to grant a franchise under chapter 364.

For each service provided by the consolidated metropolitan corporation, the consolidated metropolitan corporation shall assume the same statutory rights, powers, and duties, except taxing authority, relating to the provision of such service as if the member city were itself providing the service to its citizens. However, the consolidated metropolitan corporation shall not assume any of the governmental functions of its member cities except as the functions relate to the delivery of services and except as provided in section 372A.8.

If a service is being provided by the consolidated metropolitan corporation to any member city that member city shall not invoke any statutory right, power, or duty relating to the delivery of the service to its citizens.

2. A member city may apply to the metropolitan council for the purchase of any service which is being provided by the consolidated metropolitan corporation to any other member city, including the home city of the consolidated metropolitan corporation. Such an agreement to provide services shall be executed pursuant to chapter 28E and must contain provisions necessary for the lawful execution of the agreement.

Approved June 10, 1991

CHAPTER 257

DISPOSAL OF SOLID WASTE

H.F. 706

AN ACT relating to solid waste, providing for the appropriation of certain solid waste tonnage fees collected, and providing a penalty.

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

Section 1. NEW SECTION. 9B.1 REGISTRATION OF WASTE TIRE HAULERS.

1. For the purposes of this section, "waste tire hauler" means a person who transports for hire more than forty waste tires in a single load for commercial purposes.

2. A waste tire hauler shall register with, and obtain a certificate of registration from, the secretary of state before hauling waste tires in this state. Requirements for registration of a waste tire hauler shall include a provision that waste tire haulers shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler's employee while acting within the scope of employment. The waste tire hauler may apply for a certificate of registration by submitting the forms provided for that purpose and shall provide the name of the applicant and the address of the applicant's principal place of business and any additional information as deemed appropriate by the secretary of state.

3. A certificate of registration issued under this section is valid for one year from the date of issuance. A registered waste tire hauler may renew the certificate by filing a renewal application in the form prescribed by the secretary of state, accompanied by any applicable renewal fee.

4. The secretary of state shall establish a reasonable registration fee sufficient to offset expenses incurred in the administration of this section.

5. The secretary of state shall require that a waste tire hauler have on file with the secretary of state before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of a minimum of ten thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days' notice in writing to the waste tire hauler and to the secretary of state indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the waste tire hauler's willingness to comply with this section. The surety's liability under this subsection is limited to the amount of the bond or the amount of the damages or moneys due, whichever is less. However, this subsection does not limit the amount of damages recoverable from a waste tire hauler to the amount of the surety bond. This subsection shall not limit the recovery of damages to the amount of the surety bond. The bond

shall be made in a form prescribed by the commissioner of insurance and written by a company authorized by the commissioner of insurance to do business in this state.

6. The secretary of state shall adopt rules including imposition of civil penalties necessary for the implementation and administration of this chapter.

7. A person who knowingly and willfully violates a provision of this section is subject to a civil penalty in an amount not to exceed ten thousand dollars. Moneys collected from the penalties imposed shall be deposited in the waste volume reduction and recycling fund established pursuant to section 455D.15.

Sec. 2. Section 455B.310, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the tonnage fee amounts imposed under this subsection, in the year beginning July 1, 1991, the tonnage fee shall be increased by seventy-five cents per ton of solid waste. The moneys collected under this paragraph are appropriated and shall be used for the following purposes:

a. Ten cents per ton per year is appropriated to the department of natural resources to establish a program to provide competitive grants to regional coordinating councils for projects in regional economic development centers related to a by-products and waste exchange system. Grantees under this program shall coordinate activities with other available state or multistate waste exchanges, including but not limited to the by-products and waste search service at the university of northern Iowa. The department shall consult with the department of economic development and the waste reduction center at the university of northern Iowa in establishing criteria for and the awarding of grants under this program. The department of natural resources shall expend not more than thirty thousand dollars of the moneys appropriated under this paragraph to contract with the by-products and waste search service at the university of northern Iowa to provide training and other technical services to grantees under the program. If regional economic development centers cease to exist, the department shall revise the criteria and rules for this program to allow councils of governments or regional planning councils to be applicants for competitive grants.

b. Fifteen cents per ton per year is appropriated to the department of natural resources to establish three permanent household hazardous waste collection sites so that both urban and rural population are served and so that collection services are available to the public on a regular basis. An additional five cents per ton per year is appropriated to the department to be used for the payment of transportation costs related to household hazardous waste collection programs.

c. Twelve and one-half cents per ton per year is appropriated to the department to provide additional toxic cleanup days.

Departmental rules adopted for implementation of toxic cleanup days shall provide sufficient flexibility to respond to the household hazardous material collection needs of both small and large communities.

d. Twenty-seven and one-half cents per ton per year is appropriated to the department to provide low or no interest loans to Iowa businesses for the manufacture or remanufacture of products from postconsumer materials or to Iowa businesses which purchase equipment to achieve source reductions. The department, in consultation with the department of economic development, shall develop rating criteria for the program including criteria which gives priority in the approval of loans to firms involved in tire recycling. The department, in cooperation with the department of economic development, shall provide technical assistance to and monitoring of the technical operations of projects funded under this section.

e. Five cents per ton per year is appropriated to the department of economic development to establish, in cooperation with the department of natural resources, a marketing initiative to assist Iowa businesses producing recycling or reclamation equipment or services, recyclable products, or products from recycled materials to expand into national markets. Efforts shall include the reuse and recycling of sawdust. For the fiscal year beginning July 1, 1991,

and ending June 30, 1992, fifty thousand dollars of the moneys appropriated under this paragraph shall be allocated for the purposes of developing advanced microbiological technologies for reduction, destruction, or disposal of wet solid waste. For the fiscal year beginning July 1, 1992, and thereafter, fifty thousand dollars of the moneys appropriated under this paragraph shall be used by the department of economic development to provide grants or loans to Iowa businesses which have participated in the waste reduction assistance program of the department of natural resources or the program provided by the waste reduction center at the university of northern Iowa, and which have identified needs for equipment or retooling to achieve waste reduction.

Sec. 3. Section 455B.310, subsection 7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department shall grant exemptions from the fee requirements of subsection 2, unnumbered paragraph 1, for receipt of solid waste meeting all of the following criteria:

Sec. 4. Section 455B.310, subsection 7, paragraph e, Code 1991, is amended to read as follows:

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, unnumbered paragraph 1, to be added to the compensation or fee provisions of the contract.

Sec. 5. Section 455B.310, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 9. The department shall grant exemptions from the fee requirements of subsection 2, unnumbered paragraph 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, 1991.

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, 1991.

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, unnumbered paragraph 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, 1993.

NEW SUBSECTION. 10. Notwithstanding the tonnage fee schedule prescribed under subsection 2, foundry material that is deposited at a permitted sanitary landfill and used to replace material that would otherwise be purchased and transported from off-site for daily cover, shall be subject to the following fees:

a. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, the tonnage fee is one dollar for each ton of foundry material which is not more than forty percent of the total amount of foundry material deposited at the sanitary landfill for daily cover by any one source. The amount of foundry material deposited at the sanitary landfill which is greater than forty percent of the total amount deposited by any one source is subject to the tonnage fee imposed in subsection 2 on other solid waste.

b. For the fiscal year beginning July 1, 1992, and ending June 30, 1993, the tonnage fee is one dollar and fifty cents for each ton of foundry material which is not more than forty percent of the total amount of foundry material deposited at the sanitary landfill for daily cover by

any one source. The amount of foundry material deposited at the sanitary landfill which is greater than forty percent of the total amount deposited by any one source is subject to the tonnage fee imposed in subsection 2 on other solid waste.

c. For each fiscal year beginning on or after July 1, 1993, the tonnage fee imposed is the tonnage fee imposed in subsection 2 on other solid waste.

Sec. 6. Section 455E.11, subsection 2, paragraph a, subparagraph (11), subparagraph subdivision (b), Code 1991, is amended to read as follows:

(b) Fifteen cents per ton per year shall be allocated to local agencies for use as provided by law. used as follows:

(i) If the fees are collected by a city or county or public agency, the moneys shall be retained by the city, county, or public agency. Upon receipt of the moneys, the city, county, or public agency shall return the moneys to a city, county, or public agency served by the sanitary disposal project for the purpose of implementation of the waste volume reduction and recycling requirements of the comprehensive plans filed pursuant to section 455B.306.

(ii) If the fees are collected by a private agency which provides for the final disposal of solid waste by the residents of a city or county, the moneys shall be remitted to the department. Upon receipt of the moneys, the department shall return the moneys to the city, county, or public agency served by the sanitary disposal project for the implementation of the waste volume reduction and recycling requirements of the comprehensive plans filed pursuant to section 455B.306. Notwithstanding the remittance requirement under this subparagraph subdivision part (ii), if a private agency is designated to develop and implement the comprehensive plan pursuant to section 455B.306, the fees collected under this subparagraph subdivision part (ii) shall be retained by the private agency for the purpose of implementation of the waste volume reduction and recycling requirement of the comprehensive plans filed pursuant to section 455B.306.

Each sanitary landfill owner or operator shall submit to the department a return regarding the use of the fees allocated under this subparagraph subdivision (b) concurrently with the return submitted pursuant to section 455B.310, subsection 5.

Sec. 7. Section 455D.11, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 7. The commission shall adopt rules which provide the following:

a. That a person who contracts with another person to transport more than forty waste tires, is required to contract only with a person registered as a waste tire hauler pursuant to section 9B.1.

b. That a person who transports waste tires for final disposal is required to only dispose of the tires at a permitted sanitary disposal facility.

c. A person who does not comply with this subsection is subject to the penalty imposed pursuant to section 9B.1 and the moneys allocated shall be deposited and used pursuant to section 9B.1.

Approved June 10, 1991

CHAPTER 258**SUBSTANTIVE CODE CORRECTIONS***H.F. 709*

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities.

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

Section 1. Section 2.10, subsections 1 and 3, Code 1991, are amended to read as follows:

1. Every member of the general assembly except the presiding officer of the senate, the speaker of the house, ~~and the majority and minority floor leader of each house, and the president pro tempore of the senate and speaker pro tempore of the house,~~ shall receive an annual salary of eighteen thousand one hundred dollars for the year 1991 and subsequent years while serving as a member of the general assembly. ~~The minority floor leader of each house shall receive an annual salary of twenty-seven thousand nine hundred dollars for the year 1991 and subsequent years while serving in the capacity.~~ In addition, each such member shall receive the sum of fifty 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 if~~ 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~~ the 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 thirty-five dollars per day. Each member shall receive a seventy-five dollar per month allowance for legislative district constituency postage, travel, telephone costs, and other expenses. 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.

3. The speaker of the house, presiding officer of the senate, ~~and the majority and minority floor leader of each house~~ shall ~~each~~ receive an annual salary of twenty-seven thousand nine hundred dollars for the year 1991 and subsequent years while serving in that capacity. The president pro tempore of the senate and the speaker pro tempore of the house shall receive an annual salary of nineteen thousand one hundred dollars for the year 1991 and subsequent years while serving in that capacity. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate, the president pro tempore of the senate and the speaker pro tempore of the house, and the majority and minority leader of each house as provided for other members of the general assembly.

Sec. 2. Section 2.14, subsection 5, Code 1991, is amended to read as follows:

5. When the general assembly is not in session, a member of the general assembly shall be paid ~~forty dollars~~ the per diem and necessary travel and actual expenses, as specified in section 2.10, subsection 6, incurred in attending meetings of a standing committee or subcommittee of which the legislator is a member in addition to regular compensation. ~~Such compensation~~ However, the per diem and expenses shall be allowed only if the member attends a meeting of the committee or subcommittee for at least four hours.

Sec. 3. Section 2.35, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Members shall be appointed prior to the adjournment of the first regular session of each general assembly and shall serve for terms ending upon the convening of the following general

assembly or when their successors are appointed, whichever is later. Vacancies shall be filled in the same manner as original appointments are made and shall be for the remainder of the unexpired term of the vacancy. The members of the committee shall be reimbursed for actual and necessary expenses incurred in the performance of their duties and shall receive forty dollars be paid the per diem specified in section 2.10, subsection 6, for each day in which engaged in the performance of their duties. However, per diem compensation and expenses shall not be paid when the general assembly is actually in session at the seat of government. Expenses and per diem shall be paid from funds appropriated pursuant to section 2.12.

Sec. 4. Section 2.42, subsection 11, Code 1991, is amended to read as follows:

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

Sec. 5. Section 2.44, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Members of the legislative council shall be reimbursed for actual and necessary expenses incurred in the performance of their duties, and shall receive a be paid the per diem of forty dollars specified in section 2.10, subsection 6, for each day in which engaged in the performance of such their duties. However, such the per diem compensation and expenses shall not be paid when the general assembly is actually in session at the seat of government. Such The expenses and per diem shall be paid in the manner provided for in section 2.12.

Sec. 6. Section 2.91, subsection 2, Code 1991, is amended to read as follows:

2. Members shall be appointed to a term of four years commencing on July 1 of the year of appointment. Vacancies shall be filled in the same manner as original appointments are made and shall be for the remainder of the unexpired term of the vacancy. The members of the commission shall be reimbursed for actual and necessary expenses incurred in the performance of their duties and shall receive forty dollars be paid the per diem specified in section 2.10, subsection 6, for each day in which engaged in the performance of such their duties. However, such per diem compensation and expenses shall not be paid when the general assembly is actually in session at the seat of government. Per diem and expenses of the commission and its members shall be paid from funds appropriated pursuant to section 2.12.

Sec. 7. Section 7.17, Code 1991, is amended to read as follows:

7.17 OFFICE OF ADMINISTRATIVE RULES CO-ORDINATOR.

The governor shall establish the office of the administrative rules co-ordinator, and appoint its staff, which shall be a part of the governor's office. The administrative rules co-ordinator shall receive all notices and rules promulgated adopted pursuant to chapter 17A and provide the governor with an opportunity to review and object to any rule as provided in chapter 17A. The administrative rules co-ordinator in consultation with the Code administrative code editor shall prescribe a uniform style and form by which an agency shall prepare and file a rule pursuant to chapter 17A, which shall correlate each rule to a uniform numbering system devised by the administrative rules co-ordinator. The administrative rules co-ordinator shall review all submitted rules for style and form and may return or revise a rule which is not in proper style and form. In prescribing the style and form, the administrative rules co-ordinator shall require that the agency include a reference to the statute which the rules are intended to implement.

Sec. 8. Section 14.1, Code 1991, is amended to read as follows:

14.1 CODE EDITOR DIVISIONS – EDITORS.

1. The Iowa Code and administrative code divisions are established within the legislative service bureau.

2. The director of the legislative service bureau shall appoint the Iowa Code editor and the administrative code editor, subject to the approval of the legislative council shall appoint a Code editor who, as provided in section 2.42. The Iowa Code editor and the administrative code editor shall serve as the heads of their respective divisions, at the pleasure of the director of the legislative service bureau, and subject to the approval of the legislative council.

3. The Iowa Code and administrative code divisions are responsible for the editing, compiling, and proofreading of the publications they prepare, as provided in this chapter and notwithstanding section 18.76. The Iowa Code division is entitled to the temporary possession of the original enrolled Acts and resolutions as necessary to prepare them for publication.

Sec. 9. NEW SECTION. 14.5 DUTIES OF ADMINISTRATIVE CODE DIVISION.

The administrative code division shall:

1. Cause the Iowa administrative bulletin and the Iowa administrative code to be published as provided in chapter 17A.

2. Cause the Iowa court rules to be published, as directed by the supreme court after consultation with the legislative council. The Iowa court rules shall consist of all rules prescribed by the supreme court. The court rules shall be published in loose-leaf form, appropriately indexed, and supplements shall be prepared and distributed as directed by the supreme court. The Iowa court rules and supplements to the court rules shall be priced as provided in section 17.22.

3. Cause to be published annually in pamphlet form a correct list of state officers and deputies, members of boards and commissions, judges of the supreme, appellate, and district courts including district associate judges and judicial magistrates, and members of the general assembly. The offices of the governor and secretary of state shall cooperate in the preparation of the list. This pamphlet shall be published as soon after July 1 as it becomes apparent that it will be reasonably current.

4. Notify the administrative rules coordinator if a rule is not in proper style or form.

5. Perform other duties as directed by the director of the legislative service bureau, the legislative council, or the administrative rules review committee and as provided by law.

Sec. 10. Section 14.6, Code 1991, is amended to read as follows:

14.6 CODE EDITOR'S DUTIES OF IOWA CODE DIVISION.

The Code editor's duties Iowa Code division shall be to:

1. Submit such recommendations as the Iowa Code editor deems proper to each general assembly for the purpose of amending, revising, and codifying, such and repealing portions of the law as may be statutes which are inaccurate, inconsistent, outdated, conflicting, redundant, or ambiguous, and to lay said present the recommendations before the presiding officers of each house in bill form to the appropriate committees of the general assembly.

2. Edit and compile the Code so that the same may be printed as herein provided.

3. Prepare the manuscript copy Cause the annual session laws to be published, as provided in section 14.10, including copies of all laws, Acts, and joint resolutions passed at each session of the general assembly, and arrange the same in chapters with comprehensive index and in such manner that each chapter will show the number of the house or senate file, and cause the same to be printed by the superintendent of printing. In so doing the Code editor shall have the right to the possession of the enrolled Acts and shall have sole charge of the editing and proofreading notwithstanding the provisions of section 18.76.

4. Prepare and cause to be published, at times and in the manner the supreme court specifies after consultation with the legislative council, the rules of civil procedure, the rules of criminal procedure, the rules of appellate procedure, and other rules prescribed by the supreme court.

5. Notify the administrative rules co-ordinator that a rule is not in proper style or form.

3. Cause the Iowa Code and Iowa Code Supplement to be published as provided in section 14.12.

4. Perform other duties as directed by the director of the legislative service bureau or the legislative council and as provided by law.

Sec. 11. Section 14.10, Code 1991, is amended to read as follows:

14.10 SESSION LAWS.

1. The arrangement of the Acts and resolutions, and the size, style, type, binding, general arrangement, and tables of the session laws shall be printed and published in such the manner as specified determined by the Iowa Code editor in consultation with accordance with the policies set by the legislative council as provided in section 2.42.

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

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

3. Rules filed by the supreme court shall be included in accordance with section 602.4202.

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

5. There shall also be inserted in the session laws, the A statement of the condition of the state treasury shall be included, as provided by the Constitution of the State of Iowa. Said The statement shall be furnished by the director of revenue and finance.

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

Sec. 12. Section 14.12, Code 1991, is amended to read as follows:

14.12 STYLE OF IOWA CODE AND CODE SUPPLEMENTS.

The Code shall be prepared and published substantially in the following form and style:

1. The printing of the text shall be in a manner specified by the Code editor and approved by the legislative council.

2. The Code shall be numbered in a manner specified by the Code editor and approved by the legislative council.

1. A new Iowa Code shall be issued as soon as possible after the final adjournment of the second regular session of the general assembly. A new Code Supplement shall be issued as soon as possible after the first regular session of the general assembly. A Code Supplement may be issued after a special session of the general assembly or as required by the legislative council.

2. The entire Iowa Code shall be maintained on a computer data base which shall be updated as soon as possible after each session of the general assembly. The Iowa Code and Code Supplement shall be prepared and printed on a good quality of paper in one or more volumes, in the manner determined by the Iowa Code editor in accordance with the policies of the legislative council, as provided in section 2.42.

3. An edition of the Iowa Code or Code Supplement shall contain each Code section in its new or amended form. However, a new section or amendment which does not take effect until after the probable publication date of a succeeding Iowa Code or Code Supplement may be deferred for publication in that succeeding Iowa Code or Code Supplement. The sections shall be inserted in each edition in a logical order as determined by the Iowa Code editor in accordance with the policies of the legislative council.

3. 4. Each section of an Iowa Code or Code Supplement shall be indicated by a number printed in boldface type:

4. Each section and shall have an appropriate eatehwords or headnote printed in boldface type contrasting with the text and followed immediately by the text of the section.

5. Proper Appropriate historical references or source notes shall immediately follow the last word of may be placed following each section.

6. The Iowa Code provided for herein published after the second regular session of the general assembly shall include:

- a. An analysis of the Code by titles and chapters.
- b. The Declaration of Independence.
- c. The Articles of Confederation.
- d. The Constitution of the United States.
- e. ~~Laws~~ The laws of the United States relating to the authentication of records.
- f. The Constitution of the State of Iowa.
- g. The Act admitting Iowa into the union as a state.
- h. Chapter A chapter title, number, and chapter analysis at the head of each chapter. The chapter number shall be printed at the top of each page.
- i. All of the statutes of Iowa of a general and permanent nature, except as provided in subsection 3.
- j. ~~An A comprehensive index and a summary index covering the Constitution and statutes of the state of Iowa and, to the extent the rules are printed in the Code, rules of civil procedure, rules of criminal procedure, rules of appellate procedure, and other rules prescribed by the supreme court.~~

7. The rules of civil procedure, rules of criminal procedure, or rules of appellate procedure, and other rules prescribed by the supreme court shall be published either in the Code or a supplement to the Code in a manner specified by the supreme court after consultation with the legislative council. The publication as provided in section 14.21 may be made in lieu of a Code or supplement publication for all or a portion of the various rules if specified by the supreme court after consultation with the legislative council. In determining the manner of publication consideration shall be given to whether specific rules are subject to change by submission to the general assembly or by order of the court.

8. The Code editor may insert under any section a reference to any other related section, subject matter, or editorial comment or annotation deemed useful to a proper understanding of the Code.

9. The chapter number shall appear at the top of each page.

10. The Code shall be printed upon a good quality of paper in a manner specified by the Code editor according to the recommendations prepared by the superintendent of printing and approved by the legislative council.

7. The Code Supplement published after the first regular session of the general assembly shall include:

a. All of the statutes of Iowa of a general and permanent nature which were enacted or amended during that session, except as provided in subsection 3, and an indication of all sections repealed during that session, and any amendments to the Constitution of the State of Iowa passed by the general assembly in that session.

b. A chapter title and number for each chapter or part of a chapter included.

c. An index covering the material included.

8. A Code or Code Supplement may include appropriate tables showing the disposition of Acts of the general assembly and other reference material as determined by the Iowa Code editor in accordance with policies of the legislative council.

Sec. 13. Section 14.13, Code 1991, is amended to read as follows:

14.13 EDITORIAL POWERS AND DUTIES.

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

- a. Correct all misspelled words in the original enrollments and filed rules.
- b. Correct all manifest and grammatical and clerical errors including punctuation but without changing the meaning.
- e b. Correct internal references to sections which are cited erroneously or have been repealed, and names of agencies, officers, or other entities which have been changed, when there appears

to be no doubt as to the proper methods of making the corrections. The Code editor shall maintain a record of the corrections made under this paragraph. The record shall be available to the public.

~~d c. Transpose sections or Transfer, divide, or combine sections so as to give to distinct subject matters a section number but without changing the meaning or parts of sections and add or amend headnotes to sections and subsections. Pursuant to section 3.3, the headnotes are not part of the law.~~

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

~~2 3. The Iowa Code editor or designee, in carrying out the duties specified in this chapter relating to publication preparing the copy for an edition of the Iowa Code or a Code Supplement, and the administrative code editor in preparing the copy for an edition of the Iowa administrative code, shall edit them the copy in order that words which designate one gender will be are changed to reflect both genders when the provisions of law apply to persons of both genders. The Code editor or designee shall not make any substantive changes to the Code or Iowa administrative code while performing the editorial work.~~

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

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

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

~~3 7. The effective date of all editorial changes in an edition of the Iowa Code or supplement to the a Code Supplement is the date the legislative council approves the printing contract selling price for that publication of that edition or supplement. The effective date of all editorial changes for the Iowa administrative code is the date those changes are published in the Iowa administrative code.~~

Sec. 14. Section 14.17, Code 1991, is amended to read as follows:

14.17 CITATION OF PERMANENT CODE OR SUPPLEMENTS AND SESSION LAWS.

1. The permanent Iowa Codes or supplements thereto and Code Supplements published subsequent to the adjournment of the 1982 regular session of the Sixty-ninth General Assembly shall be known and may be cited as "Iowa Code chapter (or section)", or "Iowa Code supplement Supplement chapter (or section)", inserting the appropriate chapter or section number and year of edition. If the year of edition is needed, it may be inserted before or after the words "Iowa Code" or "Iowa Code Supplement". In Iowa publications, the word "Iowa" may be omitted if the meaning is clear.

2. The session laws of each general assembly shall be known as "Acts of the General Assembly, Session, Chapter (or File No.) , Section" (inserting the appropriate numbers) and shall be cited as Iowa Acts, chapter , section " (inserting the appropriate year, chapter, and section number).

3. The Iowa Code, Code Supplement, and session laws published under authority of the state are the only authoritative publications of the statutes of this state. No other publications of the statutes of the state shall be cited in the courts or in the reports or rules of the courts.

4. The Iowa administrative code and the Iowa administrative bulletin shall be cited as provided in section 17A.6.

Sec. 15. Section 14.21, Code 1991, is amended to read as follows:

14.21 PUBLICATION AVAILABILITY OF PARTS OF THE IOWA CODE AND COURT RULES ADMINISTRATIVE CODE.

The Iowa Code editor in consultation with the superintendent of printing division and the administrative code division, in accordance with policies established by the legislative council, may cause to be printed from time to time, in the form of leaflets, folders, or pamphlets and in such numbers as the Code editor deems reasonable, parts of the Code or administrative code to be made available for the use of public officers and other persons. The orders shall be limited to actual needs as shown by experience or other competent proof, and the printing shall be done in an economical manner approved by the legislative council. This authority shall be exercised in a manner planned to avoid delay in the other publications of the divisions.

The Code editor shall cause to be compiled, indexed, and published in loose-leaf form the Iowa court rules, which shall consist of all rules prescribed by the supreme court. The Code editor, in consultation with the superintendent of printing, shall cause to be printed and distributed supplements to the compilation on or before the effective date of either new rules, or amendments to or the repeal of existing rules. All expenses incurred by the Code editor under this paragraph shall be defrayed under section 14.22. There shall be established a price for the compilation of rules, and a separate price for each supplement. The price of the compilation and of supplements shall represent the costs of compiling and indexing, the amounts charged for printing and distribution, and a cost for labor determined by the legislative council in consultation with the state printer. On request a single copy of each compilation and of each supplement shall be distributed free of charge to each of the persons or agencies referred to in section 18.97, subsections 1, 2, 5, 6, 7, 8 and 14.

Sec. 16. Section 17.3, subsection 8, Code 1991, is amended by striking the subsection.

Sec. 17. Section 17A.4, subsection 1, paragraph a, and subsection 2, Code 1991, are amended to read as follows:

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

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

Sec. 18. Section 17A.4, subsection 4, paragraph a, and subsection 6, Code 1991, are amended to read as follows:

a. If the administrative rules review committee created by section 17A.8, the governor, or the attorney general finds objection to all or some portion of a proposed or adopted rule because that rule is deemed to be unreasonable, arbitrary, capricious, or otherwise beyond the authority

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

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

Sec. 19. Section 17A.5, subsection 1, Code 1991, is amended to read as follows:

1. Each agency shall file in the office of the administrative rules coordinator three certified copies of each rule adopted by it. The administrative rules coordinator shall assign an ARC number to each rulemaking document and forward two copies to the ~~Code~~ administrative code editor. The administrative rules coordinator shall keep a permanent register of the rules open to public inspection.

Sec. 20. Section 17A.6, subsection 1, unnumbered paragraph 1, and subsections 2, 3, 5, and 6, Code 1991, are amended to read as follows:

The ~~Code~~ administrative code editor shall cause the "Iowa Administrative Bulletin" to be published in pamphlet form at least every other week containing the following:

2. Subject to the direction of the administrative rules coordinator, the ~~Code~~ administrative code editor shall cause the "Iowa Administrative Code" to be compiled, indexed, and published in loose-leaf form containing all rules adopted and filed by each agency. The ~~Code~~ administrative code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published as determined by the administrative rules coordinator and the administrative rules review committee, containing all rules filed for publication in the prior time period. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. The administrative rules co-ordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

3. The ~~Code~~ administrative code editor may omit or cause to be omitted from the Iowa administrative code or bulletin any rule the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency at no more than its cost of reproduction, and if the Iowa administrative code or bulletin contains a notice stating the specific subject matter of the omitted rule and stating how a copy thereof of the omitted rule may be obtained.

5. All expenses incurred by the ~~Code~~ administrative code editor under this section shall be defrayed under the provisions of section 14.22.

6. The ~~Code~~ administrative code editor, with the approval of the administrative rules review committee and the administrative rules coordinator, may delete a rule from the Iowa administrative code if the agency that adopted the rule has ceased to exist, no successor agency has jurisdiction over the rule, and no statutory authority exists supporting the rule.

Sec. 21. Section 17A.8, subsection 1, paragraphs a and b, Code 1991, are amended to read as follows:

- a. ~~Three~~ Five senators appointed by the majority leader of the senate.
- b. ~~Three~~ Five representatives appointed by the speaker of the house.

Sec. 22. Section 17A.8, subsection 3, Code 1991, is amended to read as follows:

3. A committee member shall be paid a ~~forty-dollar~~ the per diem specified in section 2.10, subsection 6, for each day in attendance and shall be reimbursed for actual and necessary expenses. There is appropriated from money in the general fund not otherwise appropriated an amount sufficient to pay costs incurred under this section.

Sec. 23. Section 17A.8, subsection 4, Code 1991, is amended to read as follows:

4. The committee shall choose a chairperson from its membership and prescribe its rules of procedure. The committee may employ a secretary or may appoint the ~~Code~~ administrative code editor or a designee to act as secretary.

Sec. 24. Section 18.97, subsection 14, paragraph a, Code 1991, is amended to read as follows:

a. Iowa Code editor and administrative code editor.

Sec. 25. Section 18B.5, subsection 5, Code 1991, is amended to read as follows:

5. The directors actively engaged in international trade, the directors representing international trade associations, and the directors appointed by the Iowa association of independent colleges and universities are entitled to ~~receive forty dollars a~~ per diem as specified in section 7E.6 for each day spent in performance of duties as directors, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as directors.

Sec. 26. Section 21.2, subsection 1, paragraph f, Code 1991, is amended to read as follows:

f. A nonprofit corporation other than a county or district fair or agricultural society, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D or a nonprofit corporation which is a successor to the nonprofit corporation which built the facility.

Sec. 27. Section 22.1, unnumbered paragraphs 1 and 2, Code 1991, are amended to read as follows:

As used in this chapter, "public records" includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, nonprofit corporation other than a county or district fair or agricultural society whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.

The term "government body" means this state, or any county, city, township, school corporation, political subdivision, tax supported district, nonprofit corporation other than a county or district fair or agricultural society whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official or officer, of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.

Sec. 28. Section 97B.8, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The members who are executives of a domestic life insurance company, a state or national bank, and a major industrial corporation, and the member who is a retired member of the system, shall be paid their actual expenses incurred in performance of their duties and shall receive in addition forty dollars a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. Legislative members shall ~~receive forty dollars be paid the per diem specified in section 2.10, subsection 6~~, for each day of service, and their actual expenses incurred in the performance of their duties. The per diem and expenses of the legislative members shall be paid from funds appropriated under section 2.12. The members who are active members of the system and the director of the department shall be paid their actual expenses incurred in the performance of their duties as members of the board and performance of their duties as members of the board shall not affect their salaries, vacations, or leaves of absence for sickness or injury. The appointive terms of the members appointed by the governor are for a period

of six years beginning and ending as provided in section 69.19. If there is a vacancy in the membership of the board, the governor has the power of appointment. Appointees to this board are subject to confirmation by the senate.

Sec. 29. Section 135.11, subsection 18, Code 1991, is amended to read as follows:

18. Issue an annual report to the governor by ~~October 1 of each year~~ as provided in section 7E.3, subsection 4.

Sec. 30. Section 136.10, Code 1991, is amended to read as follows:

136.10 PUBLICATION OF PROCEEDINGS.

Upon request of the board the department shall incorporate the proceedings of the board, or any part thereof of the proceedings, in its ~~biennial~~ annual report to the governor, and ~~the same those proceedings shall then~~ be published as a part of the official report of the department.

Sec. 31. Section 141.22A, subsection 3, Code 1991, as amended by 1991 Iowa Acts, House File 655,* section 2, if enacted by the Seventy-fourth General Assembly, 1991 Session, is amended to read as follows:

3. The hospital shall notify the designated officer of the emergency care provider service who in turn shall notify any of the persons, who submitted a significant exposure report, involved in attending or transporting the individual ~~who submitted a significant exposure report~~. The identity of the designated officer shall not be revealed to the individual. The designated officer shall inform the hospital of those parties who received the notification, and following receipt of this information and upon request of the individual, the hospital shall inform the individual of the parties to whom notification was provided.

Sec. 32. Section 179.2, subsection 3, Code 1991, is amended to read as follows:

3. Appointive members of the commission shall receive ~~forty dollars a per diem~~ as specified in section 7E.6 for each day spent on official business of the commission, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in commission activity.

Sec. 33. Section 183A.10, Code 1991, is amended to read as follows:

183A.10 EXPENSES OF MEMBERS.

The members of the council shall receive ~~forty dollars a per diem~~ as specified in section 7E.6 for each day spent on official business of the council, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in council activity.

Sec. 34. Section 185.14, Code 1991, is amended to read as follows:

185.14 PER DIEM AND EXPENSES.

Each member of the board shall receive ~~thirty dollars per day~~ a per diem as specified in section 7E.6 and actual expenses in performing official board functions not to exceed forty days per year. No member of the board shall be a salaried employee of the board or any organization or agency which is receiving funds from the board. The board shall meet at least once every three months, and at such other times as deemed necessary by the board.

Sec. 35. Section 185C.14, Code 1991, is amended to read as follows:

185C.14 PER DIEM AND EXPENSES.

Each member of the board shall receive ~~thirty dollars per day~~ a per diem as specified in section 7E.6 and actual expenses in performing official board functions not to exceed forty days per year. No member of the board shall be a salaried employee of the board or any organization or agency which is receiving funds from the board. The board shall meet at least once every three months, and at such other times as deemed necessary by the board.

Sec. 36. Section 218.3, unnumbered paragraph 1 and subsection 1, Code 1991, are amended to read as follows:

The primary authority and responsibility to control, manage, direct, and operate the institutions set forth in section 218.1 is ~~hereby assigned to the administrators of the various divisions of~~ within the state department of human services as follows:

*Chapter 143 herein

1. The ~~administrator of the division of child and family services~~ director of the department of human services shall ~~have~~ has primary authority and responsibility relative to the following institutions: The state training school, and the Iowa juvenile home.

Sec. 37. Section 232.52, subsection 2, paragraph e, Code 1989, as amended by 1990 Iowa Acts, chapter 1239, section 7, is amended to read as follows:

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction and custody of the court for the purposes of section 232.54, to the director of the department of human services for purposes of placement in the state training school or other facility, provided that the child is at least twelve years of age and the court finds the placement to be in the best interests of the child or necessary for the protection of the public, and that the child has been found to have committed an act which is a forcible felony, as defined in section 702.11, or the court finds any three of the following conditions exist:

(1) The child is at least fifteen years of age. ~~The and the court finds such the placement~~ to be in the best interests of the child or necessary for the protection of the public.

(2) The child has committed an act which is a crime against a person and which would be an aggravated misdemeanor or a felony if the act were committed by an adult.

(3) The child has previously been found to have committed a delinquent act.

(4) The child has previously been placed in a treatment facility outside the child's home.

Sec. 38. Section 246.310A, Code 1991, is amended to read as follows:

246.310A INSTITUTION READING ROOMS.

The director shall, as necessary, provide ~~for the provision~~ of suitable space for reading material for inmates. For purposes of this section, "suitable reading materials material" does not include material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for inmates, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value. The space shall be located so that any visitors, other than those authorized pursuant to section 246.512, shall not be able to view the space or the materials located within that space.

Sec. 39. Section 261.12, subsection 2, Code 1991, is amended to read as follows:

2. The amount of a tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours for the fall and spring semesters, or the trimester or quarter equivalent, shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents ~~twelve semester hours, or the trimester or quarter equivalent, divided by the number of hours in which the part-time student is actually enrolled, divided by twelve semester hours or the trimester or quarter equivalent.~~

Sec. 40. Section 279.7A, Code 1991, is amended to read as follows:

279.7A INTEREST IN PUBLIC CONTRACTS PROHIBITED — EXCEPTION.

A member of the board of directors of a school corporation shall not have an interest, direct or indirect, in a contract for the purchase of goods, including materials and profits, and the performance of services for the director's school corporation. A contract entered into in violation of this section is void. This section does not apply to contracts for the purchase of goods or services, which benefit a director, if the benefit to the director does not exceed one thousand five hundred dollars in a fiscal year, and contracts made by a school board, upon competitive bid in writing, publicly invited and opened.

Sec. 41. 1991 Iowa Acts, House File 455,* section 25, if enacted by the 1991 Session of the Seventy-fourth General Assembly, is amended to read as follows:

SEC. 25. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE PROGRESS.

*Chapter 200 herein

If the results of tests evaluations, administered to a child of compulsory attendance age who is under competent private instruction, indicate that the student has failed to make adequate progress, the parent, guardian, or legal custodian shall cause the child to attend an accredited public or nonpublic school at the beginning of the next school year unless, before the beginning of the next school year, the child retakes the same test evaluation and the results indicate that adequate progress has been made, the child has demonstrated adequate performance in the opinion of an evaluator and documented in a report under section 299B.4, subsection 7, or the director of the department of education, or the director's designee, grants approval for competent private instruction to continue under a plan for remediation.

A child who is required to attend an accredited public or nonpublic school under this section shall continue attendance at an accredited public or nonpublic school until the child achieves adequate progress.

For purposes of this chapter, "adequate progress" means, for children in all grade levels of competent private instruction, test evaluation scores which are above the thirtieth percentile, nationally normed, in each of the areas of reading, mathematics, and language arts, and which indicate either that the child has made six months' progress from the previous test evaluation results or that the child is at or above grade level for the child's age. For children in grade levels six and above, "adequate progress" also means that the child has achieved test evaluation scores in both science and social studies which are above the thirtieth percentile, nationally normed, and which either indicate that the child has made six months' progress from the previous test evaluation results or that the child is at or above grade level for the child's age.

Sec. 42. Section 309.10, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A county shall not use farm-to-market road funds as described in this section unless the total funds that the county transferred or provided during the prior fiscal year pursuant to section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", are at least seventy-five percent of the maximum funds the county could have transferred in the prior fiscal year from sum of the following:

1. From the general fund of the county, 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 from.

2. From the rural services fund of the county, the dollar equivalent of a tax of three dollars and three-eighths of a cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

Sec. 43. Section 312.2, subsection 8, Code 1991, is amended to read as follows:

8. The treasurer of state, before making any allotments to counties under this section, shall reduce the allotment to a county for the secondary road fund by the amount by which the total funds that the county transferred or provided during the prior fiscal year under section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", are less than seventy-five percent of the maximum funds that the county could have transferred in the prior fiscal year from sum of the following:

a. From the general fund of the county, 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 from.

b. From the rural services fund of the county, the dollar equivalent of a tax of three dollars and three-eighths of a cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

PARAGRAPH DIVIDED. Funds remaining in the secondary road fund of the counties due to a reduction of allocations to counties for failure to maintain a minimum local tax effort shall be reallocated to counties that are not reduced under this subsection pursuant to the allocation provisions of section 312.3, subsection 1, based upon the needs and area of the county. Information necessary to make allocations under this subsection shall be provided by the state department of transportation or the director of the department of management upon request by the treasurer of state.

Sec. 44. Section 312.3, subsection 1, paragraph b, Code 1991, is amended to read as follows:

b. "Local effort" means the ratio expressed as a percent of the total funds that the county transferred or provided during the base period pursuant to section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", to the maximum funds the county could have transferred during the base period from sum of the following:

(1) From the general fund of the county, 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 from.

(2) From the rural services fund of the county, the dollar equivalent of a tax of three dollars and three-eighths of a cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

Sec. 45. Section 312.5, subsection 5, paragraph b, Code 1991, is amended to read as follows:

b. "Local effort" means the ratio expressed as a percent of the total funds that the county transferred or provided during the base period pursuant to section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", to the maximum funds the county could have transferred during the base period from sum of the following:

(1) From the general fund of the county, 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 from.

(2) From the rural services fund of the county, the dollar equivalent of a tax of three dollars and three-eighths of a cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

Sec. 46. Section 317.25, Code 1991, as amended by 1991 Iowa Acts, Senate File 34,* section 1, is amended to read as follows:

317.25 TEASEL, MULTIFLORA ROSE, AND PURPLE LOOSESTRIFE PROHIBITED — EXCEPTIONS.

A person shall not sell, offer for sale, or distribute teasel (*Dipsacus*) biennial, the multiflora rose (*rosa multiflora*), purple loosestrife (*lythrum salicaria*), or seeds of them in any form in this state. However, this section does not prohibit the sale, offer for sale, or distribution of the multiflora rose (*rosa multiflora*) used for understock for either cultivated roses or ornamental shrubs in gardens. This section also does not prohibit the sale, offer for sale, or distribution of varieties of the purple loosestrife (*lythrum virgatum*) when used for ornamental gardens, and which are sterile or nonaggressive according to a list published by the state weed commissioner pursuant to chapter 17A. A person engaged in the business of selling purple loosestrife shall keep accurate records, as specified by the department of agriculture and land stewardship, of each variety of purple loosestrife sold, offered for sale, or distributed. The person shall allow the department of agriculture and land stewardship to inspect the records during regular business hours. Any person violating the provisions of this section is subject to a fine of not exceeding one hundred dollars.

Sec. 47. Section 321J.4A, subsection 3, Code 1991, is amended to read as follows:

3. If the court issues an impoundment order, the registration certificate and registration plates shall be surrendered to the court either three days after the order is issued or on the date specified by the court, whichever is later. If the registration plates have been surrendered to the department pursuant to section 321A.17, the defendant shall notify the court. The court shall forward the notice and impoundment order to the county treasurer. The court shall forward surrendered registration certificates to the county recorder treasurer within seven days after surrender. The court may destroy the surrendered registration plates. Except as provided in subsection 5, new registration plates shall not be issued to the defendant or owner until the driver's license of the violator has been reissued or reinstated. The court shall notify the director within ten days after issuing an impoundment order.

*Chapter 5 herein

Sec. 48. Section 321J.4A, subsection 4, paragraph a, subparagraph (2), Code 1991, is amended to read as follows:

(2) The defendant or owner has a temporary restricted license issued pursuant to section ~~321J.20~~ 321J.4, subsection 8.

Sec. 49. Section 321J.4A, subsection 5, Code 1991, is amended to read as follows:

5. A registered owner shall not sell a motor vehicle during the time its registration plates and registration certificate have been ordered surrendered or during the time its registration plates bear a special series number, unless the registered owner applies to the department for consent to transfer title to the motor vehicle. If the department is satisfied that the proposed sale is in good faith and for valid consideration, that the registered owner will be deprived of custody and control of the motor vehicle, and that the sale is not for the purpose of circumventing the provisions of this section, the department may certify its consent to the county recorder treasurer. The county recorder treasurer shall then transfer the registration certificate title to the new owner upon proper application and issue new registration plates. After the registration plates and registration certificate have been ordered surrendered to the court under this section, if the title to the motor vehicle is transferred by the cancellation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the department shall order the registration certificate title surrendered to the new registered owner. The county recorder treasurer shall then transfer the registration certificate title and issue new registration plates to the new registered owner.

Sec. 50. Section 321J.17, Code 1991, 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 the 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. Notwithstanding section ~~8.33~~, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state established in section 912.14. 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. 51. Section 384.14, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Each member is entitled to receive actual and necessary expenses incurred in the performance of committee duties. Each member other than the state official members is also entitled to receive forty dollars compensation a per diem as specified in section 7E.6 for each day spent in performance of committee duties.

Sec. 52. Section 444.22, Code 1991, is amended to read as follows:

444.22 ANNUAL LEVY.

In each year the director of revenue and finance shall fix the rate in percentage to be levied upon the assessed valuation of the taxable property of the state necessary to raise such the amount for general state purposes as shall be designated by the department of management under the provisions of section ~~8.6, subsection 5~~.

Sec. 53. Section 455A.17, subsection 3, Code 1991, is amended to read as follows:

3. The delegates to the congress on resources enhancement and protection shall organize, discuss, and make recommendations to the governor, the general assembly, and the natural resource commission regarding issues concerning resources enhancement and protection. The director shall call the congress and serve as temporary chairperson. The delegates are entitled to a per diem of forty dollars as specified in section 7E.6 for expenses of office while attending the congress.

Sec. 54. Section 502.208, subsection 10, Code 1991, is amended to read as follows:

10. The administrator may by rule or order require as a condition of registration by qualification, and at the expense of the applicant or registrant, that a report by an accountant, engineer, appraiser, or other professional person be filed. The administrator may also designate one or more employees of the securities ~~department~~ bureau to make an examination of the business and records of an issuer of securities for which a registration statement has been filed by qualification, at the expense of the applicant or registrant.

Sec. 55. Section 502.601, Code 1991, is amended to read as follows:

502.601 ADMINISTRATION.

1. This chapter shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provided for in chapter 19A. The deputy administrator ~~shall be~~ is the principal operations officer of the securities ~~department~~ bureau and ~~shall be~~ is responsible to the administrator for the routine administration of the chapter and the management of the securities ~~department~~ bureau. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability, or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the administrator in this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as ~~shall be~~ needed for the administration of the chapter.

2. It is unlawful for the administrator or any officer or employee of the securities ~~department~~ bureau to use for personal benefit any information which is filed with or obtained by the administrator and which is not made public. ~~No provision of this~~ This chapter authorizes does not authorize the administrator or any such officer or employee to disclose any such information except among themselves or to other securities administrators, regulatory authorities, or governmental agencies, or when necessary or appropriate in a proceeding or investigation under this chapter. ~~No provision of this~~ This chapter either neither creates or nor derogates from any privileges which exist at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the administrator or any officer or employee of the securities ~~department~~ bureau.

Sec. 56. Section 510.5, subsection 6, as enacted by 1991 Iowa Acts, Senate File 518,* section 5, is amended to read as follows:

6. An insurer shall review its books and records each quarter and determine if any producer, as defined by section 510A.2, has become, by operation of section ~~510.2~~ 510.2A, subsection ~~3~~ 4, a managing general agent as defined in that section. If the insurer determines that a producer has become a managing general agent by operation of section ~~510.2~~ 510.2A, subsection ~~3~~ 4, the insurer shall promptly notify the producer and the commissioner of such determination and the insurer and producer shall fully comply with the provisions of this chapter within thirty days.

Sec. 57. Section 510.9, as enacted by 1991 Iowa Acts, Senate File 518,* is amended to read as follows:

510.9 EXEMPTION.

A managing general agent who complies with sections ~~510.1~~ 510.1A through 510.8 for a block of business, shall not also be required to comply with sections 510.20 and 510.21 with regard to the same block of business.

Sec. 58. Section 514.4, unnumbered paragraph 7, Code 1991, is amended to read as follows:

A corporation shall not reimburse or compensate a provider director or a subscriber director more than ~~forty dollars~~ the per diem specified in section 7E.6 plus necessary and actual expenses for attendance at a meeting of the board of directors.

*Chapter 26 herein

Sec. 59. Section 515.119, Code 1991, as enacted* by 1991 Iowa Acts, Senate File 518,** section 42, is amended to read as follows:

515.119 COMPLIANCE WITH LAW — CHANGE OF ARTICLES.

An insurance company organized under this chapter, or doing business in, this state, or any foreign or alien company doing business in this state, shall conform to the provisions of this chapter and all other laws of this state applicable to the insurance company.

Sec. 60. Section 521B.2, subsection 3, paragraph a, as enacted by 1991 Iowa Acts, Senate File 518,** section 15, is amended to read as follows:

3. a. Credit is allowed if the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this section, and the assuming insurer or United States branch of an alien assuming insurer does both of the following:

(1) Maintains a surplus with respect to policyholders in an amount of not less than twenty million dollars.

(2) Submits to the authority of this state to examine its books and records.

Sec. 61. Section 524.310, subsection 4, as enacted by 1991 Iowa Acts, House File 260,*** is amended to read as follows:

4. a. A person may reserve the exclusive use of a corporate name for a state bank by delivering an application to the secretary of state for filing. The application must ~~comply with section 490.402 and~~ set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available ~~and complies with section 490.402,~~ the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty day period.

b. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

Sec. 62. Section 534.519, subsection 3, Code 1991, is amended to read as follows:

3. Except as otherwise provided in this chapter, a mutual holding company has all powers set forth in ~~section 496A.4~~ 490.302.

Sec. 63. Section 682.38, Code 1991, is amended to read as follows:

682.38 LIABILITY — ~~REPORTS REQUIRED.~~

The clerk shall be liable upon the clerk's bond for all such funds, moneys, or securities which may be deposited with the clerk, and shall make complete verified statements thereof ~~to the board of supervisors at the January and June sessions each year~~ as required by the supreme court.

Sec. 64. Section 709.10, Code 1991, is amended to read as follows:

709.10 COST OF MEDICAL EXAMINATION IN CRIMES OF SEXUAL ABUSE.

The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be ~~borne by the department of justice~~ paid from the fund established in section 912.14.

Sec. 65. Section 714.8, subsection 14, unnumbered paragraph 1, Code 1991, as enacted by 1991 Iowa Acts, Senate File 174,**** section 1, is amended to read as follows:

Makes payment pursuant to an agreement with a dealer or market agency for livestock held by the dealer or market agency by use of a financial instrument which is a check, share draft, draft, or written order on any financial institution, as defined in section 543.1, if after seven days from the date that possession of the livestock is transferred pursuant to the purchase, the financial institution refuses payment on the instrument because of insufficient funds in the maker's account.

*"Amended" probably intended

**Chapter 26 herein

***Chapter 11 herein

****Chapter 15 herein

Sec. 66. Section 809.17, Code 1991, is amended to read as follows:
809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

Except as provided in section 809.21, proceeds from the disposal of seized or forfeited property pursuant to this chapter may be transferred in whole or in part to the victim ~~reparation~~ compensation fund created pursuant to ~~chapter 912~~ in section 912.14 at the discretion of the recipient agency, political subdivision, or department.

Sec. 67. Section 911.3, Code 1991, as amended by 1991 Iowa Acts, House File 173,* section 817, and Senate File 209,** section 37, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE.

When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit sixteen and two-thirds percent of the surcharge collected to the treasurer of state to be deposited ~~pursuant to in the fund established in section 321J.17~~ 912.14. Ninety-four percent of the remainder of the surcharge collected shall be transmitted to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit that money in the general fund of the state. The clerk of the district court shall transmit six percent of the remainder of the surcharge to the county treasurer or shall remit six percent of the remainder of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 68. NEW SECTION. 912.14 VICTIM COMPENSATION FUND.

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 709.10 and this chapter. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 69. Senate File 541,*** section 13, unnumbered paragraph 2, if enacted by the Seventy-fourth General Assembly, 1991 Session, is amended to read as follows:

Funds appropriated by this subsection are the funds anticipated to be received from the federal government under Pub. L. No. ~~100-508~~ 101-508, section 5082, which provides for the child care and development 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.

Sec. 70. Senate File 541,*** section 14, unnumbered paragraph 1, if enacted by the Seventy-fourth General Assembly, 1991 Session, is amended to read as follows:

There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1990, and ending September ~~20~~ 30, 1991, the following amount:

Sec. 71. House File 479, section 418,**** if enacted by the Seventy-fourth General Assembly, 1991 Session, is repealed.

Sec. 72. Sections 14.7 through 14.9, 14.11, 14.14 through 14.16, 14.18 through 14.20, and 217.37, Code 1991, are repealed.

Sec. 73. The amendments in this Act to sections 2.14, 2.35, 2.44, 2.91, 17A.8, 18B.5, 97B.8, 179.2, 183A.10, 185.14, 185C.14, 384.14, 455A.17, and 514.4 are retroactively applicable to January 1, 1991.

Sec. 74. The amendment in this Act to section 232.52, subsection 2, paragraph e, takes effect at 12:01 a.m. on October 1, 1991.

Approved June 10, 1991

*Chapter 260 herein

**Chapter 263 herein

***Chapter 269 herein

****Chapter 267, §418, item vetoed

CHAPTER 259**SESQUICENTENNIAL OF IOWA STATEHOOD***H.F. 710*

AN ACT creating the Iowa statehood sesquicentennial commission and fund, providing for the issuance of sesquicentennial motor vehicle registration plates, establishing fees, and providing an effective date.

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

Section 1. **NEW SECTION. 7G.1 IOWA STATEHOOD SESQUICENTENNIAL COMMISSION.**

1. **ORGANIZATION.** An Iowa statehood sesquicentennial commission is established in the office of the governor. The commission shall be chartered and shall operate as a nonprofit corporation within the state of Iowa, according to the provisions of chapter 504A.

2. **PURPOSE.** The purpose of the commission shall be to plan, coordinate, and administer activities and programs relating to the celebration of the sesquicentennial of Iowa statehood which occurs in the year 1996.

3. **MEMBERSHIP.** The commission shall consist of twenty-five members, five of whom shall be appointed by the governor, and twenty of whom shall be selected by leaders of the general assembly. Of the five members appointed by the governor, one member shall be the administrator of the state historical society within the department of cultural affairs. Of the twenty members selected by leaders of the general assembly, five members each, who may be legislators or citizens, shall be selected by the majority leader of the senate and the speaker of the house, and the minority leaders of each body respectively. The governor shall appoint the chairperson and co-chairperson of the commission, subject to confirmation by the senate. Persons making appointments shall consult with one another to ensure that the commission is balanced by gender, political affiliation, and geographic location, and to ensure selection of members representing diverse interest groups. The provisions of chapters 21 and 22 shall apply to meetings and records of the commission.

4. **RULEMAKING AUTHORITY.** The commission may adopt rules in accordance with chapter 17A in order to accomplish the purpose of the commission.

5. **AUTHORITY.** The commission may receive and make grants, receive and expend appropriations, contract for services, hold licenses and copyrights, and otherwise act as is necessary to accomplish the purpose of the commission.

6. **FUND ESTABLISHED.** The sesquicentennial fund is established as a separate fund in the state treasury under the control of the commission.

7. **FUNDS RECEIVED.** All funds received by the commission, including but not limited to gifts, transfers, endowments, application and other fees related to the issuance of sesquicentennial motor vehicle registration plates pursuant to section 321.34, subsection 14, moneys from the sale of mementos and products related to the purposes of the commission, and appropriations, shall be credited to the sesquicentennial fund and are appropriated to the commission to be invested or used to support the activities of the commission. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

8. **PERSONNEL.**

a. The commission may employ personnel, including an executive director whose salary shall not exceed executive branch pay grade classification 35, to administer its programs and services. The personnel shall be considered state employees.

b. Personnel employed by the commission shall be exempt from the merit system provisions of chapter 19A.

9. **EXPIRATION.** The commission shall expire no later than June 30, 1997. Upon expiration, all fund balances from appropriations of state funds shall be returned to the general fund

of the state, and all other assets shall be transferred to the Iowa historical foundation authorized pursuant to section 303.9, subsection 3, subject to any conditions or restrictions previously placed on the assets.

Sec. 2. NEW SECTION. 7G.2 COUNTY SESQUICENTENNIAL COMMISSIONS.

The Iowa statehood sesquicentennial commission shall certify a county sesquicentennial commission in each county in the state, for the purpose of receiving funds from the state commission and administering and coordinating a local celebration. No more than one county sesquicentennial commission shall be certified in each county.

1. **MEMBERSHIP.** Each county commission shall include one member appointed by the board of supervisors, one member appointed by the city council of each city in the county, and other members as required by administrative rules of the state commission established in section 7G.1.

2. **AUTHORITY.** Each county sesquicentennial commission may receive and expend moneys and otherwise act to coordinate and implement local celebrations of the sesquicentennial of Iowa statehood within the county of organization.

3. **EXPIRATION.** Each county sesquicentennial commission shall expire no later than June 30, 1997. Upon expiration of each commission, all fund balances and all other assets shall be transferred to a designated incorporated local historical society or designated local historical societies located within the county.

Sec. 3. Section 321.34, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 14. SESQUICENTENNIAL PLATES.

a. Upon application and payment of the proper fees, the director may issue sesquicentennial plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer.

b. In lieu of the letter number designation, the sesquicentennial plates may be designated in the manner provided for personalized registration plates under subsection 5, paragraph "a". A sesquicentennial plate shall not be issued if its combination of alphanumeric characters is identical to those contained on a current personalized registration plate issued under subsection 5, or a personalized collegiate registration plate issued under subsection 10. However, the owner of a motor vehicle who has either personalized registration plates or personalized collegiate registration plates issued for a vehicle may, after proper application and payment of fees, be issued a sesquicentennial registration plate containing the same alphanumeric characters as those on the personalized registration plates or personalized collegiate registration plates.

c. The special sesquicentennial fee for letter number designated sesquicentennial plates is fifteen dollars. The fee for personalized sesquicentennial plates is twenty-five dollars which shall be paid in addition to the special sesquicentennial fee of fifteen dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the application of section 423.24, subsection 1, paragraph "b", the treasurer of state shall credit monthly from the revenues derived from the operation of section 423.7 to the sesquicentennial fund established in section 7G.1, the amount of the special sesquicentennial fees collected in the previous month for the sesquicentennial plates.

d. Upon receipt of the special registration plates, the applicant shall surrender the current registration receipt and plates to the county treasurer. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section. The annual special sesquicentennial fee for letter number designated plates is ten dollars which shall be paid in addition to the regular annual registration fee. The annual fee for personalized sesquicentennial plates is five dollars which shall be paid in addition to the annual special sesquicentennial fee and the regular annual registration fee. The annual special sesquicentennial fee shall be credited as provided under paragraph "c".

e. The sesquicentennial plate series shall not be available to new applicants or renewable after January 1, 1997. Upon the expiration of the series, the owner of a motor vehicle who has personalized sesquicentennial plates may, after proper application and payment of fees, be issued either personalized registration plates or personalized collegiate registration plates containing the same alphanumeric characters as those on the personalized sesquicentennial plates.

Sec. 4. Section 3 of this Act takes effect January 1, 1992.

Approved June 10, 1991

CHAPTER 260

**APPROPRIATION REDUCTIONS, FUND TRANSFERS,
SURCHARGE INCREASE, AND RELATED PROVISIONS**

H.F. 173

AN ACT relating to reductions in appropriations made for the fiscal year ending June 30, 1991, to departments and agencies of state government and to other public purposes, a supplemental appropriation, and transferring moneys from the Iowa plan fund and other funds to the general fund of the state, and providing for retroactive applicability and various effective dates.

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

**DIVISION I
DEPARTMENT OF HUMAN SERVICES**

Section 101. 1990 Iowa Acts, chapter 1248, section 6, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For grants to public agencies and private nonprofit organizations which provide child day care resource and referral programs:

.....	\$	500,000
		<u>258,931</u>

Sec. 102. 1990 Iowa Acts, chapter 1258, section 1, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

.....	\$	2,480,000
		<u>1,110,000</u>

Sec. 103. 1990 Iowa Acts, chapter 1270, section 1, unnumbered paragraph 2, is amended to read as follows:

For aid to families with dependent children:

.....	\$	42,050,000
		<u>41,550,000</u>

Sec. 104. 1990 Iowa Acts, chapter 1270, section 2, unnumbered paragraph 2, is amended to read as follows:

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:

.....	\$	224,050,000
		<u>222,055,660</u>

Sec. 105. 1990 Iowa Acts, chapter 1270, section 2, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The department shall implement for the period beginning with the effective date of this Act or March 1, 1991, whichever is later, and ending June 30, 1991, the maximum copayments allowed by federal regulations for the following medical assistance services: for each laboratory or X-ray procedure provided by an X-ray and laboratory service provider; for each day of service for services provided by clinics, ambulatory surgical centers, community mental health centers, certified registered nurse anesthetists, rural health clinics, federally qualified health centers, and outpatient hospital services; for each day of service for services provided by home health agencies and physicians; and for each day of service in an inpatient hospital. Copayment shall not apply to the following: children under 21 years of age; pregnant women; persons residing in nursing facilities, residential care facilities, or psychiatric institutions; family planning services; federal medicare crossover claims; services provided by a contracting health maintenance organization; and emergency services as defined by federal regulations.

Sec. 106. 1990 Iowa Acts, chapter 1270, section 3, unnumbered paragraph 2, is amended to read as follows:

For medical contracts:

.....	\$	3,870,000
		<u>3,685,300</u>

Sec. 107. 1990 Iowa Acts, chapter 1270, section 4, unnumbered paragraph 2, is amended to read as follows:

For state supplementary assistance:

.....	\$	18,160,000
		<u>18,010,000</u>

Sec. 108. 1990 Iowa Acts, chapter 1270, section 9, subsection 1, is amended to read as follows:

1. For the JOBS program:

.....	\$	3,310,000
		<u>3,300,000</u>

~~The department may use up to \$10,000 of the funds appropriated in this section to implement the family friends program in 2 districts to provide mentors for persons receiving aid to families with dependent children under chapter 239.~~

Sec. 109. 1990 Iowa Acts, chapter 1270, section 10, unnumbered paragraph 2, is amended to read as follows:

For child support recoveries, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,900,000
		<u>2,868,378</u>
.....	FTEs	234.5

Sec. 110. 1990 Iowa Acts, chapter 1270, section 11, unnumbered paragraph 2, is amended to read as follows:

For the collection services center, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	260,000
		<u>251,378</u>
.....	FTEs	26.00

Sec. 111. 1990 Iowa Acts, chapter 1270, section 12, subsections 1 and 2, are amended to read as follows:

1. For the Iowa juvenile home at Toledo:

.....	\$	4,518,000
.....		<u>4,498,000</u>
.....	FTEs	128.5

2. For the state training school at Eldora:

.....	\$	7,809,000
.....		<u>7,630,052</u>
.....	FTEs	229.00

Sec. 112. 1990 Iowa Acts, chapter 1270, section 13, unnumbered paragraph 2, and subsection 1, as item vetoed by the governor, are amended to read as follows:

For foster care:

.....	\$	48,457,000
.....		<u>47,409,750</u>

1. As a condition, qualification, and limitation of the funds appropriated in this section, up to \$1,000,000 may be used by the department to provide enhanced funding of services to family foster homes to avert placement of children in group care facilities and at least \$3,010,053 2,018,053 shall be used to provide enhanced funding of services to group care facilities to avert placement of children in more expensive, less appropriate, or out-of-state facilities.

Sec. 113. 1990 Iowa Acts, chapter 1270, section 13, subsection 14, is amended by striking the subsection.

Sec. 114. 1990 Iowa Acts, chapter 1270, section 14, subsections 1, 2, and 6, are amended to read as follows:

1. For general administration of the department to improve staff training efforts:

.....	\$	420,000
.....		235,500

2. For funding required to oversee termination of parental rights and permanency planning efforts on a statewide basis on the condition that regular reports regarding the statewide program efforts shall be provided to the legislative fiscal bureau:

.....	\$	120,000
.....		<u>100,000</u>
.....	FTEs	3.00

6. For use by the department in conducting outcome-oriented evaluations of child protection, prevention, and treatment programs:

.....	\$	35,000
.....		<u>0</u>

Sec. 115. 1990 Iowa Acts, chapter 1270, section 15, unnumbered paragraph 2, is amended to read as follows:

For home-based services on the condition that family planning services are funded, provided that if the department amends the allocation to a program funded under this section, then the department shall promptly notify the legislative fiscal bureau of the change:

.....	\$	11,290,000
.....		<u>11,189,500</u>

Sec. 116. 1990 Iowa Acts, chapter 1270, section 19, unnumbered paragraph 2, is amended to read as follows:

For operation of the Iowa veterans home, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	28,680,000
.....		<u>28,023,826</u>
.....	FTEs	836.87

Sec. 117. 1990 Iowa Acts, chapter 1270, section 21, is amended to read as follows:

SEC. 21. 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, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the state mental health institutes for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

1. State mental health institute at Cherokee:	\$	15,158,000
		<u>14,186,485</u>
	FTEs	409.33

As a condition, qualification, and limitation of the funds appropriated in this subsection, up to ~~\$850,000~~ 96,942 shall be used to ~~phase in new residential treatment programs for adolescents who are substance abusers and~~ to develop secure beds for juveniles placed at the state mental health institute at Cherokee.

2. State mental health institute at Clarinda:	\$	7,442,000
		<u>7,275,144</u>
	FTEs	192.06

3. State mental health institute at Independence:	\$	15,033,000
		<u>14,890,257</u>
	FTEs	424.77

4. State mental health institute at Mount Pleasant:	\$	8,490,000
		207.5

Sec. 118. 1990 Iowa Acts, chapter 1270, section 22, subsections 1 and 2, are amended to read as follows:

1. State hospital-school at Glenwood:	\$	38,044,000
		<u>37,894,000</u>
	FTEs	1,178.00

2. State hospital-school at Woodward:	\$	31,383,000
		<u>30,683,000</u>
	FTEs	957.3

Sec. 119. 1990 Iowa Acts, chapter 1270, section 23, unnumbered paragraph 1, is amended to read as follows:

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary:

	\$	3,255,000
		<u>3,203,000</u>

Sec. 120. 1990 Iowa Acts, chapter 1270, section 23, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 225C.7, the special allocation portion of the community mental health and mental retardation services fund shall be reduced by \$52,000.

Sec. 121. 1990 Iowa Acts, chapter 1270, section 24, unnumbered paragraph 2, and subsection 2, are amended to read as follows:

For mental health, mental retardation, and developmental disabilities special services:

.....	\$	975,000
		<u>425,000</u>

2. Of the funds appropriated in this section, ~~\$550,000~~ 225,000 is allocated to provide supplemental per diems to community-based residential care facilities. The per diem is restricted to clients placed from the state hospital-schools and persons averted from placement in a state hospital-school who meet the appropriate level of functioning for this type of care.

Sec. 122. 1990 Iowa Acts, chapter 1270, section 28, unnumbered paragraph 2, is amended to read as follows:

For field operations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	41,963,000
		<u>40,324,879</u>
.....	FTEs	2,318.50

Sec. 123. 1990 Iowa Acts, chapter 1270, section 29, unnumbered paragraph 2, is amended to read as follows:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	9,000,000
		<u>8,271,588</u>
.....	FTEs	350.95

Sec. 124. 1990 Iowa Acts, chapter 1270, section 30, unnumbered paragraph 2, is amended to read as follows:

For development and coordination of volunteer services:

.....	\$	95,000
		<u>88,825</u>

Sec. 125. SERVICE PROVIDERS REIMBURSED BY THE DEPARTMENT OF HUMAN SERVICES.

1. Notwithstanding 1990 Iowa Acts, chapter 1270, section 31, for the period beginning with the effective date of this Act or March 1, 1991, whichever is later, and ending June 30, 1991, the reimbursement rates for the providers of services listed in this section shall be reduced in accordance with the provisions of this section.

2. a. The following providers shall have their medical assistance reimbursement rate established at a level 2 percent above the rates in effect on June 30, 1990: psychiatric medical institutions for children, providers of waived services under the home and community-based programs, optometrists for service fees only, opticians for service fees only, podiatrists, dentists, chiropractors, physical therapists, birthing centers, ambulance services, independent laboratories, area education agencies, clinics, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, hearing aid dealers, orthopedic shoe dealers, ambulatory surgery centers, and genetic counseling clinics. Reimbursement for optometric products, and durable medical products and supplies, shall be established at a level 3.2 percent above the rates in effect on June 30, 1990.

b. Reimbursement rates for physicians and certified registered nurse anesthetists shall be established at a level 1.6 percent above the rates in effect on June 30, 1990. Reimbursement rates for screening centers, maternal health centers, obstetric services when provided by physicians or certified nurse midwives, and pediatric services shall be established at a level 3.72 percent above the rates in effect on June 30, 1990.

3. The \$2.50 per day additional payment for medical assistance eligible residents of nursing facilities identified by the Iowa foundation for medical care as meeting criteria to receive special care or services shall be discontinued.

Sec. 126. GAMBLERS ASSISTANCE FUND. Notwithstanding section 99E.10, subsection 1, paragraph "a", subparagraph (1), for the fiscal year beginning July 1, 1990, \$30,000 of the gamblers assistance fund moneys made available by that subparagraph shall not be used for the purposes specified but shall be transferred to the general fund of the state.

Sec. 127. TRANSFERS AUTHORIZED — FURLOUGHS.

1. To the extent that unanticipated federal funds or expenditure savings are available, the director of the department of human services may transfer funds between the appropriations reduced in sections 101 through 123 of this Act and use the unanticipated funds or savings to avoid the use of furloughs. The director shall provide prompt notification of a transfer made pursuant to this section to the chairpersons and ranking members of the legislative fiscal committee, the chairpersons and ranking members of the joint human services appropriations subcommittee, and the legislative fiscal bureau.

2. It is the intent of the general assembly that if the appropriations reductions made by this Act require payroll reductions in the department of human services, the director of human services shall give preference to the use of voluntary furloughs and that mandatory furloughs shall only be imposed if it appears that voluntary furloughs will be inadequate to achieve the reductions.

Sec. 128. RULES. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement sections of this Act enumerated in this section. Rules adopted pursuant to section 104, relating to appropriations reductions in medical assistance, section 105, relating to copayments for services allowed by federal regulations, and section 125, relating to service providers reimbursed by the department of human services, of this Act shall become effective immediately upon filing unless a later date is specified in the rules. The rules shall also be published as notice of intended action as specified in section 17A.4.

DIVISION II
CIVIL RIGHTS COMMISSION

Sec. 201. 1990 Iowa Acts, chapter 1259, section 1, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,051,000
		<u>1,010,039</u>
.....	FTEs	37.00

DEPARTMENT OF HUMAN RIGHTS

Sec. 202. 1990 Iowa Acts, chapter 1259, section 2, subsections 2, 3, 4, 5, 6, and 7, are amended to read as follows:

2. ~~SPANISH-SPEAKING PEOPLE~~ LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	127,000
		<u>53,123</u>
.....	FTEs	3.50
		<u>2.50</u>

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	191,000
		<u>189,000</u>
.....	FTEs	4.00

Of the funds appropriated to the division, there is allocated an amount necessary to fund the central registry for brain injuries established pursuant to section 135.22.

4. STATUS OF WOMEN DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	211,000
		<u>207,500</u>
	FTEs	4.10

b. For the displaced homemaker program:

.....	\$	140,000
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5. CHILDREN, YOUTH AND FAMILIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	181,000
		<u>163,121</u>
	FTEs	8.00

Of the funds appropriated in this subsection, no less than \$36,300 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	307,000
		<u>285,277</u>
	FTEs	10.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be dispersed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for the provision of continued and expanded interpretation services.

7. STATUS OF BLACKS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	69,000
		<u>68,735</u>
	FTEs	1.50

DEPARTMENT FOR THE BLIND

Sec. 203. 1990 Iowa Acts, chapter 1259, section 4, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,458,800
		<u>1,345,087</u>
	FTEs	103.50

Sec. 204. 1990 Iowa Acts, chapter 1268, section 9, unnumbered paragraph 2, is amended to read as follows:

For the division of criminal and juvenile justice planning established pursuant to House File 2468, if enacted by the Seventy-third General Assembly, 1990 Session section 601K.1, and for not more than the following full-time equivalent positions:

.....	\$	100,000
		<u>48,063</u>
	FTEs	4.00
		<u>2.00</u>

DEPARTMENT OF ELDER AFFAIRS

Sec. 205. 1990 Iowa Acts, chapter 1259, section 5, subsection 1, and subsection 7, unnumbered paragraph 1, are amended to read as follows:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	506,000
		<u>464,989</u>
.....	FTEs	33.00
		<u>32.00</u>

It is the intent of the general assembly that the department employ an alternative housing coordinator and a long-term care coordinator as 2 of the full-time equivalent positions.

Of the funds appropriated under this subsection, \$50,000 shall be allocated to fund the representative payee project established within the department of elder affairs.

7. For elderly services programs:

.....	\$	1,531,000
		<u>1,471,000</u>

Sec. 206. 1990 Iowa Acts, chapter 1272, section 19, is amended to read as follows:

SEC. 19. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to conduct the elderlaw education program under section 249D.54:

.....	\$	75,000
		<u>48,891</u>

IOWA DEPARTMENT OF PUBLIC HEALTH

Sec. 207. 1990 Iowa Acts, chapter 1259, section 6, subsection 1, is amended to read as follows:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	829,096
		<u>775,696</u>
.....	FTEs	57.00

As a condition, limitation, and qualification of the appropriation made in this subsection, the director of the Iowa department of public health or the director's designee shall participate in an interagency working committee convened by the governor's planning council for developmental disabilities to examine the feasibility of establishing an office of disability prevention within state government.

Sec. 208. 1990 Iowa Acts, chapter 1259, section 6, subsection 2, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,171,296
		<u>1,153,766</u>
.....	FTEs	15.75

Sec. 209. 1990 Iowa Acts, chapter 1259, section 6, subsection 2, paragraph b, unnumbered paragraph 1, and subparagraph (1), are amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the office of rural health:

.....	\$	187,000
		<u>159,480</u>
.....	FTEs	4.00

(1) Of the funds appropriated in this paragraph, ~~\$57,000~~ 29,480 is allocated for the continuation of the office of rural health.

Sec. 210. 1990 Iowa Acts, chapter 1259, section 6, subsection 3, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,484,709
.....		<u>2,401,059</u>
.....	FTEs	78.50

Sec. 211. 1990 Iowa Acts, chapter 1259, section 6, subsection 3, paragraph b, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,014,000
.....		<u>975,583</u>
.....	FTEs	5.00

Sec. 212. 1990 Iowa Acts, chapter 1259, section 6, subsections 4, 5, 6, 7, 8, and 10, are amended to read as follows:

4. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	639,748
.....		<u>575,610</u>
.....	FTEs	13.50

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	223,428
.....		<u>222,328</u>
.....	FTEs	4.00

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	971,955
.....		<u>953,199</u>
.....	FTEs	19.00

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	773,995
.....		<u>736,005</u>
.....	FTEs	17.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	606,268
.....		<u>587,013</u>
.....	FTEs	12.00

10. SUBSTANCE ABUSE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	514,012
.....		<u>489,571</u>
.....	FTEs	15.00

b. For program grants:	\$	7,382,000
.....		
Sec. 213. 1990 Iowa Acts, chapter 1259, section 6, subsection 11, unnumbered paragraphs 1 of paragraphs a, c, d, e, and f, are amended to read as follows:		
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	\$	3,945,020
.....		<u>3,558,864</u>
.....	FTEs	87.60
For grants to local boards of health for the public health nursing program:	\$	2,668,000
.....		<u>2,651,000</u>
For grants to county boards of supervisors for the homemaker-home health aide program:	\$	8,699,000
.....		<u>8,454,000</u>
For the development and maintenance of well-elderly clinics in the state:	\$	655,000
.....		<u>645,000</u>
For the physician care for children program:	\$	450,000
.....		<u>425,000</u>

Sec. 214. 1990 Iowa Acts, chapter 1264, section 4, subsection 1, unnumbered paragraph 1, is amended to read as follows:
 For the division of substance abuse for program grants:

.....	\$	1,162,208
		<u>1,012,208</u>

Sec. 215. 1990 Iowa Acts, chapter 1264, section 4, subsection 2, is amended to read as follows:
 2. For the division of substance abuse for providing aftercare services for persons completing substance abuse treatment:

.....	\$	250,000
		<u>200,000</u>

Sec. 216. 1990 Iowa Acts, chapter 1272, section 20, unnumbered paragraph 1, is amended to read as follows:
 There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for purposes of administering a graduate nursing grant program at accredited private colleges or universities:

.....	\$	225,000
		<u>152,500</u>

Sec. 217. TRANSFER TO GENERAL FUND. Notwithstanding sections 255A.12 and 255A.14, upon enactment of this Act, moneys which are unencumbered and remaining in the obstetrical and newborn patient care fund shall be transferred to the general fund of the state.

DIVISION III
 DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 301. 1990 Iowa Acts, chapter 1260, section 1, subsection 1, paragraph a, is amended to read as follows:
 a. From the general fund of the state for salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,274,018
		<u>1,272,569</u>

Sec. 302. 1990 Iowa Acts, chapter 1260, section 1, subsections 2 and 4, are amended to read as follows:

2. FARM COMMODITY DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	1,097,748
		<u>1,086,866</u>
.....	FTEs	23.0

4. REGULATORY DIVISION

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	4,053,440
		<u>4,051,154</u>
.....	FTEs	140.20

b. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", \$3,342 shall be used by the regulatory division for purchase of equipment used to detect sulfamethazine contamination.

Sec. 303. 1990 Iowa Acts, chapter 1260, section 1, subsection 5, paragraph a, is amended to read as follows:

a. From the general fund of the state for salaries, support, maintenance, and miscellaneous purposes:

.....	\$	858,472
		<u>791,172</u>

Sec. 304. 1990 Iowa Acts, chapter 1260, section 1, subsection 6, paragraph a, is amended to read as follows:

a. From the general fund of the state for salaries, support, maintenance, assistance to soil conservation districts, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,462,287
		<u>5,216,522</u>
.....	FTEs	193.79
		<u>186.79</u>

At least \$240,000 of the appropriation reduction and the FTE reduction of 7 FTEs in paragraph "a" are due to the failure of the soil conservation division to comply with legislative intent to hire 18 additional soil conservation technicians by September 1, 1990, in accordance with this Act and the division's failure to notify the general assembly and the legislative fiscal bureau of its actions regarding this matter.

Sec. 305. APPROPRIATIONS REDUCTIONS SPECIFIED. The amounts by which appropriations to the department of agriculture and land stewardship are reduced by sections 301 through 304 of this Act includes \$22,105 to be obtained during the portion of the fiscal year remaining from the effective date of this Act from the amounts budgeted by the department for out-of-state travel during the fiscal year ending June 30, 1991.

DEPARTMENT OF NATURAL RESOURCES

Sec. 306. 1990 Iowa Acts, chapter 1260, section 8, subsections 2, 3, 4, 5, and 7, are amended to read as follows:

2. ADMINISTRATIVE SERVICES DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	1,903,642
		<u>1,763,272</u>
.....	FTEs	124.15
		<u>119.15</u>

3. COORDINATION AND INFORMATION DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	788,691
		<u>732,871</u>
.....	FTEs	42.08
		<u>41.08</u>

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	1,260,841
		<u>1,253,041</u>
.....	FTEs	59.62

5. ENVIRONMENTAL PROTECTION DIVISION

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	2,105,780
		<u>1,983,750</u>
.....	FTEs	142.55
		<u>140.55</u>

7. FORESTS AND FORESTRY DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	1,581,069
		<u>1,535,269</u>
.....	FTEs	55.71
		<u>54.71</u>

Sec. 307. 1990 Iowa Acts, chapter 1260, section 8, subsection 8, paragraph a, is amended to read as follows:

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

.....	\$	5,415,886
		<u>5,260,106</u>
.....	FTEs	208.05
		<u>206.05</u>

Sec. 308. APPROPRIATIONS REDUCTIONS SPECIFIED. The amounts by which appropriations to the department of natural resources are reduced by sections 306 and 307 of this Act includes \$13,000 to be obtained during the portion of the fiscal year remaining from the effective date of this Act from the amounts budgeted by the department for out-of-state travel during the fiscal year ending June 30, 1991.

Sec. 309. CLEAN FUND — SOIL CONSERVATION ACCOUNT. Notwithstanding section 99E.34, subsection 2, paragraph "b", all but \$45,000 of the moneys appropriated by that paragraph for the fiscal period beginning July 1, 1990, and ending June 30, 1991, shall not be allotted to the water protection fund but shall be transferred to the general fund of the state. The remaining \$45,000 shall be used to conduct an economic analysis of filter strips and grass waterways.

DIVISION IV
AUDITOR OF STATE

Sec. 401. 1990 Iowa Acts, chapter 1261, section 1, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,036,602
		<u>2,003,602</u>
.....	FTEs	154.50

CAMPAIGN FINANCE DISCLOSURE COMMISSION

Sec. 402. 1990 Iowa Acts, chapter 1261, section 2, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	263,118
		<u>258,533</u>
.....	FTEs	6.75

DEPARTMENT OF EMPLOYMENT SERVICES

Sec. 403. 1990 Iowa Acts, chapter 1261, section 3, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,727,562
		<u>2,541,046</u>
.....	FTEs	104.80

Sec. 404. 1990 Iowa Acts, chapter 1261, section 3, subsection 2, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,989,820
		<u>1,859,336</u>
.....	FTEs	45.76

Sec. 405. SPECIAL EMPLOYMENT SECURITY CONTINGENCY FUND. Notwithstanding the provisions of section 96.13, subsection 3, and 1990 Iowa Acts, chapter 1261, section 5, restricting the usage of the moneys in the special employment security contingency fund, up to \$200,000 of the moneys in the fund remaining unencumbered or unexpended on June 30, 1991, shall be transferred to the general fund of the state.

Sec. 406. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. Up to \$374,000 of the moneys remaining unencumbered or unexpended on June 30, 1991, in the administrative contribution surcharge fund established in section 96.7, shall be transferred to the general fund of the state. However, if the federal government provides notification that the transfer of the moneys pursuant to this section is in conflict with federal requirements, the treasurer of state shall either not transfer the moneys or shall transfer the appropriate amount from the general fund of the state back to the administrative contribution surcharge fund.

DEPARTMENT OF INSPECTIONS AND APPEALS

Sec. 407. 1990 Iowa Acts, chapter 1261, section 8, is amended to read as follows:

SEC. 8. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. FINANCE AND SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	582,796
		<u>529,796</u>
.....	FTEs	26.00

Of the amount appropriated, \$13,210, or so much thereof as is necessary, shall be expended for 1 FTE and necessary expenses in connection with the administration of payment claims to court-appointed counsel for adult and juvenile indigent defense costs.

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	559,809
		<u>547,809</u>
.....	FTEs	18.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	366,991
.....	FTEs	15.50

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	467,632
		<u>447,632</u>
.....	FTEs	39.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,627,109
		<u>1,495,109</u>
.....	FTEs	104.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	929,177
		<u>900,177</u>
.....	FTEs	26.50

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	42,804
		<u>39,904</u>
.....	FTEs	16.80

The employment appeal board shall be reimbursed by the labor services division of the department of employment services for all costs associated with hearings conducted under chapter 91C, related to contractor registration. The board is authorized to expend, in addition to the amount appropriated under this subsection, such amounts as are directly billable to the labor services division under this subsection and to retain such additional FTEs as needed to conduct hearings required pursuant to chapter 91C.

8. FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	467,946
		<u>375,946</u>
.....	FTEs	12.85

Of the amount appropriated in this subsection, the following amounts, or so much thereof as is necessary, shall be expended for the purpose designated: for the purchase of 2 laptop computers, associated printers, and other hardware and software, \$6,200; to expand the foster care registry statewide, \$25,828 for 1.00 FTE; for the Polk county foster care coordinator, \$34,342 and 1 FTE; and for expansion of the foster care review system into the eighth judicial district, \$74,433 and 2.50 FTEs.

9. 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.

10. BINGO AUDITORS

For salaries, support, maintenance, and miscellaneous purposes in connection with conducting 100 percent of the required bingo audits every 2 years, and for not more than the following full-time equivalent positions:

.....	\$	87,430
		<u>430</u>
.....	FTEs	2.00

Sec. 408. 1990 Iowa Acts, chapter 1261, section 9, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,915,141
		<u>3,875,141</u>
.....	FTEs	93.80

STATE PUBLIC DEFENDER

Sec. 409. 1990 Iowa Acts, chapter 1261, section 9, subsection 2, unnumbered paragraph 1, is amended to read as follows:

For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

.....	\$	9,700,000
		<u>9,625,000</u>

RACING AND GAMING COMMISSION

Sec. 410. 1990 Iowa Acts, chapter 1261, section 21, unnumbered paragraph 1, as item vetoed by the governor, and unnumbered paragraph 2, are amended to read as follows:

There is appropriated from the racing commission fund to the racing and gaming commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,793,953
		<u>1,785,553</u>
.....	FTEs	35.49

DEPARTMENT OF COMMERCE

Sec. 411. 1990 Iowa Acts, chapter 1261, section 12, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	856,600
.....		<u>790,600</u>
.....	FTEs	11.00

Sec. 412. 1990 Iowa Acts, chapter 1261, section 13, is amended to read as follows:

SEC. 13. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,528,295
.....		<u>1,405,295</u>
.....	FTEs	43.50

Sec. 413. 1990 Iowa Acts, chapter 1261, section 14, is amended to read as follows:

SEC. 14. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,690,167
.....		<u>4,455,167</u>
.....	FTEs	85.86

Sec. 414. 1990 Iowa Acts, chapter 1261, section 15, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,650,448
.....		<u>5,262,448</u>
.....	FTEs	118.50

Sec. 415. 1990 Iowa Acts, chapter 1261, section 16, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,067,070
.....		<u>924,070</u>
.....	FTEs	20.00

Sec. 416. 1990 Iowa Acts, chapter 1261, section 18, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,282,403
.....		<u>4,148,403</u>
.....	FTEs	92.33

Sec. 417. 1990 Iowa Acts, chapter 1261, section 20, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,650,920
.....		<u>4,399,920</u>
.....	FTEs	87.50

DIVISION V
DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 501. 1990 Iowa Acts, chapter 1231, section 2, is amended to read as follows:

SEC. 2. APPROPRIATION.

There is appropriated from the general fund of the state to the department of economic development for the fiscal period beginning July 1, 1990, and ending January 15, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the entrepreneurship task force for expenses as necessary:

.....	\$	25,000
.....		<u>0</u>

Sec. 502. 1990 Iowa Acts, chapter 1262, section 1, subsections 2, 3, 4, 5, 6, 7, 10, as item vetoed by the governor, 12, 13, 14, 18, 19, 23, 24, 26, 27, as item vetoed by the governor, 29, 32, 33, and 34, are amended to read as follows:

2. TOURISM OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	728,835
.....		<u>706,835</u>
.....	FTEs	15.97

As a condition, limitation, and qualification of the appropriation made in this subsection, the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing.

3. TOURISM ADVERTISING

For contracting exclusively for tourism advertising for in-state and out-of-state tourism marketing services, tourism promotion programs, electronic media, print media, and printed materials:

.....	\$	3,450,000
.....		<u>3,230,500</u>

As a condition, limitation, and qualification of the appropriation made in this subsection, the department shall develop public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

The department shall cooperate with the state historical society and department of natural resources to study, examine, and make recommendations on how best to develop, promote, and advertise state historical sites and on how best to utilize state historical sites in the state's tourism advertising and promotion. The department of cultural affairs shall report to the general assembly the findings of the study by February 1, 1991.

Of the amount appropriated in this subsection, ~~\$100,000~~ 30,500 shall go to the department of cultural affairs to be used for the promotion of state-owned and operated cultural and historical sites.

4. NATIONAL MARKETING OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	822,535
.....		<u>777,235</u>
.....	FTEs	16.00

As a condition, limitation, and qualification of the appropriation made in this subsection, the appropriation shall not be used for advertising placement contracts for out-of-state national marketing programs.

5. NATIONAL MARKETING ADVERTISING

For contracting exclusively for marketing and promotion programs and services and advertising contracts for out-of-state national marketing programs, for electronic media, print media, and printed materials:

.....	\$	3,000,000
		<u>2,550,000</u>

As a condition, limitation, and qualification of the appropriation made by this subsection, the department shall develop public-private partnerships with Iowa businesses, Iowa business organizations, Iowa chambers of commerce, and political subdivisions in this state, to assist in the development of the marketing efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

6. FILM OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	200,000
.....	FTEs	2.00

7. INTERNATIONAL TRADE OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	407,632
		<u>393,332</u>
.....	FTEs	6.00

10. EXPORT TRADE ACTIVITIES PROGRAM

For export trade activities, including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, by providing for the lease/sublease of showcase space in existing world trade centers, by providing temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support for not more than the following full-time equivalent positions:

.....	\$	400,000
		<u>380,000</u>
.....	FTEs	0.25

12. DOMESTIC MARKETING PROGRAMS

For purposes of programs listed in this subsection, including salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time positions:

a. Small business program:

.....	\$	151,314
		<u>142,914</u>
.....	FTEs	2.00

b. Small business advisory council:

.....	\$	5,000
-------	----	-------

c. Targeted small business program:

.....	\$	47,692
.....	FTEs	1.00

d. Existing industry program:

.....	\$	125,594
.....	FTEs	3.00

13. FEDERAL PROCUREMENT OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	140,000
.....		<u>120,000</u>
.....	FTEs	3.50

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1991.

14. COMMUNITY PROGRESS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	642,838
.....		<u>632,838</u>
.....	FTEs	12.00

Of the amount appropriated in this subsection, up to \$27,000, and 1 FTE shall be used to assist communities or groups of communities to develop and implement planning efforts for community, business, and economic development.

18. COMMUNITY ECONOMIC BETTERMENT PROGRAM

For use of the fund established in this subsection:

.....	\$	4,650,000
.....		<u>4,457,000</u>

Notwithstanding section 8.33, moneys appropriated from the community economic betterment account for the fiscal years beginning July 1, 1985, under section 99E.31, subsection 2, and July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, under section 99E.32, subsection 2, that remain unencumbered or unobligated on June 30, 1990, all unexpended cash balances of obligated and encumbered funds remaining in the community economic betterment account on June 30, 1990, and loan repayments or other moneys received from awards made from the community economic betterment account shall not revert to any fund but shall be deposited in a special community economic betterment program fund to be used by the department of economic development for the community economic betterment program and to supplement the funds appropriated in this subsection for that program. The conditions, criteria, and limitations referred to or specified in section 99E.32, subsection 2, paragraph "b", apply to the providing of moneys under the community economic betterment program from the fund established in this subsection.

Notwithstanding section 8.33, moneys in this special fund at the end of each fiscal year shall not revert to any other fund but shall remain in this community economic betterment program fund.

19. IOWA PRODUCT DEVELOPMENT CORPORATION

To the fund established under section 28.89:

.....	\$	1,500,000
.....		<u>1,286,000</u>

23. MAIN STREET/RURAL MAIN STREET PROGRAM:

.....	\$	639,000
.....		<u>368,000</u>

Moneys appropriated in this subsection may be used for salaries and support for not more than the following full-time equivalent positions:

.....	FTEs	3.00
-------	------	------

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

24. ECONOMIC DEVELOPMENT TRAINING PROGRAM

For an economic development training program at the school of business at the university of northern Iowa which shall use these funds in consultation with the department of economic development, the university, and the professional developers of Iowa:

..... \$ 75,000
0

26. WELCOME CENTER PROGRAM:

..... \$ 350,000
347,738

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

As a condition, limitation, and qualification of the appropriations made in this subsection, moneys appropriated shall be used for implementation of the recommendations of the statewide long-range plan for developing and operating welcome centers throughout the state. In addition, the department shall evaluate the operation of the pilot project welcome centers established pursuant to sections 15.271 and 15.272 and report to the general assembly by January 15, 1991, its recommendations for long-term operation of the pilot project welcome centers.

27. SATELLITE REGIONAL ECONOMIC DEVELOPMENT CENTER PROGRAM:

..... \$ 1,495,000
1,484,000

Of the moneys appropriated in this subsection, \$350,000 shall be for international trade and science and technology transfer outreach programs conducted by satellite regional centers. Each satellite regional center shall be allocated by the department not less than \$20,000 nor more than \$50,000 for these purposes. The amount allocated to a satellite regional center is in addition to other moneys allocated to the satellite regional center.

If the satellite centers are renamed or replaced by other regional-based centers as a result of legislation enacted by the Seventy-third General Assembly, 1990 Session, the appropriation and reference in this subsection and other provisions of this Act shall mean the renamed or replacement regional-based centers, as applicable.

29. JOB RETRAINING PROGRAM

To the Iowa employment retraining fund created in section 15.298:

..... \$ 2,000,000
1,913,200

32. YOUTH WORK FORCE PROGRAMS

a. For purposes of the conservation corps, including salary, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

..... \$ 1,242,789
1,142,789
..... FTEs 2.00

Not more than \$95,000 of the moneys appropriated in this paragraph shall be used for administration of the program.

b. For purposes of the Iowa corps, including salary, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

..... \$ 109,836
..... FTEs 1.00

Not more than \$35,000 of the moneys appropriated in this paragraph shall be used for administration of this program.

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

Notwithstanding section 8.33, moneys appropriated from the Iowa community development loan fund for the fiscal year beginning July 1, 1989, under 1989 Iowa Acts, chapter 308, section

2, subsection 1, that remain unencumbered or unobligated on June 30, 1990, or that are encumbered or obligated but remain unexpended on June 30, 1990, shall not revert to any fund but shall be available for expenditure for the purposes designated in this subsection during the fiscal year beginning July 1, 1990, and shall be in addition to any other moneys available under this subsection for those purposes.

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1991.

33. SMALL BUSINESS NEW JOBS TRAINING PROGRAM

To the revolving loan account of the area school job training fund established under section 280C.6 for the Iowa small business new jobs training program:

.....	\$	1,000,000
		<u>800,000</u>

34. SMALL BUSINESS INNOVATION RESEARCH:

.....	\$	100,000
		<u>80,000</u>

Sec. 503. 1990 Iowa Acts, chapter 1262, section 2, unnumbered paragraph 2, is amended to read as follows:

For deposit in the Wallace technology transfer foundation fund created by the foundation board:

.....	\$	2,729,880
		<u>2,669,880</u>

INTERNET

Sec. 504. 1990 Iowa Acts, chapter 1262, section 4, is amended to read as follows:

SEC. 4. INTERNET.

There is appropriated from the general fund of the state to INTERNET for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the international network on trade fund created by the INTERNET board:

.....	\$	460,000
		<u>385,000</u>

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 505. 1990 Iowa Acts, chapter 1262, section 6, subsection 4, is amended to read as follows:

4. RESEARCH AND DEVELOPMENT CONSORTIUMS

For operation of the consortiums established under chapter 262B:

.....	\$	300,000
		<u>0</u>

Sec. 506. Notwithstanding section 28.120, subsections 5 and 6, the amount of the appropriation reduced under section 505 of this Act shall be transferred from the Iowa community development loan fund and deposited into the general fund of the state.

Sec. 507. 1990 Iowa Acts, chapter 1262, section 10, subsections 3 and 5, are amended to read as follows:

3. To fund a multistate trade office in Canada:

.....	\$	50,000
		<u>0</u>

5. For a riverfront development and restoration grant program to be used for construction, renovation, or restoration of existing or new structures that enhance the historic, educational, or recreational value of the riverfront area:

.....	\$	150,000
		<u>0</u>

As a condition, limitation, and qualification of the appropriation, the department shall give priority to projects that provide at least a 2-to-1 dollar match from private or other sources.

Sec. 508. Notwithstanding section 15.251, subsection 2, the amount of the appropriation reduced under section 507 of this Act shall be transferred from the jobs now account of the Iowa plan fund for economic development to the general fund of the state.

STATE BOARD OF REGENTS AND ITS INSTITUTIONS

Sec. 509. 1990 Iowa Acts, chapter 1262, section 11, subsection 1, is amended to read as follows:

- 1. To the university of northern Iowa for the decision-making science institute:

	\$	750,000
		<u>575,000</u>

Sec. 510. The appropriations made to Iowa state university of science and technology under 1990 Iowa Acts, chapter 1262, section 1, subsection 35, section 6, subsection 5, and section 11, shall be reduced by \$100,000. The university shall select which of the purposes which received appropriations under 1990 Iowa Acts, chapter 1262, section 1, subsection 35, section 6, subsection 5, and section 11, shall be reduced so that the reduction in appropriations of \$100,000 is reached. If the university chooses to reduce the appropriation to the research parks under section 6, subsection 5, the amount of that reduction shall be transferred from the Iowa community development loan fund to the general fund of the state by June 30, 1991. Within one day following the enactment of this Act, the university shall notify the department of management and legislative fiscal bureau of which appropriations shall be reduced and by what amount.

Sec. 511. The appropriations made to the state university of Iowa under 1990 Iowa Acts, chapter 1262, section 1, subsection 35; section 6, subsection 5; and section 11, shall be reduced by \$50,000. The university shall select which of the purposes which received appropriations under 1990 Iowa Acts, chapter 1262, section 1, subsection 35, section 6, subsection 5, and section 11, shall be reduced so that the reduction in appropriations of \$50,000 is reached. If the university chooses to reduce the appropriation to the research parks under section 6, subsection 5, the amount of that reduction shall be transferred from the Iowa community development loan fund to the general fund of the state by June 30, 1991. Within one day following the enactment of this Act, the university shall notify the department of management and legislative fiscal bureau of which appropriations shall be reduced and by what amount.

IOWA FINANCE AUTHORITY

Sec. 512. 1990 Iowa Acts, chapter 1262, section 3, subsection 1, paragraph a, is amended to read as follows:

- 1. HOUSING ASSISTANCE PROGRAM
 - a. To provide mortgage and finance assistance to individuals for the purchase or acquisition of homes:

	\$	2,000,000
		<u>500,000</u>

DIVISION VI
SECRETARY OF STATE

Sec. 601. 1990 Iowa Acts, chapter 1266, section 1, as item vetoed by the governor, is amended to read as follows:

- 1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	1,677,000
		<u>1,626,630</u>
	FTEs	<u>50.00</u>

GOVERNOR

Sec. 602. 1990 Iowa Acts, chapter 1266, section 2, is amended to read as follows:

SEC. 2. There is appropriated from the general fund of the state to the office of the governor for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor, and for not more than the following full-time equivalent positions:

.....	\$	889,000
		<u>858,000</u>
.....	FTEs	17.00

2. For the governor's expenses connected with office:

.....	\$	4,000
		<u>3,000</u>

3. For salaries, support, maintenance, and miscellaneous purposes for the governor's quarters at Terrace Hill, and for not more than the following full-time equivalent positions:

.....	\$	95,000
		<u>93,300</u>
.....	FTEs	3.00

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 \$40, and actual expenses of committee, council, or task force members and as a condition, limitation, and qualification of this appropriation, the ad hoc committees, councils, and task forces appointed by the governor shall be subject to chapters 21 and 22 and the members shall be so informed:

.....	\$	7,000
		<u>2,000</u>

5. For salaries, support, maintenance, and miscellaneous purposes for the office of administrative rules coordinator, and for not more than the following full-time equivalent positions:

.....	\$	103,000
		<u>102,000</u>
.....	FTEs	2.00

6. For payment of Iowa's membership in the national governors' conference:

.....	\$	75,000
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Sec. 603. 1990 Iowa Acts, chapter 1266, section 3, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	105,000
		<u>82,000</u>
.....	FTEs	8.00

LIEUTENANT GOVERNOR

Sec. 604. 1990 Iowa Acts, chapter 1266, section 5, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, and miscellaneous purposes including the lieutenant governor's compensation and expenses including service as a member of the legislative council and per diem and expenses incurred while performing duties of the lieutenant governor when the general assembly is not in session:

.....	\$	34,000
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TREASURER OF STATE

Sec. 605. 1990 Iowa Acts, chapter 1266, section 7, is amended to read as follows:

SEC. 7. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	762,000
		<u>733,880</u>
.....	FTEs	28.00

Of the amount appropriated by this section, \$29,839 shall be used for salary and support for one full-time equivalent position designated as a computer programmer.

DEPARTMENT OF GENERAL SERVICES

Sec. 606. 1990 Iowa Acts, chapter 1266, section 10, subsections 1, 2, 4, 6, 7, and 8, are amended to read as follows:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	492,000
		<u>480,000</u>
.....	FTEs	16.00

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	413,000
		<u>153,000</u>
.....	FTEs	19.00

4. MATERIALS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	92,000
		<u>91,000</u>
.....	FTEs	3.30

6. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	492,000
		<u>491,000</u>
.....	FTEs	22.00

7. RECORDS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	422,000
		<u>421,000</u>
.....	FTEs	14.50

8. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,175,000
		<u>6,687,804</u>
.....	FTEs	158.00

Sec. 607. 1990 Iowa Acts, chapter 1266, section 11, is amended to read as follows:
SEC. 11.

There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

.....	\$	2,000
		<u>1,600</u>

2. UTILITY COSTS

For payment of utility costs:

.....	\$	2,002,000
		<u>1,902,000</u>

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 100 percent payback within a 24 month period. The department of general services shall report quarterly to the chairpersons and ranking members of the administration appropriations subcommittee concerning the savings generated as a result of implementation of these projects.

3. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16:

.....	\$	608,000
		<u>544,000</u>

4. FIRE SAFETY

For payment of costs incurred in providing for additional fire safety measures:

.....	\$	67,000
		<u>0</u>

The moneys appropriated by this subsection may be used for, but are not limited to, the provision of alarm warning systems and additional means of egress. Moneys provided under this subsection shall not be used to defray the costs of deferred maintenance.

Sec. 608. 1990 Iowa Acts, chapter 1266, section 27, is amended to read as follows:

SEC. 27. There is appropriated from the general fund of the state to the department of general services and the department of revenue and finance for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For allocation, upon approval of the department of management, to avoid layoffs, if, after implementing efficiencies and other methods to achieve savings as directed by the department of management, the governor, and the department directors, funds appropriated by this Act are insufficient to otherwise avoid layoffs:

1. Department of general services:

.....	\$	250,000
		<u>0</u>

2. Department of revenue and finance:

.....	\$	250,000
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DEPARTMENT OF PERSONNEL

Sec. 609. 1990 Iowa Acts, chapter 1266, section 15, subsections 1, 2, and 3, are amended to read as follows:

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, office services, data/word processing, and insurance cost management, and for not more than the following full-time equivalent positions:

.....	\$	1,331,000
		<u>1,196,035</u>
.....	FTEs	29.65

2. FIELD OPERATIONS

For salaries for the personnel services, employment law/labor relations, and development, and for not more than the following full-time equivalent positions:

.....	\$	1,454,000
		<u>1,328,053</u>
.....	FTEs	36.60

3. PROGRAM MANAGEMENT

a. For salaries for employment and compensation and benefits, and for not more than the following full-time equivalent positions:

.....	\$	1,118,000
		<u>1,102,877</u>
.....	FTEs	34.00

b. WORKERS' COMPENSATION ADMINISTRATION

For salaries for the administration of the workers' compensation fund and not more than the following full-time equivalent positions:

.....	\$	140,000
		<u>137,635</u>
.....	FTEs	4.00

Any funds received by the department for workers' compensation purposes other than the funds appropriated in paragraph "b" shall be used only for the payment of workers' compensation claims.

DEPARTMENT OF REVENUE AND FINANCE

Sec. 610. 1990 Iowa Acts, chapter 1266, section 17, subsections 1, 2, 3, 4, 5, and 6, are amended to read as follows:

1. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	9,350,844
		<u>9,269,618</u>

2. FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	6,047,156
		<u>6,028,475</u>

3. INFORMATION AND MANAGEMENT SYSTEMS

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,654,000
		<u>1,610,402</u>

4. LOCAL GOVERNMENT SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,260,000
		<u>1,111,556</u>

5. TECHNICAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,814,000
		<u>1,786,717</u>

6. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	715,000
		<u>709,232</u>

Sec. 611. 1990 Iowa Acts, chapter 1266, section 19, is amended to read as follows:

SEC. 19. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,272,163
.....		<u>6,872,163</u>
.....	FTEs	138.55

b. For deposit in the general fund:

.....	\$	<u>400,000</u>
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DEPARTMENT OF MANAGEMENT

Sec. 612. 1990 Iowa Acts, chapter 1266, section 20, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,566,000
.....		<u>1,495,300</u>
.....	FTEs	33.00

OFFICE OF STATE-FEDERAL RELATIONS

Sec. 613. 1990 Iowa Acts, chapter 1266, section 23, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	221,000
.....		<u>216,000</u>
.....	FTEs	3.15

Sec. 614. It is the intent of the general assembly that agencies whose appropriations have been reduced under this division shall only lay off employees if all other means, including furloughs of employees, have already been evaluated and either used or not deemed feasible in order for an agency to continue its operations within the moneys appropriated to them for salaries, support, maintenance, and miscellaneous purposes.

Sec. 615. Beginning March 10, 1991, and by the tenth day of each month thereafter, until June 30, 1991, the department of management shall report to the chairpersons and ranking members of the senate and house committees on appropriations, the chairpersons and ranking members of the joint administration appropriations subcommittee, the legislative fiscal committee, and the legislative fiscal bureau, the number of furloughs and the number of layoffs that have occurred in all agencies, the savings associated with those furloughs and layoffs, and the effect of the furloughs and layoffs on services provided by the agency. The department shall provide a year-end report summarizing the information required in this section on or before August 10, 1991.

DIVISION VII
LAW ENFORCEMENT ACADEMY

Sec. 701. 1990 Iowa Acts, chapter 1267, section 1, subsection 1, is amended to read as follows:

1. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	\$	953,617
.....		<u>913,779</u>
.....	FTEs	29.7

DEPARTMENT OF PUBLIC DEFENSE

Sec. 702. 1990 Iowa Acts, chapter 1267, section 2, subsections 1, 2, and 3 are amended to read as follows:

*Item veto; see message at end of the Act

1. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,508,957
		<u>3,431,957</u>
.....	FTEs	151.59

~~As a condition, limitation, and qualification of this appropriation, \$60,000 of this appropriation shall be used for establishment of a maintenance detachment in Clarke county.~~

2. DISASTER SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	307,271
		<u>303,702</u>
.....	FTEs	12

3. VETERANS AFFAIRS DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	143,934
		<u>140,934</u>
.....	FTEs	4.16

As a condition, limitation, and qualification of the appropriation in this paragraph, \$10,000 shall be used for the purchase of POW/MIA flags.

DEPARTMENT OF PUBLIC SAFETY

Sec. 703. 1990 Iowa Acts, chapter 1267, section 3, as item vetoed by the governor, is amended to read as follows:

SEC. 3. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions including the medical examiner's office and the criminal justice information system, and for not more than the following full-time equivalent positions:

.....	\$	2,510,622
		<u>2,421,952</u>
.....	FTEs	51.50

2. a. For purposes relating to radio communications, and not more than the following full-time equivalent positions:

.....	\$	3,227,667
		<u>3,180,992</u>
.....	FTEs	80

b. For purchase of service monitors and radio spare parts:

.....	\$	25,000
-------	----	--------

3. a. For the division of criminal investigation and bureau of identification containing the bureaus of identification and liquor law enforcement, and for river boat gambling enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	6,534,828
		<u>6,211,978</u>
.....	FTEs	136
		<u>133</u>

e b. For the law enforcement intelligence network program, to be used in consultation with the law enforcement intelligence network advisory committee:

.....	\$	10,000
-------	----	--------

As a condition, limitation, and qualification of this appropriation, the division of criminal investigation shall commit sufficient resources to conduct 4 undercover operations in cooperation with local law enforcement agencies to identify the extent of bootlegging or illegal liquor operations at state border counties and shall report on the undercover operations to the committee by January 1, 1991.

4. For the division of narcotics:

a. The state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	2,243,579
		<u>2,056,599</u>
.....	FTEs	38

b. Undercover purchases:

.....	\$	200,000
		<u>150,000</u>

5. a. For the fire marshal's office, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	1,560,379
		<u>1,496,354</u>
.....	FTEs	33

b. For a regional firefighters' training center in Black Hawk county:

.....	\$	25,000
-------	----	--------

6. For the capitol security division, and for not more than the following full-time equivalent positions:

.....	\$	1,219,281
		<u>1,190,781</u>
.....	FTEs	36

Sec. 704. 1990 Iowa Acts, chapter 1267, section 5, unnumbered paragraph 2, is amended to read as follows:

For the continued purchase of the automated fingerprint information system (AFIS):

.....	\$	536,676
		<u>504,676</u>

DIVISION VIII
DEPARTMENT OF JUSTICE

Sec. 801. 1990 Iowa Acts, chapter 1268, section 1, subsections 1 and 3 are amended to read as follows:

1. For the general office of attorney general for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,705,733
		<u>4,482,163</u>
.....	FTEs	166.00

3. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this subsection:

.....	\$	44,955
		<u>2,400</u>

In addition to the funds appropriated in this section, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the attorney general shall provide up to \$42,555 in state matching funds from moneys retained by the attorney general from property forfeited pursuant to section 809.13.

Sec. 802. 1989 Iowa Acts, chapter 316, section 1, subsection 3, as amended by 1990 Iowa Acts, chapter 1257, section 36, is amended to read as follows:

3. Preparation of a new domestic abuse manual and updating of the desk manual for prosecutors:

.....	\$	15,000
		<u>9,000</u>

Notwithstanding section 8.33, the moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1990, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1990.

BOARD OF PAROLE

Sec. 803. 1990 Iowa Acts, chapter 1268, section 3, unnumbered paragraphs 2 and 3, are amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	837,536
		<u>789,513</u>
.....	FTEs	20.00
		<u>19.00</u>

As a condition, limitation, and qualification of this appropriation the board of parole shall create an automated docket; and shall automate the board's risk assessment model; and shall employ a victim registration coordinator.

DEPARTMENT OF CORRECTIONS

Sec. 804. 1990 Iowa Acts, chapter 1268, section 4, subsection 1, as item vetoed by the governor, is amended to read as follows:

1. For the operation of adult correctional institutions, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	20,398,056
		<u>20,391,106</u>
.....	FTEs	501.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 310 correctional officers, and an additional counselor.

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	15,171,304
		<u>15,162,330</u>
.....	FTEs	355.00

(1) As a condition, limitation, and qualification of this appropriation, the facility shall employ 211 correctional officers, a part-time chaplain of a minority race, and 2 additional nurses.

(2) Of the funds appropriated, the department's budget for Anamosa shall include funding for 2 full-time substance abuse counselors for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	10,689,482
		<u>10,547,236</u>
.....	FTEs	258.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 132.40 correctional officers and shall employ 3 additional staff for the purposes of compliance with the joint commission on the accreditation of health care organization standards.

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,114,302
.....		<u>3,107,068</u>
.....	FTEs	71.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 28 correctional officers and an additional nurse.

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	10,933,204
.....		<u>10,783,046</u>
.....	FTEs	267.15

As a condition, limitation, and qualification of this appropriation, the facility shall employ 141 correctional officers, and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, an additional nurse, and an additional 8.50 full-time equivalent positions to maintain a licensed substance abuse program.

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,993,389
.....		<u>2,901,277</u>
.....	FTEs	73.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 39 correctional officers and an additional 4 positions to establish a substance abuse treatment program and a sex offender program.

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,451,237
.....		<u>4,387,981</u>
.....	FTEs	118.30

As a condition, limitation, and qualification of this appropriation, the facility shall employ 68 correctional officers and 2 nurses.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,679,450
.....		<u>3,613,061</u>
.....	FTEs	97.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 54 correctional officers and an additional 5.5 full-time equivalent positions for a substance abuse treatment program.

Sec. 805. 1990 Iowa Acts, chapter 1268, section 5, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,145,174
.....		<u>2,103,804</u>
.....	FTEs	42.52

Sec. 806. 1990 Iowa Acts, chapter 1268, section 5, subsection 4, unnumbered paragraph 1, is amended to read as follows:

4. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions at the correctional training center at Mt. Pleasant:

.....	\$	366,476
		<u>365,876</u>
.....	FTEs	8.22

Sec. 807. 1990 Iowa Acts, chapter 1268, section 6, subsection 1, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the first judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	4,320,847
		<u>3,934,731</u>

Sec. 808. 1990 Iowa Acts, chapter 1268, section 6, subsection 3, unnumbered paragraph 1 and paragraphs b and d, are amended to read as follows:

For the third judicial district department of correctional services, the following amount, or so much thereof as is necessary:

b. For staffing 25 additional beds authorized during the 1989 session of the general assembly and for not more than the following full-time equivalent positions:

.....	\$	18,278
		<u>0</u>
.....	FTEs	.50

d. For funding of the intensive supervision program and for not more than the following full-time equivalent positions:

.....	\$	62,327
		<u>48,163</u>
.....	FTEs	1.58

Sec. 809. 1990 Iowa Acts, chapter 1268, section 6, subsection 5, unnumbered paragraph 1 and paragraph b, are amended to read as follows:

For the fifth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

b. For additional funding of the intensive supervision program and for not more than the following full-time equivalent positions:

.....	\$	410,348
		<u>203,409</u>
.....	FTEs	6.26

Sec. 810. 1990 Iowa Acts, chapter 1268, section 6, subsection 6, unnumbered paragraph 1, and paragraph d, are amended to read as follows:

For the sixth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

d. For staffing of additional new beds at the Cedar Rapids residential facility as authorized during the 1989 session of the general assembly and for not more than the following full-time equivalent positions:

.....	\$	337,733
		<u>0</u>
.....	FTEs	7.70

Sec. 811. 1990 Iowa Acts, chapter 1268, section 6, subsection 7, unnumbered paragraph 1, and paragraph c, are amended to read as follows:

For the seventh judicial district department of correctional services, the following amount, or so much thereof as is necessary:

c. For additional funding of the intensive supervision program and for not more than the following full-time equivalent positions:

.....	\$	57,131
.....		<u>48,721</u>
.....	FTEs	1.00

Sec. 812. 1990 Iowa Acts, chapter 1268, section 6, subsection 8, unnumbered paragraph 1, and paragraph d, are amended to read as follows:

For the eighth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

d. For staffing of additional new beds at the Ottumwa facility authorized during the 1989 session of the general assembly and for not more than the following full-time equivalent positions:

.....	\$	570,035
.....		<u>550,035</u>
.....	FTEs	13.28

Sec. 813. 1990 Iowa Acts, chapter 1268, section 6, subsection 9, paragraphs a and b, are amended to read as follows:

a. For the assistance and support of each judicial district department of correctional services:

.....	\$	201,798
.....		<u>317,081</u>

b. For additional funding of the intensive supervision programs in conjunction with electronic monitoring established within the districts and for not more than the following full-time equivalent positions:

.....	\$	85,272
.....		<u>76,972</u>
.....	FTEs	1.37

JUDICIAL DEPARTMENT

Sec. 814. 1990 Iowa Acts, chapter 1268, section 7, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, receipt and disbursement of child support payments, and maintenance, equipment, and miscellaneous purposes:

.....	\$	70,272,600
.....		<u>69,672,600</u>

Sec. 815. 1990 Iowa Acts, chapter 1271, section 601, unnumbered paragraph 2, is amended to read as follows:

For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, Senate File 2212 chapter 1257, section 24:

.....	\$	1,028,000
.....		<u>1,026,000</u>

Sec. 816. Section 911.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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 ~~twenty~~ twenty-five 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.

Sec. 817. Section 911.3, Code 1991, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE.

When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ~~twenty-five~~ twenty percent of the surcharge collected to the treasurer of state to be deposited pursuant to section 321J.17. Ninety percent of the remainder of the surcharge collected shall be transmitted to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit that money in the general fund of the state. The clerk of the district court shall transmit ten percent of the remainder of the surcharge to the county treasurer or shall remit ten percent of the remainder of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 818. EFFECTIVE DATE. Sections 816 and 817 of this Act, relating to court surcharges, take effect April 1, 1991, and apply to penalties incurred for violations committed on or after that date.

DIVISION IX
DEPARTMENT OF CULTURAL AFFAIRS

Sec. 901. 1990 Iowa Acts, chapter 1272, section 1, as item vetoed by the governor, is amended to read as follows:

SECTION 1. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	468,735
.....		<u>426,562</u>
.....	FTEs	10

2. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants, and for not more than the following full-time equivalent positions:

.....	\$	1,239,125
.....		<u>1,166,805</u>
.....	FTEs	13

As a condition, limitation, and qualification of the appropriation in this subsection, not more than 10 percent of the difference between the moneys appropriated in this subsection and the moneys appropriated in 1989 Iowa Acts, chapter 319, section 1, subsection 2, shall be expended by the arts division for administrative costs.

3. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,775,453
.....		<u>2,592,496</u>
.....	FTEs	76

4. LIBRARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,326,277
.....		<u>2,183,629</u>
.....	FTEs	41

As a condition, limitation, and qualification of the funds appropriated in this subsection, the department of cultural affairs shall adopt, by January 1, 1991, rules relating to the copying of library material and the defraying of copying expenses, including, but not limited to, the charging of reasonable fees for the copying of library material for nonresident persons.

5. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,947,451
.....		<u>6,576,287</u>
.....	FTEs	104
6. TERRACE HILL COMMISSION		
For salaries, support, maintenance, miscellaneous purposes, for the operation of Terrace Hill and for not more than the following full-time equivalent positions:		
.....	\$	211,581
.....		<u>204,240</u>
.....	FTEs	5.25
7. REGIONAL LIBRARY SYSTEM		
a- For state aid:		
.....	\$	1,530,655
8. IOWA PEACE INSTITUTE		
For allocation to the Iowa peace institute established in chapter 38:		
.....	\$	286,600
9. For planning and programming for the community cultural grants program established under section 303.89:		
.....	\$	885,000
.....		<u>805,000</u>
10. For the Iowa town square project:		
.....	\$	150,000
.....		<u>70,000</u>

IOWA PEACE INSTITUTE

Sec. 902. 1990 Iowa Acts, chapter 1271, section 1601, is amended to read as follows:

SECTION 1601. FEASIBILITY STUDY. There is appropriated from the general fund of the state to the Iowa peace institute established in chapter 38 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For a study of the feasibility of establishing an international museum:

.....	\$	35,000
.....		<u>0</u>

COLLEGE STUDENT AID COMMISSION

Sec. 903. 1990 Iowa Acts, chapter 1272, section 3, subsections 1 and 2, are amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	326,271
.....		<u>324,271</u>
.....	FTEs	8.05

As a condition, limitation, and qualification of the appropriation in this subsection, the college student aid commission shall conduct a study of the cosmetology and chiropractic programs available to Iowans at both private and public postsecondary institutions. The study shall include the number of students attending the programs, the type of financial aid that is available to the students, a description of the accreditation standards which are required to be met by each program, a listing of those areas in which programs have failed to meet accreditation standards, the number of students placed within 1 year of graduation in professions for which they have been trained, and the number of students who have continued in the professions for which they have been trained 5 years after graduation from a professional program.

2. STUDENT AID PROGRAMS

For payments to students for student aid programs:

.....	\$	2,570,100
		<u>2,008,100</u>

As a condition, limitation, and qualification of the funds appropriated in this subsection, \$1,850,000 shall be expended for an Iowa grant program, with funds to be allocated to institutions in the following manner:

- a. Total allocations to students attending regents' institutions shall be determined by multiplying 72.973 percent of \$1,850,000 by 37.6 percent.
- b. Total allocations to students attending community colleges shall be determined by multiplying 72.973 percent of \$1,850,000 by 25.9 percent and by 2.43.
- c. Total allocations to students attending private colleges and universities shall be determined by multiplying 72.973 percent of \$1,850,000 by 36.5 percent.

Sec. 904. 1990 Iowa Acts, chapter 1272, section 3, subsection 4, unnumbered paragraph 1, is amended to read as follows:

For payments to institutions for attendance of displaced workers:

.....	\$	500,000
	\$	<u>292,732</u>

Sec. 905. 1990 Iowa Acts, chapter 1272, section 4, subsections 1 and 2, are amended to read as follows:

UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

1. For grants to sophomores, juniors, and seniors and for forgivable loans to freshmen, who are Iowa students attending the university of osteopathic medicine and health sciences, under the grant program pursuant to section 261.18 and the forgivable loan program pursuant to section 261.19A:

.....	\$	497,000
		<u>422,000</u>

2. For the university of osteopathic medicine and health sciences for the admission and education of Iowa students in each of the 4 years of classes at the university of osteopathic medicine and health sciences pursuant to section 261.19:

.....	\$	497,000
		<u>452,000</u>

Sec. 906. 1990 Iowa Acts, chapter 1272, section 55, is amended to read as follows:

SEC. 55. Of the ~~\$32,912,800~~ 32,608,795 appropriated for tuition grants, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, \$400,000 shall be expended by the college aid commission for the Iowa minority academic grants for economic success program for grants to independent colleges and universities under sections 261.101 through 261.105.

Sec. 907. From the funds available in the scholarship and tuition grant reserve fund created by section 261.20, \$224,000 shall be transferred to and deposited in the general fund of the state on June 30, 1991.

Sec. 908. Section 261.25, subsections 1, 2, and 3, Code 1991, 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 thirty-two million ~~nine six~~ hundred ~~twelve eight~~ thousand ~~eight hundred seven hundred ninety-five~~ 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 one million ~~twenty-three~~ eight hundred thirteen thousand eight hundred forty dollars for scholarships.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million three hundred ~~thirty~~ fifteen thousand six hundred forty-seven dollars for vocational-technical tuition grants.

Sec. 909. Section 261.85, unnumbered paragraph 1, Code 1991, is amended to read as follows:

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of three million ~~two hundred ten thousand~~ eighty-five thousand six hundred eighty-four dollars for the work-study program.

DEPARTMENT OF EDUCATION

Sec. 910. 1990 Iowa Acts, chapter 1264, section 1, unnumbered paragraph 2, is amended to read as follows:

For the youth 2000 coordinating council for awarding community planning grants for collaborative efforts to establish local drug prevention and youth development programs as provided in section 256.42, subsection 5:

.....	\$	80,000
		<u>5,000</u>

Sec. 911. 1990 Iowa Acts, chapter 1272, section 8, subsections 1, 3, 4, 6, 7, 10, and 11, as item vetoed by the governor, are amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,495,093
		<u>5,805,290</u>
.....	FTEs	135.75

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to contract with institutions of higher education to provide a summer residence program for gifted and talented elementary and secondary school students and to support existing law-related education centers for training seminars and workshops in law-related education, summer institutes relating to law-related education and methodology and substance, and mock trial competitions for junior and senior high school students. The law-related education program shall include the legislative lawmaking process. Educational materials for the legislative lawmaking process segment of the program shall be developed by the law-related education centers in consultation with the legislative council.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to provide funds for the employment resources center administered by the fifth judicial district's department of correctional services to assist clients.

As a condition, limitation, and qualification of the appropriation in this subsection, the bureau of special education of the department of education shall study the impact of student weighting on the appropriateness of student placement in the least restrictive environment. Depending on the results of the study, alternatives to the assignment of student weightings that will encourage the placement of students in the least restrictive appropriate placement shall be developed accordingly. The bureau of special education shall report the findings of the study and any identified alternatives to the state special education advisory panel and the school budget review committee, and the department shall include the findings in a report to the legislative fiscal bureau and the general assembly by December 1, 1990.

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	150,007
		<u>138,607</u>
.....	FTEs	2

4. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	931,636
		<u>809,793</u>
.....	FTEs	39.6

6. PENAL INSTITUTION EDUCATION PROGRAM

For educational programs at state penal institutions:

.....	\$	2,293,893
		<u>2,193,893</u>

Funds appropriated by this subsection shall be used by the department of education, in coordination with the department of corrections, to provide expanded educational programs to inmates of the Iowa penal institutions and develop education program plans for the offenders and ex-offenders in the community-based corrections system. Educational programs shall emphasize assessment, cognition, literacy, and social skills, and shall provide continuity of instruction as the inmate progresses through the penal system. Educational technology learning systems which would support the continuity of instruction shall be used in combination with an information management system to track student progress. The information tracking system shall be available throughout the state. An information management system shall be implemented to transmit education information, including the inmate's plan, programs provided, and program outcomes to institutions under whose control the inmate is placed. Evaluation of the results shall be made annually to determine needed changes and to assess results. The department of education, in coordination with the department of corrections, shall investigate, evaluate, and analyze educational technology systems which reflect inmate needs before selection of any system or systems. Funds appropriated in this subsection may be used for individualized, personal development, life management programs established by the general assembly in 1990 Iowa Acts, Senate File 2212 chapter 1257, section 23, under the department of corrections, and to provide the results of the establishment of the individualized, personal development, life management programs to the cochairpersons and ranking members of the joint education appropriations subcommittee and the legislative fiscal bureau.

7. YOUTH LEADERSHIP GRANT PROGRAM

For grants to youth leadership programs:

.....	\$	25,000
		<u>18,700</u>

Funds appropriated by this subsection shall be used to emphasize and support youth leadership skills for students participating in Iowa activities and students representing Iowa in regional and national activities.

10. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,998,358
		<u>3,584,746</u>
.....	FTEs	319.50

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support, for not more than the following full-time equivalent positions:

.....	\$	19,367
.....	FTEs	1.50

11. CAREER INFORMATION SYSTEM OF IOWA

For the purpose of providing educational information to students in public and nonpublic schools:

.....	\$	84,000
		<u>27,482</u>
.....	FTEs	5

As a condition, limitation, and qualification of the funds appropriated in this subsection, the educational information to students shall include, but is not limited to, information relating to the likelihood of employment in Iowa in the students' career choice areas.

Sec. 912. 1990 Iowa Acts, chapter 1272, section 8, subsection 12, unnumbered paragraph 1 and paragraphs a through o, are amended to read as follows:

For general state financial aid to merged areas as defined in section 280A.2, for vocational education programs in accordance with chapters 258 and 280A, to purchase instructional equipment for vocational and technical courses of instruction in such schools, and for salary increases, the amount of ~~\$86,316,796~~ 84,679,234 to be allocated as follows:

a. Merged Area I	\$	<u>3,936,168</u>
		3,861,450
b. Merged Area II	\$	<u>4,909,784</u>
		4,816,369
c. Merged Area III	\$	<u>4,646,626</u>
		4,556,783
d. Merged Area IV	\$	<u>2,301,829</u>
		2,258,078
e. Merged Area V	\$	<u>4,714,422</u>
		4,620,616
f. Merged Area VI	\$	<u>4,731,678</u>
		4,644,143
g. Merged Area VII	\$	<u>6,656,574</u>
		6,531,633
h. Merged Area IX	\$	<u>7,339,996</u>
		7,198,011
i. Merged Area X	\$	<u>11,444,016</u>
		11,229,974
j. Merged Area XI	\$	<u>12,349,593</u>
		12,121,021
k. Merged Area XII	\$	<u>6,144,554</u>
		5,044,871
l. Merged Area XIII	\$	<u>5,081,696</u>
		4,981,908
m. Merged Area XIV	\$	<u>2,252,941</u>
		2,209,640
n. Merged Area XV	\$	<u>6,866,253</u>
		6,739,065
o. Merged Area XVI	\$	<u>3,940,668</u>
		3,865,672

Sec. 913. 1990 Iowa Acts, chapter 1272, section 12, is amended to read as follows:

SEC. 12. Notwithstanding the appropriation provided in section 294A.25, subsection 1, there is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

For the educational excellence program:

.....	\$	<u>92,007,985</u>
		<u>91,662,500</u>

STATE BOARD OF REGENTS

*Sec. 914. 1990 Iowa Acts, chapter 1272, section 14, subsection 1, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, during the fiscal year beginning July 1, 1990, and ending June 30, 1991, and for not more than the following full-time equivalent positions:

.....	\$	<u>1,136,134</u>
		<u>1,055,821</u>
.....	FTEs	<u>19.63*</u>

Sec. 915. 1990 Iowa Acts, chapter 1272, section 14, subsection 1, paragraph b, is amended to read as follows:

*Item veto; see message at end of the Act

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 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:

.....	\$	17,338,340
		<u>17,238,340</u>

Sec. 916. 1990 Iowa Acts, chapter 1272, section 14, subsection 5, as item vetoed by the governor, and subsection 6, are amended to read as follows:

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,770,768
		<u>5,751,541</u>
.....	FTEs	133.24

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,197,141
		<u>3,186,439</u>
.....	FTEs	92.45

Sec. 917. 1989 Iowa Acts, chapter 319, section 11, subsection 2, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For enhancing the preparation, teaching experiences, and induction of educators, and for assisting educators in the use of technology for instructional and administrative purposes:

.....	\$	500,000
		<u>246,038</u>

Sec. 918. 1990 Iowa Acts, chapter 1271, section 1701, subsections 1 and 2, are amended to read as follows:

1. For the fiscal year beginning July 1, 1990, and ending June 30, 1991:

.....	\$	10,925,405
		<u>856,124</u>

2. For the fiscal year beginning July 1, 1991, and ending June 30, 1992:

.....	\$	13,530,400
		<u>0</u>

Sec. 919. APPROPRIATIONS REDUCED – REGENTS' INSTITUTIONS.

1. The funds appropriated to the state university of Iowa for the fiscal year beginning July 1, 1990, and ending June 30, 1991, by 1990 Iowa Acts, chapter 1272, section 14, subsection 2, shall be reduced by the department of management in the amount of \$3,523,628. Within one day of the date this Act takes effect, the state university shall notify the department of management of the amount of reduction established by the university for each budget unit in order to achieve the total reduction amount required by this subsection.

2. The funds appropriated to the Iowa state university of science and technology for the fiscal year beginning July 1, 1990, and ending June 30, 1991, by 1990 Iowa Acts, chapter 1272, section 14, subsection 3, shall be reduced by the department of management in the amount of \$2,813,456. Within one day of the effective date of this Act, the state university shall notify the department of management of the amount of reduction established by the university for each budget unit in order to achieve the total reduction amount required by this subsection.

3. The funds appropriated to the university of northern Iowa for the fiscal year beginning July 1, 1990, and ending June 30, 1991, by 1990 Iowa Acts, chapter 1272, section 14, subsection 4, shall be reduced by the department of management in the amount of \$899,425. Within one

day of the effective date of this Act, the state university shall notify the department of management of the amount of reduction established by the university for each budget unit in order to achieve the total reduction amount required by this subsection.

Sec. 920. The general assembly declares that the state board of regents has met the requirements of section 262A.3 regarding the preparation and submission to the general assembly of the proposed ten-year building program for each institution of higher learning under the jurisdiction of the state board of regents, and the general assembly approves that ten-year building program as submitted. For the period beginning on the effective date of this section, and ending on June 30, 1992, the projects authorized by 1989 Iowa Acts, chapter 322, section 3, subsections 3, 4, 6, and 8, and planning for the projects authorized by 1989 Iowa Acts, chapter 322, section 3, subsections 2 and 7, may be funded in the manner provided in 1989 Iowa Acts, chapter 322, section 4, and the authorizations by the general assembly and the governor to the state board of regents in connection with the initial financing of those projects as made under sections 262A.4, 262A.5, and 262A.6 are extended to June 30, 1992, less the amount of appropriations received prior to the effective date of this section pursuant to 1989 Iowa Acts, chapter 322, section 3. **However, financing authorized pursuant to this section for the purposes of equipment purchases shall provide for an accelerated limited repayment structure over no more than a five-year period. Subject to the maximum authorization for bonding in 1989 Iowa Acts, chapter 322, section 4, and this section, the authorization made in this section for financing the projects listed includes authorization by the general assembly and approval by the governor for equipment purchases for the project listed in 1989 Iowa Acts, chapter 322, section 3, subsection 8. The amount of bonds issued for the project listed in 1989 Iowa Acts, chapter 322, section 3, subsection 8, may exceed the amount listed in 1989 Iowa Acts, chapter 322, section 3, subsection 8, in an amount approved by the state board of regents for equipment purchases not exceeding \$500,000 for the project listed in subsection 8.** It is the intent of this section that such financing be limited to the completion of the projects authorized by 1989 Iowa Acts, chapter 322, section 3, subsections 3, 4, 6, and 8 and this section and planning for the projects authorized by 1989 Iowa Acts, chapter 322, section 3, subsections 2 and 7.

DIVISION X LOTTERY

Sec. 1001. 1990 Iowa Acts, chapter 1255, section 37, subsection 1, is amended to read as follows:

1. Notwithstanding the nonreversion provision in section 99E.32, subsection 7, or any other provision, all unencumbered or unobligated moneys remaining on June 30, 1990, and all encumbered or obligated moneys as of June 30, 1990, from appropriations made from the surplus account, jobs now account, education and agricultural research and development account, and the jobs now capitals account to the department of economic development for purposes for which moneys are appropriated for the fiscal year beginning July 1, 1990, in Senate File 2327, if enacted by the Seventy-third General Assembly, 1990 Session by 1990 Iowa Acts, chapter 1262, except those amounts which are reduced by a 1991 Act passed by the Seventy-fourth General Assembly, shall be transferred to the corresponding account of the department within the general fund of the state and shall be available for expenditure for those same purposes as provided in Senate File 2327, if enacted 1990 Iowa Acts, chapter 1262, and are in addition to moneys appropriated for those same purposes for the fiscal year beginning July 1, 1990.

Sec. 1002. 1990 Iowa Acts, chapter 1255, section 37, subsection 3, is amended to read as follows:

3. The agency, board, commission, or overseer of the funds to which moneys have been appropriated from any of the accounts in the Iowa plan fund for economic development for any of the fiscal years beginning July 1, 1985, July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, shall provide by December 15, 1990, to the department of management a status report ~~and any encumbered or obligated moneys remaining unspent on June 30, 1990, from moneys~~

*Item veto; see message at end of the Act

appropriated from the Iowa plan fund for any fiscal year, except the fiscal year beginning July 1, 1989, shall be available for expenditure by the department of economic development for purposes of chapter 15. The status report shall specify the status of the moneys appropriated as of June 30, 1990, or such later date as designated by the department of management, and the amount of loans outstanding, if any, that were made from those moneys appropriated, and other information relating to the status of the moneys appropriated as required by the department of management.

Sec. 1003. Section 99E.32, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. Notwithstanding paragraph "c", after the allotments have been made for the fiscal year years beginning July 1, 1988, and July 1, 1989, under paragraphs "a" and "b", the total excess is allotted to the surplus account. Of the amount allotted for the fiscal year beginning July 1, 1989, the sum of five hundred ninety-six thousand dollars shall be transferred prior to July 1, 1991, to the general fund of the state.

Sec. 1004. Section 99E.34, subsection 1, paragraphs a and b, Code 1991, are amended to read as follows:

a. For each fiscal year, sixty-two and five-tenths percent to the Iowa resources enhancement and protection fund created in section 455A.18 and which amount is appropriated for the purposes of that fund. However, the total amount allotted under this paragraph in any single fiscal year the fiscal year beginning July 1, 1990, shall not exceed twenty million dollars and in each of the following fiscal years shall not exceed twenty-five million dollars.

b. For each fiscal year, six percent to the soil conservation account. However, the total amount allotted under this paragraph in the fiscal year beginning July 1, 1990, shall not exceed two million four hundred thousand dollars.

Sec. 1005. Notwithstanding any other provision of law, the treasurer of state shall initiate the transfer to the general fund of the state from the CLEAN fund created in section 99E.10 the amount of revenues considered transferred to the CLEAN fund as provided in section 99E.10 during the fiscal year beginning July 1, 1990, and ending June 30, 1991, which is in excess of the amount needed to make the allotments within the CLEAN fund as provided in section 99E.34, subsection 1. The transfers under this section shall be made during the period beginning April 16, 1991, and ending June 30, 1991.

Sec. 1006. Notwithstanding the nonreversion provision in section 99E.32, subsection 7, and the reversion provision in 1990 Iowa Acts, chapter 1255, section 37, subsection 2, all interest and earnings on the deposits and investments credited to the Iowa plan fund that remain unappropriated on June 30, 1991, and all funds in the surplus account of the Iowa plan fund that remain unappropriated on June 30, 1991, shall be transferred to the general fund of the state. The transfers under this section shall be made during the period beginning April 16, 1991, and ending June 30, 1991.

Sec. 1007. Notwithstanding the provisions in section 99E.10, subsection 1, unnumbered paragraph 3, all interest or earnings paid on the deposits or investments of moneys in the lottery fund or the CLEAN fund during the fiscal year beginning July 1, 1990, shall be transferred to the general fund of the state.

Sec. 1008. Notwithstanding the amount of the appropriation under section 99E.31 or 99E.32, the nonreversion provision in section 99E.32, subsection 7, or any other provision, from the appropriations made from the designated accounts of the Iowa plan fund for the designated fiscal years for the specified purposes or programs, the following amounts shall be transferred prior to July 1, 1991, from such designated accounts to the general fund of the state:

1. From the jobs now account from the appropriations made in section 99E.32, subsection 3, for:

- a. Regional centers under paragraph "d", subparagraph (1), for the 1990 fiscal year:

.....	\$	730,294
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b. Iowa main street program under paragraph "d", subparagraph (3), for the 1990 fiscal year:	\$ 118,221
c. Technical assistance for businesses under paragraph "d", subparagraph (4), for the 1990 fiscal year:	\$ 39,632
d. Business incubators under paragraph "d", subparagraph (5), for the 1990 fiscal year:	\$ 183,932
e. Rural incubators under paragraph "d", subparagraph (6), for the 1990 fiscal year:	\$ 233,425
f. Rural development programs under paragraph "d", subparagraph (7), for the 1990 fiscal year:	\$ 45,625
h. Welcome centers under paragraph "l" for the 1990 fiscal year:	\$ 27,738
i. Preservation, exhibition, or development of historic resources under paragraph "x" for the 1990 fiscal year:	\$ 80,726
j. Rural main street program under paragraph "z" for the 1990 fiscal year:	\$ 83,957
2. From the education and agriculture research and development account from the appropriations made in section 99E.32, subsection 4, for:	
a. Summer institute program under paragraph "c" for the 1987 fiscal year and 1988 fiscal year:	\$ 27,621
b. Economic development training program under paragraph "b", subparagraph (4), for the 1990 fiscal year:	\$ 25,000
c. INTERNET for allocation to the Wallace technology transfer foundation of Iowa under paragraph "b", subparagraph (4), for the 1990 fiscal year:	\$ 300,000
d. Iowa state university water resource research institute under paragraph "e" for the 1990 fiscal year:	\$ 25,406
e. Technology transfer for the livestock industry under paragraph "g" for the 1990 fiscal year:	\$ 136,067
3. From the jobs now capital account from the appropriations made in section 99E.31, subsection 5, for:	
The architect, engineering, equipment, and construction of the armory in Carroll for the 1986 fiscal year:	\$ 1,666
4. From the jobs now capitals account from the appropriations made in section 99E.32, subsection 5, for:	
a. Allocation to the center for industrial research and service for the hazardous waste research program under paragraph "d" for the 1987 fiscal year:	\$ 50,000
b. Construction, equipment, renovation, and other costs associated with buildings in the capitol complex and allocation for Terrace Hill under paragraph "j" for the 1989 fiscal year:	\$ 225,072
5. From the surplus account from the appropriations made in 1989 Iowa Acts, chapter 314, section 8, for:	
a. Promoting, equipping, and staffing a "Drug Tip Hotline" under paragraph "f" for the 1989 fiscal year:	\$ 2,751

b. Regulation activities required pursuant to the excursion boat gambling Act under paragraph "h" for the 1989 fiscal year:

..... \$ 25,457

Sec. 1009. Sections 1001 through 1003 of this Act are retroactive to July 1, 1990.

DIVISION XI
TRANSFERS

Sec. 1101. Notwithstanding any other provision of law, the cash balances remaining on June 30, 1991, that are not needed to pay expenses of the fiscal year ending June 30, 1991, in the following designated accounts shall revert or be transferred to the general fund of the state:

1. Energy research and development fund created in section 93.14.
2. Pari-mutuel regulation fund created in section 99D.17.
3. Excursion boat gambling revolving fund created in 1989 Iowa Acts, chapter 321, section 22.
4. State conservation fund created in section 107.17.
5. Administration fund created in section 107.17.
6. Public outdoor recreation and resources fund created in section 107.17.
7. County conservation board fund created in section 107.17.
8. Milk fund created in section 192.47.
9. Dairy trade practices trust fund pursuant to section 192A.30.
10. Commercial feed fund created in section 198.9.
11. Fertilizer fund created in section 200.9.
12. Pesticide fund created in section 206.12.
13. Special railroad facility fund created in section 307B.23.
14. Motor vehicle fraud account pursuant to section 312.2, subsection 13.
15. Salvage vehicle account pursuant to section 321.52.
16. Marine fuel tax fund created in section 324.79.
17. State aviation fund created in section 328.36.
18. Railroad assistance fund created in section 327H.18.
19. Security deposit account pursuant to section 422.52.
20. GAAP escrow account created in section 422.69.
21. Utilities trust fund created in section 476.10.
22. Insurance revolving fund created in section 505.7.
23. Banking revolving fund created in section 524.207.
24. Credit union revolving fund created in section 533.67.
25. Savings and loan revolving fund created in section 534.408.
26. Professional licensing revolving fund created in section 546.10.
27. Administrative services trust fund created in section 546.11.
28. Public transit assistance fund created in section 601J.6.

Notwithstanding the provisions of this section, the amount of the cash balance in the public transit assistance fund on June 30, 1991, which is necessary to satisfy transit systems contracts covering the fiscal period beginning July 1, 1991, and ending September 30, 1991, shall not revert or be transferred to the general fund of the state but shall remain in the public transit assistance fund to be used for the contracts.

Cash transfers for financial management purposes may be made between June 15 and June 30, 1991, if necessary.

Moneys transferred pursuant to this section from the funds and accounts designated in this section shall only be used for the purposes for which the moneys were collected.

Notwithstanding the provisions relating to the setting of fees by the utility division under chapter 476, insurance division under chapter 505, banking division under chapter 524, credit union division under chapter 533, savings and loan division under chapter 534, and the professional licensing division under chapter 546, each division shall maintain billings for the remainder of the fiscal year so that the amount of unobligated and unencumbered moneys that will be transferred to the general fund from each of the revolving funds designated in subsections

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21 through 26 shall equal the sum of the amount of reduction in the appropriation to the division from the appropriate revolving fund under section 411, 414, 415, 416, or 417 of this Act plus the amount estimated to be transferred to the general fund under this section from each revolving fund as included in the governor's fiscal year 1991 budget documents.

If the transfer or reversion of any moneys from a fund or account designated for transfer or reversion in this section is held to be invalid or in violation of the state or federal constitution, federal law, or federal regulation, such invalidity or violation does not affect the validity of the transfer or reversion of moneys in any other fund or account in this section.

Sec. 1102. Notwithstanding section 18.120, \$3,800,000 of appropriated moneys which have been credited or accrued to the depreciation fund of the state vehicle dispatcher by a state department or agency and which are unencumbered balances to the state department or agency through June 30, 1991, shall revert to the general fund of the state. However, moneys credited or accrued to the depreciation fund which are associated with activities under the state fish and game protection fund created in section 107.17 shall not be a part of the reversion or transfer required under this section.

Sec. 1103. Notwithstanding section 509A.5, the executive council of the state shall initiate the transfer to the general fund of the state from the designated funds under the control of the executive council of the state under chapter 509A of the following amounts:

1. From the life basic operating fund:	\$	1,000,000
2. From the life basic reserve fund:	\$	1,000,000
3. From the long-term disability operating fund:	\$	10,000,000
4. From the long-term disability reserve fund:	\$	3,000,000

The transfers under this section shall be made during the period beginning April 16, 1991, and ending June 30, 1991.

Sec. 1104. Notwithstanding any other provision of law, the treasurer of state shall initiate the transfer to the general fund of the state of all unobligated or unencumbered funds remaining in the gamblers assistance fund on June 30, 1991. The transfers under this section shall be made during the period beginning April 16, 1991, and ending June 30, 1991.

Sec. 1105. Notwithstanding the provision of section 509A.5, unnumbered paragraph 2, any interest earnings from investments or time deposits of the funds under the control of the state executive council under chapter 509A, except for the health and dental insurance funds, during the fiscal period beginning April 1, 1990, and ending June 30, 1991, shall be transferred to the general fund of the state.

DIVISION XII CODE CHANGES

**Sec. 1201. Section 8.23, Code 1991, is amended by adding after unnumbered paragraph 1, the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *Beginning with the budget estimates for the fiscal year beginning July 1, 1991, and for each subsequent fiscal year, the departments and other establishments of governments in preparing their budget estimates shall start with a base budget and line item appropriations that have been reduced to take into account the number of full-time equivalent positions and the amount of funds for their salaries and support which represent the prior fiscal year's vacancies in the department or other establishment of government.**

Sec. 1202. Section 28.112, Code 1991, is amended to read as follows:

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28.112 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE FUND.

1. The department may establish a value-added agricultural products and processes financial assistance fund. The fund shall be a revolving fund composed of any money appropriated by the general assembly for that purpose, and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund, and any earned interest. Except as otherwise provided in subsection 2, the assets of the fund shall be used by the department only for carrying out the purposes of section 28.111.

2. The department may use moneys in the fund to do any of the following:

a. Contract, sue and be sued, and adopt administrative rules necessary to carry out the provisions of this section and section 28.111, but the department shall not in any manner directly or indirectly pledge the credit of the state.

b. Authorize payment from the fund, ~~from any income received by investments of moneys in the fund~~ for costs, commissions, attorney fees, and other reasonable expenses related to and necessary for insuring or guaranteeing loans under section 28.111, and for the recovery of loan moneys insured or guaranteed or the management of property acquired in connection with such loans.

c. Section 8.33 shall not apply to moneys in the fund.

Sec. 1203. Section 93.14, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section directing that moneys be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all moneys shall be deposited into the general fund of the state. There is appropriated annually from the general fund of the state the sum of one hundred fifty thousand dollars to be used for purposes of this section.

Sec. 1204. Section 93.16, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section directing that funds accepted be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds accepted shall be deposited into the general fund of the state and shall be appropriated for purposes of section 93.14.

Sec. 1205. Section 99D.7, subsection 2, Code 1991, is amended to read as follows:

2. To identify occupations within the racing industry which require licensing and adopt standards for licensing the occupations including establishing fees for the occupational licenses. The fees shall be paid to the commission and used as required in section 99D.17 ~~and section 99D.18.~~

Sec. 1206. Section 99D.17, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section directing that funds received be deposited into the pari-mutuel regulation fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds received shall be deposited into the general fund of the state.

Sec. 1207. Section 99F.4, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection and sections 99F.10 and 99F.17 directing that all license and admission fees be paid to the commission or be deposited into a special account, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees shall be deposited into the general fund of the state.

**Sec. 1208. Section 107.17, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *Notwithstanding the provisions of this section, sections 111.80 and 321G.24, and section 455A.19, subsection 1, or any other provision of law directing that moneys be deposited or transferred into the funds or to be paid from the funds named in subsections 2, 3, 4, and 5, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all of such moneys shall be deposited into the general fund of the state and moneys to be paid from those funds shall be paid from appropriations made for those purposes.**

**Sec. 1209. Section 107.18, Code 1991, is amended to read as follows:*

107.18 REPORT OF FUNDS.

*The director shall, at least monthly, make return and pay to the treasurer of state all moneys then in the director's hands belonging to ~~the five funds~~ any fund created in section 107.17.**

**Sec. 1210. Section 107.19, unnumbered paragraph 1, Code 1991, is amended to read as follows:*

*All funds accruing to the fish and game protection fund, except an equitable portion of the administration fund, shall be expended solely in carrying on the activities embraced in the fish and wildlife division. Expenditures incurred by the division in carrying on the activities shall be only on authorization by the general assembly. However, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, no funds under this paragraph shall be deposited into the administration fund.**

**Sec. 1211. Section 107.19, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *Notwithstanding the provisions of unnumbered paragraphs 4 and 5, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, the administrative expenses and other expenditures that would have been paid from the administration fund and the conservation fund shall be paid from funds appropriated for those purposes.**

Sec. 1212. Section 111.79, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 4. *Notwithstanding any other provision of law, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, funds that direct that moneys to be credited to or deposited in the public outdoor recreation and resources fund shall be credited to or deposited to the general fund of the state and appropriations made for purposes of this section shall not be deposited into the public outdoor recreation and resources fund but shall be allocated as provided in this section.*

Sec. 1213. Section 117.54, Code 1991, is amended to read as follows:

117.54 REAL ESTATE EDUCATION FUND.

The Iowa real estate education fund is created as a financial assurance mechanism to assist in the establishment and maintenance of a real estate education program at the university of northern Iowa and to assist the real estate commission in providing an education director. The fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund, but shall remain in the Iowa real estate education fund. ~~Interest or other income earned by the fund shall be deposited in the fund.~~ Seventy percent of the moneys in the fund shall be distributed and are appropriated to the board of regents for the purpose of establishing and maintaining a real estate education program at the university of northern Iowa. Thirty percent of the moneys in the fund shall be distributed and are appropriated to the professional licensing and regulation division of the department of commerce for the purpose of hiring and compensating a real estate education director.

Sec. 1214. Section 192.47, subsection 3, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. *Notwithstanding the provisions of paragraph "a", and sections 192.40, 194.14, 194.19, 194.20, and 195.9 directing that fees collected and appropriations made*

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for dairy control be deposited into the milk fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees collected under those sections shall be deposited into the general fund of the state. All moneys deposited in the general fund under this section shall be appropriated for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapters 194 and 195. Such appropriations shall not be deposited into the milk fund.

Sec. 1215. Section 192A.30, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section fees paid to the secretary shall not be deposited into the dairy trade practices trust fund for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, but shall be deposited into the general fund of the state.

Sec. 1216. Section 198.9, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that fees collected be deposited into the commercial feed fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees collected shall be deposited into the general fund of the state.

Sec. 1217. Section 200.9, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section and section 201.13 directing that those fees collected under sections 200.4 and 200.8 and moneys received under chapter 201 be deposited into the fertilizer fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all such fees and moneys shall be deposited into the general fund of the state. Moneys received under chapter 201 and deposited into the general fund of the state as a result of this paragraph are appropriated for purposes of section 201.13.

Sec. 1218. Section 206.12, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that fifty dollars of each fee collected be deposited into the pesticide fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, fifty dollars of each fee collected shall be deposited into the general fund of the state.

Sec. 1219. Section 208A.10, Code 1991, is amended to read as follows:

208A.10 FEES REMITTED.

All fees provided for in this chapter shall be collected by the secretary of agriculture and remitted to the state treasury shall be deposited in the general fund of the state.

Sec. 1220. Section 246.310, Code 1991, is amended to read as follows:

246.310 CANTEENS.

The director may maintain a canteen at ~~any~~ an institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen ~~and any interest earned on the fund.~~ Any money in the fund over the amount needed to do normal business transactions, and to reimburse any accounts which have subsidized the canteen fund, shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly and collectively benefit the inmates of the institution.

Sec. 1221. Section 246.706, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A revolving farm fund is created in the state treasury in which the department shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature general assembly. Before the department sells farmland under the control of the department, the director shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session of the general assembly. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

Sec. 1222. Section 307B.23, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 3. Notwithstanding the provisions of section 307B.7, subsection 14, and section 307B.26 and other provisions of law directing that moneys be deposited into the special railroad facility fund and directing that moneys in the fund be appropriated for purposes of the authority, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all moneys directed to be deposited in the fund shall be deposited into the general fund of the state and during that period moneys received under subsection 2 are appropriated to the authority for purposes of subsection 2 and other moneys appropriated to the authority may be used for purposes of this section.

Sec. 1223. Section 312.2, subsection 13, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that twenty-five cents on each title issuance be annually credited to the department of justice for deposit into the motor vehicle fraud account, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, the twenty-five cents on each title issuance shall be deposited into the general fund of the state.

Sec. 1224. Section 312.2, subsection 15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that one-twentieth of the revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", be deposited into the public transit assistance fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such amount shall be deposited into the general fund of the state. There is appropriated from the general fund of the state for each fiscal year to the state department of transportation the amount of revenues credited to the general fund of the state during the fiscal year under this subsection to be used for purposes of public transit assistance under chapter 601J.

Sec. 1225. Section 321.52, subsection 4, paragraph b, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this lettered paragraph directing that five dollars of each fee be paid to the Iowa law enforcement academy, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such five dollars shall be deposited into the general fund of the state.

Sec. 1226. Section 321.52, subsection 4, paragraph c, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this lettered paragraph directing that five dollars of each fee be paid to the Iowa law enforcement academy, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such five dollars shall be deposited into the general fund of the state.

Sec. 1227. Section 324.79, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section and section 324.84 directing that certain moneys be transferred or deposited into the marine fuel tax fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such moneys shall be deposited into the general fund of the state.

Sec. 1228. Section 327H.18, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section and sections 307B.7, subsection 14, and 327H.20 directing that moneys received or reimbursements made be deposited into the railroad assistance fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such moneys shall be deposited into the general fund of the state and for that period all moneys received by the department by agreements, grants, gifts, or other means which were deposited into the state general fund as a result of this paragraph are appropriated for state railroad assistance under this chapter. Such appropriations shall not be deposited into the railroad assistance fund.

Sec. 1229. Section 328.36, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section and sections 324.82 and 328.21, directing that moneys remaining after the cost of administering the aviation fuel tax fund and money received by the department be deposited into the state aviation fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, such moneys shall be deposited into the general fund of the state and refunds under section 328.24 during that period shall be paid from the state general fund.

Sec. 1230. Section 422.52, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that securities be kept in the custody of the department for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all such securities shall be deposited into the general fund of the state.

Sec. 1231. Section 422.69, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that certain revenues collected be deposited into the GAAP escrow account, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all such revenues shall be deposited into the general fund of the state.

Sec. 1232. Section 455A.18, subsection 3, Code 1991, is amended by striking the subsection.

Sec. 1233. Section 455A.18, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Section 8.33 does not apply to moneys appropriated under this subsection. ~~Notwithstanding section 453.7, interest or earnings on moneys appropriated under this subsection shall be credited to the Iowa resources enhancement and protection fund.~~

Sec. 1234. Section 467A.71, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. Authorize payment from the conservation practices revolving loan fund; and from fees and from any income received by investments of money in the fund for costs, commissions, attorney fees and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with such loans.

Sec. 1235. Section 467F.4, subsection 2, Code 1991, is amended to read as follows:

2. Authorize payment from the water protection fund; and from fees and from any income received by investments of money in the fund for costs, commissions, and other reasonable expenses.

Sec. 1236. Section 476.10, unnumbered paragraph 4, Code 1991, is amended to read as follows:

Whenever the board shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the board may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. For the fiscal period beginning on July 1, 1991, and ending June 30, 1993, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section. The board shall increase quarterly assessments specified in unnumbered paragraph two, by amounts necessary to enable the board to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the board by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section. Before the board expends or encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, 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 expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds. The board and the office of consumer advocate may add additional personnel or contract for additional assistance to review and evaluate energy efficiency plans and the implementation of energy efficiency programs including, but not limited to, professionally trained engineers, accountants, attorneys, skilled examiners and inspectors, and secretaries and clerks. The board and the office of the consumer advocate may expend additional sums beyond those sums appropriated. However, the authority to add additional personnel or contract for additional assistance must first be approved by the department of management. The additional sums shall be provided to the board and the office of the consumer advocate by the utilities subject to the energy efficiency requirements in this chapter. The assessments shall be in addition to and separate from the quarterly assessment.

Sec. 1237. Section 476.10, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section and sections 478.4, 479.16, and 479A.9 directing that fees paid to the utilities division or other moneys be deposited into the utilities trust fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the utilities trust fund, for the fiscal period

beginning on July 1, 1991, and ending June 30, 1993, all such fees and other moneys collected under those sections shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 1238. Section 476.51, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section directing that civil penalties collected be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds collected shall be deposited into the general fund of the state.

Sec. 1239. Section 505.7, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

505.7 FEES — EXPENSES OF DIVISION.

1. 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 for deposit in the general fund of the state.

2. 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.

3. Forty percent of the nonexamination revenues payable to the division of insurance or the department of revenue and finance in connection with the regulation of insurance companies or other entities subject to the regulatory jurisdiction of the division shall be subject to annual appropriation to the division for its operations and is also subject to expenditure under subsection 6.

4. The insurance division shall in determining charges and assessments include an amount which represents the division's share of the estimated 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.

5. The insurance division may transfer moneys between budgeted line items of its appropriation, but such transfers may not reduce moneys budgeted for examinations or professional services, including but not limited to actuarial and legal services.

6. The insurance division may expend additional funds, including funds for additional personnel if those additional expenditures are actual expenses which exceed the funds budgeted for insurance solvency oversight under the following conditions:

a. The division may exceed the line item budgets for examinations and professional services, including but not limited to legal and actuarial services, provided that the division funds the increased expenditures through assessments or increased nonexamination revenues payable to the division under subsection 1 or otherwise. The amounts necessary to fund the excess expenses may be collected from those regulated entities or class of entities which either cause or benefit from the expenditure or encumbrance.

b. Before the division expends or encumbers an amount in excess of the funds budgeted for line items other than examinations and professional services, 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 expenses can be paid from nonexamination revenues payable to the division under subsection 1 or otherwise. Upon the approval of the director of the department of management the division may expend and encumber funds for the excess expenses. The amounts necessary to fund the excess expenses may be collected from those regulated entities or class of entities which either cause or benefit from the expenditure or encumbrance.

**Sec. 1240. Section 507.8, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *An insurance examiner shall directly bill the company through the commissioner for expenses incurred, and the commissioner after review and approval of the actual and necessary expenses shall direct the company to reimburse the examiner directly. The commissioner shall review expenses under the geographical expense reimbursement plan of the national association of insurance commissioners and shall disallow a covered expense to the extent it exceeds the amount allowable under the plan. The commissioner shall retain all expense reports, receipts, and billings pursuant to this paragraph for a period of three years and shall assure that all necessary documentation is maintained to permit auditing of examination expenses.**

Sec. 1241. Section 523A.20, Code 1991, is amended to read as follows:
523A.20 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. Commencing July 1, 1990, and annually thereafter, the commissioner shall allocate from the fees paid pursuant to section 523A.2, one dollar for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.2 shall be deposited into the insurance revolving fund; provided, however, that general fund of the state. However, if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523A.2 shall be deposited in the insurance revolving general fund of the state. The moneys in the regulatory fund shall be retained in the fund together with any interest or earnings that are earned on the balance. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay investigative expenses and the expenses of receiverships established pursuant to section 523A.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 1242. Section 523E.20, Code 1991, is amended to read as follows:
523E.20 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. Commencing July 1, 1990, and annually thereafter, the commissioner shall allocate from the fees paid pursuant to section 523E.2, one dollar for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523E.2 shall be deposited into the insurance revolving fund; provided, however, that general fund of the state. However, if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523E.2 shall be deposited in the insurance revolving general fund of the state. The moneys in the regulatory fund shall be retained in the fund together with any interest or earnings that are earned on the balance. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay investigative expenses and the expenses of receiverships established pursuant to section 523E.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 1243. Section 524.207, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section directing that fees and other moneys received be deposited into the banking revolving fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the banking revolving fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees and moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

*Item veto: see message at end of the Act

Sec. 1244. Section 533.67, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section directing that fees and other moneys received be deposited into the credit union revolving fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the credit union revolving fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees and other moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

NEW UNNUMBERED PARAGRAPH. The division may accept reimbursement of expenses related to the examination of a credit union from the national credit union administration or any other share guarantor or insurance plan authorized by this chapter.

Sec. 1245. Section 534.408, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection and section 534.403 directing that fees and other moneys received be deposited into the savings and loan revolving fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the savings and loan revolving fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees and other moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this subsection and section 534.403 shall be paid from funds appropriated for those purposes.

Sec. 1246. Section 546.10, subsection 6, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection and sections 114.12, 116.3, 117.14, 117B.6, 118.11, and 118A.14 directing that fees and other moneys be deposited into the professional licensing revolving fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the professional licensing revolving fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all fees collected under those sections shall be deposited into the general fund of the state and expenses required to be paid under this subsection shall be paid from funds appropriated for those purposes.

Sec. 1247. Section 546.11, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding this section and sections 476.10, 524.207, 533.67, 534.408, 546.9, and 546.10 directing the utilities division, banking division, credit union division, savings and loan division, alcoholic beverages division, and the professional licensing division to transfer from appropriated trust funds to the administrative services trust fund the division's share of administrative services and directing that costs for administrative services provided by the department to the divisions be paid from the administrative services trust fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all expenses for administrative services shall be paid from appropriations made from the general fund of the state for these expenses.

Sec. 1248. Section 556.18, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this subsection directing that moneys received under section 556.4 be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds received shall be deposited into the general fund of the state.

Sec. 1249. Section 601J.6, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section and section 312.2, subsection 15, directing that moneys be deposited into the public transit assistance

fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all such moneys under these sections shall be deposited into the general fund of the state. There is appropriated during this fiscal period from moneys received by the department by agreements, grants, gifts, or other means and deposited into the state general fund as a result of this paragraph to the department for purposes of this subsection. Moneys appropriated from the general fund under this paragraph and section 312.2, subsection 15, shall not be deposited into the public transit assistance fund.

Sec. 1250. Section 99D.18, Code 1991, is repealed.

Sec. 1251. 1989 Iowa Acts, chapter 321, section 22, subsections 1 and 4, are repealed.

Sec. 1252. EFFECTIVE DATE. This division takes effect July 1, 1991.

DIVISION XIII EFFECTIVE DATE

Sec. 1301. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 15, 1991, except the items which I hereby disapprove and which are designated as Section 615 in its entirety; Section 914 in its entirety; that portion of Section 920 which is herein bracketed in ink and initialed by me; Section 1101, unnumbered and unlettered paragraphs two and four in their entirety; Section 1201 in its entirety; Sections 1208, 1209, 1210, and 1211 in their entirety; and Section 1240 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. Speaker:

I hereby transmit House File 173, an Act relating to reductions in appropriations made for the fiscal year ending June 30, 1991, to departments and agencies of state government and to other public purposes, a supplemental appropriation, and transferring moneys from the Iowa plan fund and other funds to the general fund of the state, and providing for retroactive applicability and various effective dates.

By deauthorizing \$59.4 million of spending, this bill is a positive action to address the projected shortfall in fiscal year 1991. The bill is an important first step toward bringing state spending in line with revenue. The spirit of cooperation shown by both parties and both houses in accomplishing this difficult task will serve the state well as you now go on to hold the line on spending increases in the year ahead.

House File 173 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 615, in its entirety. This section requires the Department of Management to report monthly on furloughs, layoffs, and the effects on services provided by the agency. The Department of Management will work with the General Assembly to provide information as needed without the burden of a monthly report.

I am unable to approve the item designated as Section 914, in its entirety. This provision would reduce funding for the operation of the Office of the Board of Regents and would impair the Board in carrying out its mission to oversee our state universities. While I am unable to approve this section, I do anticipate that the Office of the Board of Regents will revert at least \$38,000 to the general fund.

I am unable to approve the designated portion of Section 920. This portion of the section provides \$500,000 of additional financing for purposes not originally included in the list of capital projects as provided in Chapter 322, Section 3. Because this spending is over and above previously authorized amounts, I am unable to approve it at this time.

I am unable to approve the item designated as Section 1101, unnumbered paragraph two, in its entirety. This item provides that the balance in the Public Transit Assistance fund on June 30, 1991, that is needed to satisfy transit system contracts for the period from July 1, 1991, to September 30, 1991, shall not revert to the general fund of the state. This section, in addition to my recommended appropriations for public transit assistance for fiscal year 1992, would result in duplicate funding for the first quarter of fiscal year 1992.

I am unable to approve the item designated as Section 1101, unnumbered paragraph four, in its entirety. This language is overly restrictive as it relates to the cash balances being transferred, although it is very appropriate for fiscal year 1992 and succeeding years. This item would also reduce our efforts to move toward generally accepted accounting principles.

I am unable to approve the item designated as Section 1201, in its entirety. This section has the desirable intent of making the base budget of subsequent fiscal years reflect savings from the prior fiscal year. However, the construction of the section is flawed. I am willing to work with the General Assembly to develop language that better accomplishes the intent.

I am unable to approve the items designated as Section 1208, Section 1209, Section 1210, and Section 1211, in their entirety. These sections would require additional expenditures by the general fund in fiscal year 1992 for the administration of the fish and game protection fund.

I am unable to approve the item designated as Section 1240, in its entirety. This section would allow Insurance Division examiners to be paid directly by the insurance company being examined. This would have the undesirable result of circumventing internal control functions within state government and would also allow regulatory entity employees to receive direct reimbursement from companies being audited.

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 House File 173 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 261

UNEXPENDED MONEYS IN FISH AND GAME PROTECTION FUND

S.F. 150

AN ACT relating to the department of natural resources, by providing for the use of unexpended moneys in the fish and game protection fund, and providing an effective date.

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

Section 1. USE OF MONEYS REMAINING IN THE STATE FISH AND GAME PROTECTION FUND.

Moneys remaining in the state fish and game protection fund, created in section 107.17, during the fiscal year beginning July 1, 1990, which are not specifically appropriated by the general assembly, are appropriated and may be used by the department of natural resources for capital projects and contingencies arising during the fiscal year beginning July 1, 1990. 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 section, necessary additional operating moneys for the department of natural resources may be construed as a contingency. Before any of the moneys authorized to be expended by this section are allocated for contingencies, the executive council must determine that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation is in the best interest 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.

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

Approved March 11, 1991

CHAPTER 262

REVERSION DATE FOR ARMORIES APPROPRIATION

S.F. 121

AN ACT relating to the reversion of appropriations for the planning and construction of armories for the department of public defense and providing an effective date.

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

Section 1. 1989 Iowa Acts, chapter 307, section 36, unnumbered paragraph 4, is amended to read as follows:

The provisions of section 8.33 do not apply to the funds appropriated in this section. The unobligated and unencumbered funds remaining on March 30, ~~1991~~ 1992, from the funds appropriated in this section for the fiscal year beginning July 1, 1988, shall revert to the general fund of the state on March 30, ~~1991~~ 1992.

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

Approved March 28, 1991

CHAPTER 263

DEPARTMENTAL SUPPLEMENTAL APPROPRIATIONS AND OTHER PROVISIONS

S.F. 209

AN ACT relating to and making supplemental appropriations for the remainder of the fiscal year ending June 30, 1991, to the department of human services, national conference of state legislatures, department of general services, department of revenue and finance, department of public safety, department of inspections and appeals, college student aid commission, board of regents institutions, office of lieutenant governor, department of transportation, pioneer lawmakers, the office of the state public defender, department of justice, department of human rights, Iowa finance authority, department of economic development, department of corrections, and extending ethanol fuel project, relating to certain interest, investment income, and funds received, relating to future budget estimates, and increasing the court civil penalty surcharge, and providing effective dates.

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

DEPARTMENT OF HUMAN SERVICES

Section 1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 1, as amended by 1991 Iowa Acts, House File 173, for aid to families with dependent children:

..... \$ 2,800,236

Sec. 2. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 2, as amended by 1991 Iowa Acts, House File 173, 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:

..... \$ 4,382,328

Sec. 3. Notwithstanding the provisions of 1990 Iowa Acts, chapter 1270, section 6, the department of human services may revise the allocation of funds appropriated in that section for protective and state child care assistance as the department deems necessary to prevent a deficit in the appropriation. The revision actions the department may take include but are not limited to transfers of allocated funds between counties within a department of human services' district, transfers between the districts, and limiting the number of new persons who are approved to receive state child care assistance. If a transfer of allocated funds is necessary, consideration shall be given to transferring funds from those counties projecting a surplus in the allocation which have no waiting list for services and from those counties with unencumbered funds in the allocation which have a waiting list.

Sec. 4. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 7, for transitional child care assistance:

..... \$ 126,576

Sec. 5. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 13, as amended by 1991 Iowa Acts, House File 173, for foster care:

..... \$ 7,873,597

Sec. 6. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 15, as amended by 1991 Iowa Acts, House File 173, for home-based services on the condition that family planning services are funded, provided that if the department amends the allocation to a program funded under this section, then the department shall promptly notify the legislative fiscal bureau of the change:

..... \$ 309,956

Sec. 7. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 16, for community-based programs on the condition that the prevention grants relating to adolescent pregnancy are funded:

..... \$ 348,914

Sec. 8. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 18, for court-ordered evaluations and treatment pursuant to section 232.141, subsection 4:

..... \$ 6,250,100

Sec. 9. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 21, subsection 4, for the state mental health institute at Mount Pleasant for salaries, support, maintenance, miscellaneous purposes, and for not more than the following additional full-time equivalent positions:

..... \$ 253,713
..... FTEs 4.0

Sec. 10. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1262, section 17, for emergency assistance to families with dependent children under Title IV-A of the federal Social Security Act to match federal dollars for homeless prevention programs:

..... \$ 400,000

DEPARTMENT OF GENERAL SERVICES

Sec. 11. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For capitol restoration:

..... \$ 1,000,000

NATIONAL CONFERENCE OF STATE LEGISLATURES

Sec. 12. There is appropriated from the general fund of the state to the following named agency for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

NATIONAL CONFERENCE OF STATE LEGISLATURES

To supplement funds appropriated in 1990 Iowa Acts, chapter 1266, section 9, subsection 1, for support of the membership assessment:

..... \$ 2,502

DEPARTMENT OF REVENUE AND FINANCE

Sec. 13. There is appropriated from the general fund of the state to the department of revenue and finance the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For expenses incurred in the litigation of the Burlington Northern Railroad lawsuit:

..... \$ 250,000

Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the end of any fiscal year, and will remain available until the litigation is completed.

DEPARTMENT OF PUBLIC SAFETY

Sec. 14. 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, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1267, section 6, subsection 5, for payments to the department of personnel for expenses incurred in administering workers' compensation on behalf of the highway safety division of highway safety and uniformed force:

..... \$ 135,000

DEPARTMENT OF INSPECTIONS AND APPEALS

Sec. 15. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purposes designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1261, section 10, for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 60,000

COLLEGE STUDENT AID COMMISSION

Sec. 16. There is appropriated from the loan reserve account to the college aid commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1272, section 6, for operating costs of the Stafford loan program including salaries, support, maintenance, miscellaneous purposes, and for not more than the following additional full-time equivalent positions:

..... \$ 617,340

..... FTEs 4.0

BOARD OF REGENTS INSTITUTIONS

Sec. 17. There is appropriated from the general fund of the state to Iowa state university of science and technology for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Biodegradable plastics research:

..... \$ 135,000

LIEUTENANT GOVERNOR

Sec. 18. There is appropriated from the general fund of the state to the office of the lieutenant governor for the portion of the fiscal year beginning with the 1991 inauguration of the lieutenant governor and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1266, section 5, as amended by 1991 Iowa Acts, House File 173, for salaries, support, maintenance, and miscellaneous purposes including the lieutenant governor's compensation and expenses:

..... \$ 30,000

DEPARTMENT OF TRANSPORTATION

Sec. 19. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly in 1990 Iowa Acts, chapter 1256, section 11, subsection 2:

..... \$ 1,019,127

PIONEER LAWMAKERS

Sec. 20. There is appropriated from the general fund of the state to the pioneer lawmakers for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For expenses of the biennial meeting:

..... \$ 1,000

STATE PUBLIC DEFENDER

Sec. 21. There is appropriated from the general fund of the state to the office of the state public defender for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. To supplement funds appropriated in 1990 Iowa Acts, chapter 1261, section 9, subsection 1, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following additional full-time equivalent positions:

..... \$ 540,000
..... FTEs 38.00

2. To supplement funds appropriated in 1990 Iowa Acts, chapter 1261, section 9, subsection 2, as amended by 1991 Iowa Acts, House File 173, for indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... \$ 4,760,000

DEPARTMENT OF JUSTICE

Sec. 22. 1990 Iowa Acts, chapter 1259, section 7, is amended to read as follows:

SEC. 7. 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 department of justice for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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:

..... \$ 176,000
..... 211,000

*Sec. 23. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To supplement other funds appropriated by the general assembly in 1990 Iowa Acts, chapter 1268, section 7, subsection 1, as amended by 1991 Iowa Acts, House File 173, for salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners

*JUDICIAL DEPARTMENT heading probably intended

and board of examiners of shorthand reporters and judicial qualifications commission, receipt and disbursement of child support payments, and maintenance, equipment, and miscellaneous purposes:

..... \$ 200,000

DEPARTMENT OF CORRECTIONS

Sec. 24. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To supplement other funds appropriated by the general assembly in 1990 Iowa Acts, chapter 1268, section 6, subsection 1, as amended by 1991 Iowa Acts, House File 173, for the first judicial district department of correctional services:

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 133,000

2. To supplement other funds appropriated by the general assembly in 1990 Iowa Acts, chapter 1268, section 6, subsection 6, as amended by 1991 Iowa Acts, House File 173, for the sixth judicial district department of correctional services:

For staffing of additional new beds at the Cedar Rapids residential facility as authorized during the 1989 session of the general assembly:

..... \$ 68,053

3. For the third judicial district department of correctional services for additional funding for the new 50 bed facility as authorized by 1990 Iowa Acts, chapter 1257, section 30:

..... \$ 40,000

The project may also include the colocation of existing administrative office space. Political subdivisions, private individuals, or organizations may contribute to the financing, construction, and operations of the new facility.

Notwithstanding section 8.33, moneys remaining unencumbered and unobligated on June 30, 1991, from the appropriation made in this subsection shall not revert but shall remain available for expenditure for purposes of this subsection for the fiscal year beginning July 1, 1991.

DEPARTMENT OF HUMAN RIGHTS

Sec. 25. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1259, section 2, subsection 6, as amended by 1991 Iowa Acts, House File 173, for the division of deaf services for salary and support of an additional interpreter:

..... \$ 13,702

IOWA FINANCE AUTHORITY

Sec. 26. 1990 Iowa Acts, chapter 1262, section 3, subsection 1, paragraphs b and d, are amended to read as follows:

b. Of the amount appropriated in paragraph "a", \$200,000 shall be used to finance the purchase or acquisition, in communities with a population of less than 10,000, of modular homes, as defined in section 135D.1, and manufactured homes as defined in 42 U.S.C. § 5403.

d. Assistance provided under paragraph "a" shall be limited to mortgages under \$35,000 \$55,000, except in those areas of the state where the median price of homes exceeds the state average and except in the case of the \$200,000 set aside for communities of less than 10,000 where the mortgage limit is \$50,000. In providing the assistance, the authority shall require substantial seller participation of not less than 2 percent of the mortgage amount, which participation includes, but is not limited to, home ownership maintenance funding, down payment assistance, payment of closing costs, or rehabilitation costs.

Sec. 27. Moneys remaining unencumbered or unobligated from the funds appropriated to the Iowa finance authority for the housing assistance program for the fiscal year beginning

July 1, 1989, in section 99E.32, subsection 3, paragraph "u", shall be used by the Iowa finance authority for the housing assistance program under the conditions and criteria set out in 1990 Iowa Acts, chapter 1262, section 3, as amended by section 26 of this Act, except that \$400,000 of such money shall be transferred to and deposited in the general fund of the state on the effective date of this Act.

Notwithstanding section 8.33, section 99E.32, subsection 7, and 1990 Iowa Acts, chapter 1255, section 37, subsection 2, moneys for the housing assistance program remaining unencumbered or unobligated on June 30, 1991, shall not revert or be transferred to any fund but shall be available for expenditure for purposes of the housing assistance program for the fiscal year beginning July 1, 1991.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 28. 1989 Iowa Acts, chapter 308, section 1, subsection 2, unnumbered paragraph 2, as item vetoed by the governor, is amended to read as follows:

As a condition, limitation, and qualification of this appropriation, the department shall develop and initiate a program to provide cassette tape-recorded explanations of regional points of interest and tourist attractions to be made available ~~without charge~~ at state welcome centers. The department may charge a reasonable deposit and fee to ensure that the tape is returned to a state welcome center or rest stop, or other location as specified by the department.

Sec. 29. 1989 Iowa Acts, chapter 308, section 1, subsection 3, unnumbered paragraph 2, is amended to read as follows:

As a condition, limitation, and qualification of this appropriation, the department shall develop and initiate a program to provide cassette tape-recorded explanations of regional points of interest and tourist attractions, to be made available ~~without charge~~ at state welcome centers. The department may charge a reasonable deposit and fee to ensure that the tape is returned to a state welcome center or rest stop, or other location as specified by the department.

Sec. 30. There is appropriated from the general fund of the state to the general assembly for the period beginning on the effective date of this Act and ending June 30, 1991, the sum of \$20,000, or so much thereof as is necessary, for the purpose of continuing through June 30, 1991, the ethanol fueled Brazilian truck project at the state university of Iowa. The appropriation made in this section, upon acceptance by the state university of Iowa, constitutes an extension through June 30, 1991, of the contract entered into between the state university of Iowa and the redesign lottery funded environmental initiatives study committee as that contract was signed by Susan M. Phillips for the state university of Iowa on August 24, 1990, and by Senator Bill Hutchins for the study committee on August 23, 1990.

Sec. 31. Section 8.23, unnumbered paragraph 1, Code 1991, is amended to read as follows:

On or before September 1, next prior to each legislative session, all departments and establishments of the government shall transmit to the director, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, classified so as to distinguish between expenditures estimated for administration, operation, and maintenance, and the cost of each project involving the purchase of land or the making of a public improvement or capital outlay of a permanent character, together with supporting data and explanations as called for by the director. The budget estimates shall include for those agencies which pay for energy directly a line item for energy expenses itemized by type of energy and location. The estimates of expenditure requirements shall be based upon seventy-five percent of the funding provided for the current fiscal year accounted for by program reduced by the historical employee vacancy factor in form specified by the director and the remainder of the estimate of expenditure requirements prioritized by program. The estimates shall be accompanied with performance measures for evaluating the effectiveness of the program. If a department or establishment fails to submit estimates within the time specified, the governor shall cause estimates to be prepared for that department or establishment as in the governor's opinion are reasonable and proper. The director shall furnish standard budget request forms to each department or agency of state government.

*Item veto; see message at end of the Act

**Sec. 32. Section 99F.4, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *All license fees, operating fees, admissions fees, and penalties collected under this chapter after July 1, 1993, shall be deposited into the excursion boat gambling revolving fund created in the office of the treasurer of state.**

**Sec. 33. 1991 Iowa Acts, House File 173, section 1241, is amended by striking the section and inserting in lieu thereof the following:*

SEC. 1241. *Section 523A.20, Code 1991, is amended to read as follows:*

523A.20 INSURANCE DIVISION'S REGULATORY FUND.

*The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. Commencing July 1, 1990, and annually thereafter, the commissioner shall allocate from the fees paid pursuant to section 523A.2, one dollar for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.2 shall be deposited into the insurance revolving fund; provided, however, that general fund of the state. However, if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523A.2 shall be deposited in the insurance revolving general fund of the state. The moneys in the regulatory fund shall be retained in the fund together with any interest or earnings that are earned on the balance. However, for the fiscal period beginning July 1, 1991, and ending June 30, 1993, any interest or earnings that are earned on the balance during that period shall be deposited into the general fund of the state. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay investigative expenses and the expenses of receiverships established pursuant to section 523A.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.**

**Sec. 34. 1991 Iowa Acts, House File 173, section 1242, is amended by striking the section and inserting in lieu thereof the following:*

SEC. 1242. *Section 523E.20, Code 1991, is amended to read as follows:*

523E.20 INSURANCE DIVISION'S REGULATORY FUND.

*The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. Commencing July 1, 1990, and annually thereafter, the commissioner shall allocate from the fees paid pursuant to section 523E.2, one dollar for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523E.2 shall be deposited into the insurance revolving fund; provided, however, that general fund of the state. However, if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523E.2 shall be deposited in the insurance revolving general fund of the state. The moneys in the regulatory fund shall be retained in the fund together with any interest or earnings that are earned on the balance. However, for the fiscal period beginning July 1, 1991, and ending June 30, 1993, any interest or earnings that are earned on the balance during that period shall be deposited into the general fund of the state. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay investigative expenses and the expenses of receiverships established pursuant to section 523E.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.**

Sec. 35. *Section 911.2, unnumbered paragraph 1, Code 1991, as amended by 1991 Iowa Acts, House File 173, section 816, is amended to read as follows:*

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 ~~twenty-five~~ thirty percent of the fine or forfeiture imposed. In the event of multiple offenses, the surcharge shall be based upon

**Item veto; see message at end of the Act*

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.

Sec. 36. NEW SECTION. 29C.22 PARTICIPATION IN FUNDING DISASTER RECOVERY FACILITY.

All state government departments and agencies may participate in sharing the cost of the design, construction, and operation of a disaster recovery facility located in the STARC armory at Camp Dodge. State departments and agencies may use funds from any source, including but not limited to, user fees, and appropriations for operational or capital purposes, to participate in the facility.

Sec. 37. Section 911.3, Code 1991, as amended by 1991 Iowa Acts, House File 173, section 817, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE.

When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ~~twenty sixteen and two-thirds~~ twenty six and two-thirds percent of the surcharge collected to the treasurer of state to be deposited pursuant to section 321J.17. ~~Ninety Ninety-four~~ Ninety Six percent of the remainder of the surcharge collected shall be transmitted to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit that money in the general fund of the state. The clerk of the district court shall transmit ~~ten six~~ ten six percent of the remainder of the surcharge to the county treasurer or shall remit ~~ten six~~ ten six percent of the remainder of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 38. Moneys deposited into the general fund of the state during the fiscal period beginning July 1, 1991, and ending June 30, 1993, that would have been deposited into other funds or accounts but for the provisions of 1991 Iowa Acts, House File 173, division XII, shall only be used for the purposes for which the moneys were collected.

Sec. 39. Notwithstanding any provision relating to or contained in section 28.112, the value-added agricultural products and processes financial assistance fund; section 117.54, the Iowa real estate education fund; section 246.310, the canteen operating fund; section 246.706, the revolving farm fund; section 455A.18, the Iowa resources enhancement and protection fund; section 467A.71, the conservation practices revolving loan fund; and section 467F.4, the water protection fund; any interest earned on or income from investments of moneys in such funds received during the fiscal period beginning July 1, 1991, and ending June 30, 1993, shall not be deposited into such funds but shall be deposited into the general fund of the state.

Sec. 40. 1991 Iowa Acts, House File 173, sections 1202, 1205, 1213, 1220, 1221, 1232, 1233, 1234, 1235, and 1250, are repealed.

Sec. 41. EFFECTIVE DATE. Section 39 of this Act takes effect July 1, 1991.

Sec. 42. EFFECTIVE DATE. Sections 35 and 37 of this Act, relating to court surcharges, take effect April 1, 1991, and apply to fines and forfeitures collected on or after that date. Section 31 of this Act relating to departmental estimates takes effect July 1, 1991.

Sec. 43. This Act, being deemed of immediate importance, is effective upon enactment.

Approved March 29, 1991, except the items which I hereby disapprove and which are designated as Section 30 in its entirety; Sections 32, 33 and 34 in their entirety; and Sections 39, 40 and 41 in their entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. President:

I hereby transmit Senate File 209, an Act relating to and making supplemental appropriations for the remainder of the fiscal year ending June 30, 1991, to the department of human services, national conference of state legislatures, department of general services, department of revenue and finance, department of public safety, department of inspections and appeals, college student aid commission, board of regents institutions, office of lieutenant governor, department of transportation, pioneer lawmakers, the office of the state public defender, department of justice, department of human rights, Iowa finance authority, department of economic development, department of corrections, and extending ethanol fuel project, relating to certain interests, investment income, and funds received, relating to future budget estimates, and increasing the court civil penalty surcharge, and providing effective dates.

Senate File 209 makes necessary appropriations to meet the state's obligations yet in this fiscal year. In approving the additional funding for court-ordered evaluations and treatment of juveniles and indigent defense in this bill, it is my understanding that the necessary statutory language to bring the costs of these programs under control will follow in subsequent legislation very soon. This is essential if we are to achieve the cost avoidance necessary to provide a balanced budget.

Senate File 209 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 30, in its entirety. This section would provide \$20,000 for what is known as the Brazilian truck project. Research and development of the use of ethanol fuel passed this project when the state of Iowa has purchased five automobiles which burn a fuel mixture of up to 85 percent ethanol. These vehicles are American made and are assigned for daily use in our fleet, as opposed to being an experiment. I fully support the increased use of ethanol as a fuel and believe these scarce resources should be used to purchase additional vehicles for our fleet.

I am unable to approve Section 32, in its entirety. This section would require the deposit of fees collected from excursion boat gambling activities into an excursion boat gambling revolving fund. House File 173, signed by me on February 15, 1991, transferred all revenues derived from excursion boat gambling after June 30, 1991, into the general fund of the state. Approval of this section would recreate a revolving fund, a step backward in our efforts to move toward Generally Accepted Accounting Principles (GAAP). To assure that progress and to also assure proper oversight over all state appropriations and revenue receipts, I disapprove the creation of this separate fund.

I am unable to approve Sections 33, 34, 39, 40 and 41, in their entirety. These sections deal with interest earned from funds deposited in special funds outside of the general fund. House File 173 changed current law to require interest earned on the balances of fifteen separate funds to be deposited in the state's general fund. Senate File 209 would amend House File 173 to allow interest earned on these special fund balances to be credited to the general fund only for fiscal years 1992 and 1993. This would be an unfortunate reversal of progress toward GAAP.

All of the programs funded from these special funds derive benefit from the general operation of state government through the provision of basic services, i.e., accounting, payroll and general services functions including space and the use of the state facilities. Deposit of interest earned on special funds is a good means to reimburse the general fund for this expense and should be a permanent policy of the state. Therefore, the permanent and positive changes made in House File 173 should not be reversed.

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 209 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 264**DEPARTMENTAL APPROPRIATION REDUCTIONS, INCREASES,
AND FUND TRANSFERS***S.F. 532*

AN ACT relating to reductions and increases in appropriations made for the fiscal year ending June 30, 1991, to departments and agencies of state government and to other public purposes, transferring moneys to the general fund of the state, and providing an effective date.

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

DIVISION I
DEPARTMENT OF HUMAN SERVICES

Section 101. 1990 Iowa Acts, chapter 1270, section 21, subsection 1, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 117, is amended to read as follows:

State mental health institute at Cherokee:

	\$	14,186,485
		<u>14,137,569</u>
	FTEs	409.33

DIVISION II
CIVIL RIGHTS COMMISSION

Sec. 201. 1990 Iowa Acts, chapter 1259, section 1, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 201, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	1,010,039
		<u>977,155</u>
	FTEs	37.00

DEPARTMENT OF HUMAN RIGHTS

Sec. 202. 1990 Iowa Acts, chapter 1259, section 2, subsection 1, and subsections 3, 4, 5, 6, and 7, as amended by 1991 Iowa Acts, House File 173,* section 202, are amended to read as follows:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	242,000
		<u>237,000</u>
	FTEs	9.00

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	189,000
		<u>184,100</u>
	FTEs	4.00

Of the funds appropriated to the division, there is allocated an amount necessary to fund the central registry for brain injuries established pursuant to section 135.22.

4. STATUS OF WOMEN DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

*Chapter 260 herein

.....	\$	207,500
.....		<u>199,480</u>
.....	FTEs	4.10

b. For the displaced homemaker program:

.....	\$	140,000
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5. CHILDREN, YOUTH AND FAMILIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	163,121
.....		<u>149,605</u>
.....	FTEs	8.00

Of the funds appropriated in this subsection, no less than \$36,300 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, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	285,277
.....		<u>280,877</u>
.....	FTEs	10.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be dispersed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for the provision of continued and expanded interpretation services.

7. STATUS OF BLACKS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	68,735
.....		<u>66,631</u>
.....	FTEs	1.50

Sec. 203. 1990 Iowa Acts, chapter 1268, section 9, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 204, is amended to read as follows:

For the division of criminal and juvenile justice planning established pursuant to section 601K.1, and for not more than the following full-time equivalent positions:

.....	\$	48,063
.....		<u>30,580</u>
.....	FTEs	2.00

DEPARTMENT FOR THE BLIND

Sec. 204. 1990 Iowa Acts, chapter 1259, section 4, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 203, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,345,087
.....		<u>1,324,087</u>
.....	FTEs	103.50

DEPARTMENT OF ELDER AFFAIRS

Sec. 205. 1990 Iowa Acts, chapter 1259, section 5, subsection 1, and subsection 7, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 205, are amended to read as follows:

*Chapter 260 herein

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	464,989
		<u>437,970</u>
.....	FTEs	32.00

It is the intent of the general assembly that the department employ an alternative housing coordinator and a long-term care coordinator as 2 of the full-time equivalent positions.

Of the funds appropriated under this subsection, \$50,000 shall be allocated to fund the representative payee project established within the department of elder affairs.

For elderly services programs:

.....	\$	1,471,000
		<u>1,443,981</u>

Sec. 206. 1990 Iowa Acts, chapter 1272, section 19, as amended by 1991 Iowa Acts, House File 173,* section 206, is amended to read as follows:

SEC. 19. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to conduct the elderlaw education program under section 249D.54:

.....	\$	48,891
		<u>29,207</u>

IOWA DEPARTMENT OF PUBLIC HEALTH

Sec. 207. 1990 Iowa Acts, chapter 1259, section 6, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 207, is amended to read as follows:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	775,696
		<u>767,696</u>
.....	FTEs	57.00

As a condition, limitation, and qualification of the appropriation made in this subsection, the director of the Iowa department of public health or the director's designee shall participate in an interagency working committee convened by the governor's planning council for developmental disabilities to examine the feasibility of establishing an office of disability prevention within state government.

Sec. 208. 1990 Iowa Acts, chapter 1259, section 6, subsection 2, paragraph a, as amended by 1991 Iowa Acts, House File 173,* section 208, is amended to read as follows:

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,153,766
		<u>1,108,308</u>
.....	FTEs	15.75

The department shall allocate from the funds appropriated under this subsection \$754,500 \$709,042 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, for the chronic renal disease program. The types of assistance to eligible recipients under the program may include hospital and medical expenses, home dialysis supplies, insurance premiums, travel expenses, prescription and nonprescription drugs, and lodging expenses for persons in training. The program expenditures shall not exceed these allocations. If projected expenditures will exceed the allocations, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the allocations.

Sec. 209. 1990 Iowa Acts, chapter 1259, section 6, subsection 3, paragraph a, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 210, is amended to read as follows:

*Chapter 260 herein

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,401,059
.....		<u>2,273,559</u>
.....	FTEs	78.50

Sec. 210. 1990 Iowa Acts, chapter 1259, section 6, subsection 3, paragraph b, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 211, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	975,583
.....		<u>935,583</u>
.....	FTEs	5.00

Sec. 211. 1990 Iowa Acts, chapter 1259, section 6, subsections 5 and 10, as amended by 1991 Iowa Acts, House File 173,* section 212, are amended to read as follows:

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	222,328
.....		<u>215,628</u>
.....	FTEs	4.00

10. SUBSTANCE ABUSE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	489,571
.....		<u>484,571</u>
.....	FTEs	15.00

b. For program grants:

.....	\$	7,382,000
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Sec. 212. 1990 Iowa Acts, chapter 1259, section 6, subsection 11, paragraph a, paragraph d, unnumbered paragraph 1, and paragraph e, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 213, are amended to read as follows:

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,558,864
.....		<u>3,458,864</u>
.....	FTEs	87.60

The department shall allocate from the funds appropriated under this paragraph at least ~~\$631,000~~ \$571,285 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, for the birth defects and genetics counseling program and of these funds, ~~\$39,000~~ \$37,934 shall be allocated for a central birth defects registry program, and ~~\$296,000~~ \$288,147 shall be allocated for regional genetic counseling services contracted from the university of Iowa hospitals and clinics under the control of the state board of regents.

Of the funds appropriated under this paragraph, ~~\$124,000~~ \$104,000 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:

.....	\$	341,500
.....		<u>330,556</u>

The regional clinic located in Sioux City shall maintain a social worker component to assist the families of children participating in the clinic program.

*Chapter 260 herein

For the acquisition of emergency medical services equipment:
 \$ 750,000
 600,000

DIVISION III
 AUDITOR OF STATE

Sec. 301. 1990 Iowa Acts, chapter 1261, section 1, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 401, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 2,003,602
 1,983,602
 FTEs 154.50

CAMPAIGN FINANCE DISCLOSURE COMMISSION

Sec. 302. 1990 Iowa Acts, chapter 1261, section 2, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 402, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 258,533
 253,057
 FTEs 6.75

DEPARTMENT OF EMPLOYMENT SERVICES

Sec. 303. 1990 Iowa Acts, chapter 1261, section 3, subsection 1, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 403, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 2,541,046
 2,524,946
 FTEs 104.80

Sec. 304. 1990 Iowa Acts, chapter 1261, section 3, subsection 2, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 404, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 1,859,336
 1,818,661
 FTEs 45.76

DEPARTMENT OF COMMERCE

Sec. 305. 1990 Iowa Acts, chapter 1261, section 14, as amended by 1991 Iowa Acts, House File 173,* section 413, is amended to read as follows:

SEC. 14. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 4,455,167
 4,406,431
 FTEs 85.86

*Chapter 260 herein

DIVISION IV
GOVERNOR

Sec. 401. 1990 Iowa Acts, chapter 1266, section 2, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 602, is amended to read as follows:

1. For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor, and for not more than the following full-time equivalent positions:

.....	\$	858,000
		<u>849,000</u>
.....	FTEs	17.00

DEPARTMENT OF GENERAL SERVICES

Sec. 402. 1990 Iowa Acts, chapter 1266, section 10, subsections 1, 2, 4, 7, and 8, as amended by 1991 Iowa Acts, House File 173,* section 606, are amended to read as follows:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	480,000
		<u>465,000</u>
.....	FTEs	16.00

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	153,000
		<u>118,000</u>
.....	FTEs	19.00

4. MATERIALS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	91,000
		<u>90,285</u>
.....	FTEs	3.30

7. RECORDS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	421,000
		<u>416,000</u>
.....	FTEs	14.50

8. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,687,804
		<u>6,582,804</u>
.....	FTEs	158.00

Sec. 403. 1990 Iowa Acts, chapter 1266, section 10, subsections 3 and 5, are amended to read as follows:

3. DIRECTOR'S OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	102,000
		<u>87,000</u>
.....	FTEs	2.00

*Chapter 260 herein

5. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,744,000
		<u>3,734,000</u>
.....	FTEs	156.00

DEPARTMENT OF PERSONNEL

Sec. 404. 1990 Iowa Acts, chapter 1266, section 15, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 609, is amended to read as follows:

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, office services, data/word processing, and insurance cost management, and for not more than the following full-time equivalent positions:

.....	\$	1,196,035
		<u>1,178,458</u>
.....	FTEs	29.65

DEPARTMENT OF REVENUE AND FINANCE

Sec. 405. 1990 Iowa Acts, chapter 1266, section 17, subsections 1, 2, and 3, as amended by 1991 Iowa Acts, House File 173,* section 610, are amended to read as follows:

1. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	9,269,618
		<u>9,096,168</u>

2. FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	6,028,475
		<u>5,928,475</u>

3. INFORMATION AND MANAGEMENT SYSTEMS

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,610,402
		<u>1,535,402</u>

DIVISION V

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 501. 1990 Iowa Acts, chapter 1262, section 1, subsections 2, 3, 5, 6, 10, as item vetoed by the governor, 12, 13, 18, 19, 23, 26, 29, and 33, as amended by 1991 Iowa Acts, House File 173,* section 502, are amended to read as follows:

2. TOURISM OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	706,835
		<u>696,835</u>
.....	FTEs	15.97

As a condition, limitation, and qualification of the appropriation made in this subsection, the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing.

3. TOURISM ADVERTISING

For contracting exclusively for tourism advertising for in-state and out-of-state tourism marketing services, tourism promotion programs, electronic media, print media, and printed materials:

.....	\$	3,230,500
		<u>3,210,500</u>

*Chapter 260 herein

As a condition, limitation, and qualification of the appropriation made in this subsection, the department shall develop public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

The department shall cooperate with the state historical society and department of natural resources to study, examine, and make recommendations on how best to develop, promote, and advertise state historical sites and on how best to utilize state historical sites in the state's tourism advertising and promotion. The department of cultural affairs shall report to the general assembly the findings of the study by February 1, 1991.

Of the amount appropriated in this subsection, \$30,500 shall go to the department of cultural affairs to be used for the promotion of state-owned and operated cultural and historical sites.

5. NATIONAL MARKETING ADVERTISING

For contracting exclusively for marketing and promotion programs and services and advertising contracts for out-of-state national marketing programs, for electronic media, print media, and printed materials:

.....	\$	2,550,000
		<u>2,490,000</u>

As a condition, limitation, and qualification of the appropriation made by this subsection, the department shall develop public-private partnerships with Iowa businesses, Iowa business organizations, Iowa chambers of commerce, and political subdivisions in this state, to assist in the development of the marketing efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

6. FILM OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	200,000
		<u>190,000</u>
.....	FTEs	2.00

10. EXPORT TRADE ACTIVITIES PROGRAM

For export trade activities, including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, by providing for the lease/sublease of showcase space in existing world trade centers, by providing temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support for not more than the following full-time equivalent positions:

.....	\$	380,000
		<u>352,000</u>
.....	FTEs	0.25

12. DOMESTIC MARKETING PROGRAMS

For purposes of programs listed in this subsection, including salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time positions:

a. Small business program:

.....	\$	142,914
		<u>132,914</u>
.....	FTEs	2.00

b. Small business advisory council:

.....	\$	5,000
-------	----	-------

c. Targeted small business program:

.....	\$	47,692
.....	FTEs	1.00

d. Existing industry program:

.....	\$	125,594
.....	FTEs	3.00

13. FEDERAL PROCUREMENT OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	120,000
.....		<u>110,000</u>
.....	FTEs	3.50

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1991.

18. COMMUNITY ECONOMIC BETTERMENT PROGRAM

For use of the fund established in this subsection:

.....	\$	4,457,000
.....		<u>4,420,000</u>

Notwithstanding section 8.33, moneys appropriated from the community economic betterment account for the fiscal years beginning July 1, 1985, under section 99E.31, subsection 2, and July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, under section 99E.32, subsection 2, that remain unencumbered or unobligated on June 30, 1990, all unexpended cash balances of obligated and encumbered funds remaining in the community economic betterment account on June 30, 1990, and loan repayments or other moneys received from awards made from the community economic betterment account shall not revert to any fund but shall be deposited in a special community economic betterment program fund to be used by the department of economic development for the community economic betterment program and to supplement the funds appropriated in this subsection for that program. The conditions, criteria, and limitations referred to or specified in section 99E.32, subsection 2, paragraph "b", apply to the providing of moneys under the community economic betterment program from the fund established in this subsection.

For the fiscal year ending June 30, 1991, only, all unencumbered or unobligated funds remaining in the community economic betterment program fund established in this subsection are transferred from the fund and deposited in the general fund of the state.

Notwithstanding section 8.33, for fiscal years beginning on or after July 1, 1991, moneys in this special fund at the end of each fiscal year shall not revert to any other fund but shall remain in this community economic betterment program fund.

19. IOWA PRODUCT DEVELOPMENT CORPORATION

To the fund established under section 28.89:

.....	\$	1,286,000
.....		<u>1,083,670</u>

23. MAIN STREET/RURAL MAIN STREET PROGRAM:

.....	\$	368,000
.....		<u>353,000</u>

Moneys appropriated in this subsection may be used for salaries and support for not more than the following full-time equivalent positions:

.....	FTEs	3.00
-------	------	------

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

26. WELCOME CENTER PROGRAM:

.....	\$	347,738
.....		<u>245,238</u>

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

As a condition, limitation, and qualification of the appropriations made in this subsection, moneys appropriated shall be used for implementation of the recommendations of the statewide long-range plan for developing and operating welcome centers throughout the state. In addition, the department shall evaluate the operation of the pilot project welcome centers established pursuant to sections 15.271 and 15.272 and report to the general assembly by January 15, 1991, its recommendations for long-term operation of the pilot project welcome centers.

29. JOB RETRAINING PROGRAM

To the Iowa employment retraining fund created in section 15.298:

.....	\$	1,913,200
		<u>1,498,535</u>

33. SMALL BUSINESS NEW JOBS TRAINING PROGRAM

To the revolving loan account of the area school job training fund established under section 280C.6 for the Iowa small business new jobs training program:

.....	\$	800,000
		<u>398,772</u>

Sec. 502. 1990 Iowa Acts, chapter 1262, section 1, subsections 1, 8, 17, and 25, are amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	815,706
		<u>748,706</u>
.....	FTEs	21.00

8. INTERNATIONAL TRADE OFFICES

a. For the operation and maintenance of the European office, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	227,357
		1.50

b. For European community 1992 opportunities, including salary, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

.....	\$	60,000
		1.00

The Iowa business council is requested to conduct a study to determine the best utilization of the funds appropriated by this paragraph. The council shall report its findings to the department of economic development in conjunction with this program.

c. To initiate trade activities with eastern Europe:

.....	\$	50,000
-------	----	--------

d. For the operation and maintenance of the Asian trade office, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	204,187
		2.00

e. For targeted marketing in Pacific rim countries:

.....	\$	51,000
		<u>44,000</u>

f. For the operation and maintenance of the Japanese trade office, including salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	299,191
		<u>281,191</u>
.....	FTEs	2.00

17. IOWA WORK FORCE INVESTMENT PROGRAM:

.....	\$	1,000,000
		<u>913,000</u>
.....		FTEs
		1.00

This program shall be administered through the department of economic development in consultation with the state job training coordinating council. The program shall be operated on a competitive grant basis and funds shall be available for projects that increase Iowa's pool of available labor via training and support services. \$300,000 of the amount appropriated in this subsection shall be available specifically for displaced homemaker programs.

25. RURAL ENTERPRISE FUND:

.....	\$	400,000
		<u>0</u>

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

Sec. 503. 1990 Iowa Acts, chapter 1262, section 2, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 503, is amended to read as follows:

For deposit in the Wallace technology transfer foundation fund created by the foundation board:

.....	\$	2,669,880
		<u>1,369,880</u>

Sec. 504. 1990 Iowa Acts, chapter 1262, section 6, subsection 2, is amended to read as follows:
2. RURAL COMMUNITY 2000

For deposit in the revolving fund created under section 15.287:

.....	\$	500,000
		<u>0</u>

Notwithstanding section 15.283, subsection 4, for the fiscal year beginning July 1, 1990, all funds allocated under this program for traditional and new infrastructure shall be applied to programs under sections 15.284 and 15.285.

INTERNET

Sec. 505. 1990 Iowa Acts, chapter 1262, section 4, as amended by 1991 Iowa Acts, House File 173,* section 504, is amended to read as follows:

SEC. 4. INTERNET.

There is appropriated from the general fund of the state to INTERNET for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the international network on trade fund created by the INTERNET board:

.....	\$	385,000
		<u>371,500</u>

IOWA FINANCE AUTHORITY

Sec. 506. 1990 Iowa Acts, chapter 1262, section 3, subsection 1, paragraph a, as amended by 1991 Iowa Acts, House File 173,* section 512, is amended to read as follows:

a. To provide mortgage and finance assistance to individuals for the purchase or acquisition of homes:

.....	\$	500,000
		<u>0</u>

Sec. 507. 1990 Iowa Acts, chapter 1262, section 15, is amended to read as follows:

SEC. 15. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

*Chapter 260 herein

For the rural community 2000 program:

.....	\$	1,600,000
		<u>0</u>

Notwithstanding section 15.283, subsection 4, the amount appropriated in this section shall be allocated for traditional infrastructure under section 15.284 and for new infrastructure under section 15.285.

Sec. 508. Notwithstanding any other provision of law, all entities which applied for and were awarded funds, based upon the availability of the appropriation originally made in 1990 Iowa Acts, chapter 1262, section 15, which did not receive such funds as a result of the reduction in the amount appropriated under section 507 of this division, shall be provided such funds during the fiscal year beginning July 1, 1991, immediately upon the availability of moneys for the rural community 2000 program.

Sec. 509. 1991 Iowa Acts, Senate File 209,* section 27, is amended to read as follows:

SEC. 27. Moneys remaining unencumbered or unobligated from the funds appropriated to the Iowa finance authority for the housing assistance program for the fiscal year beginning July 1, 1989, in section 99E.32, subsection 3, paragraph "u", shall be used by the Iowa finance authority for the housing assistance program under the conditions and criteria set out in 1990 Iowa Acts, chapter 1262, section 3, as amended by section 26 of this Act, except that \$400,000 \$1,970,000 of such money shall be transferred to and deposited in the general fund of the state on the effective date of this Act.

~~Notwithstanding section 8.33, section 99E.32, subsection 7, and 1990 Iowa Acts, chapter 1266, section 37, subsection 2, moneys for the housing assistance program remaining unencumbered or unobligated on June 30, 1991, shall not revert or be transferred to any fund but shall be available for expenditure for purposes of the housing assistance program for the fiscal year beginning July 1, 1991.~~

LOTTERY

Sec. 510. 1991 Iowa Acts, House File 173,** section 1008, subsection 1, paragraph h, is amended to read as follows:

h. Welcome centers under paragraph "l" for the 1990 fiscal year:

.....	\$	27,738
		<u>42,738</u>

Sec. 511. 1991 Iowa Acts, House File 173,** section 1008, subsection 4, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The community-based recreational and educational grant program and corresponding fund under paragraph "v" for the 1990 fiscal year:

.....	\$	17,822
-------	----	--------

Sec. 512. Section 28.120, subsection 7, Code 1991, is amended by striking the subsection.

DIVISION VI
DEPARTMENT OF CULTURAL AFFAIRS

Sec. 601. 1990 Iowa Acts, chapter 1272, section 1, subsections 1, 2, as item vetoed by the governor, 3, 4, 5, and 7, as item vetoed by the governor, as amended by 1991 Iowa Acts, House File 173,** section 901, are amended to read as follows:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	426,562
		<u>422,149</u>
.....	FTEs	10

2. ARTS DIVISION

*Chapter 263 herein

**Chapter 260 herein

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants, and for not more than the following full-time equivalent positions:

.....	\$	1,166,805
		<u>1,088,805</u>
.....	FTEs	13

As a condition, limitation, and qualification of the appropriation in this subsection, not more than 10 percent of the difference between the moneys appropriated in this subsection and the moneys appropriated in 1989 Iowa Acts, chapter 319, section 1, subsection 2, shall be expended by the arts division for administrative costs.

In addition to the moneys appropriated in this subsection from the general fund of the state, the arts division may expend up to \$40,000 from the artist endowment fund for the purposes for which moneys from the general fund of the state were appropriated in this subsection.

3. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,592,496
		<u>2,532,496</u>
.....	FTEs	76

4. LIBRARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,183,629
		<u>2,111,976</u>
.....	FTEs	41

As a condition, limitation, and qualification of the funds appropriated in this subsection, the department of cultural affairs shall adopt, by January 1, 1991, rules relating to the copying of library material and the defraying of copying expenses, including, but not limited to, the charging of reasonable fees for the copying of library material for nonresident persons.

5. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,576,287
		<u>6,363,914</u>
.....	FTEs	104

7. REGIONAL LIBRARY SYSTEM

For state aid:

.....	\$	1,530,655
		<u>1,485,655</u>

COLLEGE STUDENT AID COMMISSION

Sec. 602. 1990 Iowa Acts, chapter 1272, section 3, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 903, is amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	324,271
		<u>290,271</u>
.....	FTEs	8.05

As a condition, limitation, and qualification of the appropriation in this subsection, the college student aid commission shall conduct a study of the cosmetology and chiropractic programs available to Iowans at both private and public postsecondary institutions. The study shall include the number of students attending the programs, the type of financial aid that is available to the students, a description of the accreditation standards which are required to be met by each program, a listing of those areas in which programs have failed to meet

*Chapter 260 herein

accreditation standards, the number of students placed within 1 year of graduation in professions for which they have been trained, and the number of students who have continued in the professions for which they have been trained 5 years after graduation from a professional program.

DEPARTMENT OF EDUCATION

Sec. 603. 1990 Iowa Acts, chapter 1264, section 1, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 910, is amended to read as follows:

For the youth 2000 coordinating council for awarding community planning grants for collaborative efforts to establish local drug prevention and youth development programs as provided in section 256.42, subsection 5:

.....	\$	5,000
		<u>0</u>

Sec. 604. 1990 Iowa Acts, chapter 1272, section 8, subsections 1, 3, 4, 6, and 10, as amended by 1991 Iowa Acts, House File 173,* section 911, are amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,805,290
		<u>5,708,798</u>
.....	FTEs	135.75

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to contract with institutions of higher education to provide a summer residence program for gifted and talented elementary and secondary school students and to support existing law-related education centers for training seminars and workshops in law-related education, summer institutes relating to law-related education and methodology and substance, and mock trial competitions for junior and senior high school students. The law-related education program shall include the legislative lawmaking process. Educational materials for the legislative lawmaking process segment of the program shall be developed by the law-related education centers in consultation with the legislative council.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of education shall expend moneys to provide funds for the employment resources center administered by the fifth judicial district's department of correctional services to assist clients.

As a condition, limitation, and qualification of the appropriation in this subsection, the bureau of special education of the department of education shall study the impact of student weighting on the appropriateness of student placement in the least restrictive environment. Depending on the results of the study, alternatives to the assignment of student weightings that will encourage the placement of students in the least restrictive appropriate placement shall be developed accordingly. The bureau of special education shall report the findings of the study and any identified alternatives to the state special education advisory panel and the school budget review committee, and the department shall include the findings in a report to the legislative fiscal bureau and the general assembly by December 1, 1990.

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	138,607
		<u>134,107</u>
.....	FTEs	2

4. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	809,793
		<u>795,895</u>
.....	FTEs	39.6

*Chapter 260 herein

6. PENAL INSTITUTION EDUCATION PROGRAM

For educational programs at state penal institutions:

.....	\$	2,193,893
		<u>2,093,893</u>

Funds appropriated by this subsection shall be used by the department of education, in coordination with the department of corrections, to provide expanded educational programs to inmates of the Iowa penal institutions and develop education program plans for the offenders and ex-offenders in the community-based corrections system. Educational programs shall emphasize assessment, cognition, literacy, and social skills, and shall provide continuity of instruction as the inmate progresses through the penal system. Educational technology learning systems which would support the continuity of instruction shall be used in combination with an information management system to track student progress. The information tracking system shall be available throughout the state. An information management system shall be implemented to transmit education information, including the inmate's plan, programs provided, and program outcomes to institutions under whose control the inmate is placed. Evaluation of the results shall be made annually to determine needed changes and to assess results. The department of education, in coordination with the department of corrections, shall investigate, evaluate, and analyze educational technology systems which reflect inmate needs before selection of any system or systems. Funds appropriated in this subsection may be used for individualized, personal development, life management programs established by the general assembly in 1990 Iowa Acts, chapter 1257, section 23, under the department of corrections, and to provide the results of the establishment of the individualized, personal development, life management programs to the cochairpersons and ranking members of the joint education appropriations subcommittee and the legislative fiscal bureau.

10. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,584,746
		<u>3,522,631</u>
.....	FTEs	319.50

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support, for not more than the following full-time equivalent positions:

.....	\$	19,367
.....	FTEs	1.50

Sec. 605. 1990 Iowa Acts, chapter 1272, section 8, subsection 8, is amended to read as follows:

8. SCHOOL FOOD SERVICE

For the purpose of providing assistance to students enrolled in public school districts and nonpublic schools of the state for breakfasts, lunches and minimal equipment programs with the funds being used as state matching funds for federal programs, which shall be disbursed according to federal regulations and include salaries and support, for not more than the following full-time equivalent positions:

.....	\$	3,200,215
		<u>3,056,215</u>
.....	FTEs	14

As a condition, limitation, and qualification of the funds appropriated in this subsection, of the ~~\$3,200,215~~ \$3,056,215 available, \$25,000 shall be used to develop guidelines for school lunch and breakfast programs and to plan a nutrition pilot project, if a pilot project to establish model nutrition guidelines for school lunch and breakfast programs is established by the general assembly.

Sec. 606. 1989 Iowa Acts, chapter 319, section 18, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following amount, or so much thereof as may be necessary, to be used for child development grants under 1988 Iowa Acts, chapter 1130:

.....	\$	1,175,700
		<u>1,045,700</u>

STATE BOARD OF REGENTS

Sec. 607. 1990 Iowa Acts, chapter 1272, section 14, subsection 1, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, during the fiscal year beginning July 1, 1990, and ending June 30, 1991, and for not more than the following full-time equivalent positions:

.....	\$	1,136,134
		<u>1,096,134</u>
.....	FTEs	19.63

Sec. 608. 1990 Iowa Acts, chapter 1272, section 14, subsection 5, as item vetoed by the governor, and subsection 6, as amended by 1991 Iowa Acts, House File 173,* section 916, are amended to read as follows:

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,751,541
		<u>5,733,548</u>
.....	FTEs	133.24

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,186,439
		<u>3,176,871</u>
.....	FTEs	92.45

Sec. 609. APPROPRIATIONS FURTHER REDUCED — REGENTS' INSTITUTIONS.

1. The funds appropriated to the state university of Iowa for the fiscal year beginning July 1, 1990, and ending June 30, 1991, by 1990 Iowa Acts, chapter 1272, section 14, subsection 2, as reduced by 1991 Iowa Acts, House File 173,* section 919, subsection 1, shall be further reduced by the department of management in the additional amount of \$709,356. The state university shall notify the department of management of the amount of reduction established by the university for each budget unit in order to achieve the total reduction amount required by this subsection.

2. The funds appropriated to the Iowa state university of science and technology for the fiscal year beginning July 1, 1990, and ending June 30, 1991, by 1990 Iowa Acts, chapter 1272, section 14, subsection 3, as reduced by 1991 Iowa Acts, House File 173,* section 919, subsection 2, shall be further reduced by the department of management in the additional amount of \$578,120. The state university shall notify the department of management of the amount of reduction established by the university for each budget unit in order to achieve the total reduction amount required by this subsection.

3. The funds appropriated to the university of northern Iowa for the fiscal year beginning July 1, 1990, and ending June 30, 1991, by 1990 Iowa Acts, chapter 1272, section 14, subsection 4, as reduced by 1991 Iowa Acts, House File 173,* section 919, subsection 3, shall be further reduced by the department of management in the amount of \$182,963. The state university shall notify the department of management of the amount of reduction established by the university for each budget unit in order to achieve the total reduction amount required by this subsection.

*Chapter 260 herein

Sec. 610. Section 18.137, unnumbered paragraph 1, Code 1991, is amended to read as follows:
 There is created in the office of the treasurer of state a temporary fund to be known as the state communications network fund. There is appropriated to the state communications network fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the sum of five two million one hundred forty-two thousand six hundred twenty-one dollars from the general fund of the state. There is appropriated from the general fund of the state to the state communications network fund for each fiscal year of the fiscal period beginning July 1, 1991, and ending June 30, 1996, the sum of five million dollars. Notwithstanding section 8.33, unobligated and unencumbered moneys from the appropriation for a fiscal year remaining on June 30 of that fiscal year shall not revert to the general fund of the state but shall remain available for expenditure during the next following fiscal year. There shall also be deposited into the state communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 18.136, matching funds received from the community colleges and the local school boards, funds received from leases pursuant to section 18.134, and other moneys by law credited to or designated by a person for deposit into the fund. Notwithstanding the requirements of section 18.136, subsection 1, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, thirty-one thousand dollars of moneys in the state communications network fund may be expended for the state's share of the cost for the design of a disaster recovery facility to be built in conjunction with the Iowa communications network facility and emergency operation center. The department of general services may increase its fees for data processing in order to collect an additional amount not exceeding two hundred thousand dollars during the fiscal year beginning July 1, 1991, to pay for the state's share of the cost of construction of the disaster recovery facility.

Sec. 611. Section 303.79, subsection 11, Code 1991, is amended to read as follows:

11. ~~If the narrowcast system advisory committee determines that an expansion of the number of sites utilizing distance learning would benefit the implementation of the state educational telecommunications system by demonstrating its capabilities to a greater number of individuals, the advisory committee may recommend that the board establish a demonstration program.~~ Notwithstanding section 18.136, the board may allocate not more than one two hundred fifty thousand dollars from the state communications network fund for each of the fiscal years beginning July 1, 1990, and July 1, 1991, to be used to equip additional classrooms activate existing ITFS narrowcast towers.

DIVISION VII
 LAW ENFORCEMENT ACADEMY

Sec. 701. 1990 Iowa Acts, chapter 1267, section 1, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 701, is amended to read as follows:

1. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

	\$	913,779
		903,779
	FTEs	29.7

DEPARTMENT OF PUBLIC DEFENSE

Sec. 702. 1990 Iowa Acts, chapter 1267, section 2, subsections 1, 2, and 3, as amended by 1991 Iowa Acts, House File 173,* section 702, are amended to read as follows:

1. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	3,431,957
		3,398,957
	FTEs	151.59

*Chapter 260 herein

2. DISASTER SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	303,702
		<u>292,492</u>
.....	FTEs	12

3. VETERANS AFFAIRS DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	140,934
		<u>133,304</u>
.....	FTEs	4.16

As a condition, limitation, and qualification of the appropriation in this paragraph, \$10,000 shall be used for the purchase of POW/MIA flags.

Sec. 703. 1990 Iowa Acts, chapter 1267, section 2, subsection 4, is amended to read as follows:

4. WAR ORPHANS

For the war orphans educational aid fund:

.....	\$	10,185
		<u>8,185</u>

DEPARTMENT OF PUBLIC SAFETY

Sec. 704. 1990 Iowa Acts, chapter 1267, section 3, as item vetoed by the governor, as amended by 1991 Iowa Acts, House File 173,* section 703, is amended to read as follows:

SEC. 3. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions including the medical examiner's office and the criminal justice information system, and for not more than the following full-time equivalent positions:

.....	\$	2,421,952
		<u>2,308,980</u>
.....	FTEs	51.50

2. a. For purposes relating to radio communications, and not more than the following full-time equivalent positions:

.....	\$	3,180,992
		<u>3,130,992</u>
.....	FTEs	80

b. For purchase of service monitors and radio spare parts:

.....	\$	25,000
-------	----	--------

3. a. For the division of criminal investigation and bureau of identification containing the bureaus of identification and liquor law enforcement, and for river boat gambling enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	6,211,978
		<u>6,125,978</u>
.....	FTEs	133

b. For the law enforcement intelligence network program, to be used in consultation with the law enforcement intelligence network advisory committee:

.....	\$	10,000
-------	----	--------

As a condition, limitation, and qualification of this appropriation, the division of criminal investigation shall commit sufficient resources to conduct 4 undercover operations in cooperation with local law enforcement agencies to identify the extent of bootlegging or illegal liquor operations at state border counties and shall report on the undercover operations to the committee by January 1, 1991.

*Chapter 260 herein

4. For the division of narcotics:

a. The state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	2,056,599
.....		<u>2,012,599</u>
.....	FTEs	38

b. Undercover purchases:

.....	\$	150,000
-------	----	---------

5. a. For the fire marshal's office, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	1,496,354
.....		<u>1,481,354</u>
.....	FTEs	33

b. For a regional firefighters' training center in Black Hawk county:

.....	\$	25,000
-------	----	--------

6. For the capitol security division, and for not more than the following full-time equivalent positions:

.....	\$	1,190,781
.....		<u>1,178,781</u>
.....	FTEs	36

DIVISION VIII
BOARD OF PAROLE

Sec. 801. 1990 Iowa Acts, chapter 1268, section 3, unnumbered paragraph 2, as amended by 1991 Iowa Acts, House File 173,* section 803, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	789,513
.....		<u>763,381</u>
.....	FTEs	19.00

DEPARTMENT OF CORRECTIONS

Sec. 802. 1990 Iowa Acts, chapter 1268, section 4, subsection 1, as item vetoed by the governor, as amended by 1991 Iowa Acts, House File 173,* section 804, is amended to read as follows:

1. For the operation of adult correctional institutions, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	20,391,106
.....		<u>20,331,106</u>
.....	FTEs	501.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 310 correctional officers, and an additional counselor.

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	15,162,330
.....		<u>15,012,330</u>
.....	FTEs	355.00

(1) As a condition, limitation, and qualification of this appropriation, the facility shall employ 211 correctional officers, a part-time chaplain of a minority race, and 2 additional nurses.

*Chapter 260 herein

(2) Of the funds appropriated, the department's budget for Anamosa shall include funding for 2 full-time substance abuse counselors for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	10,547,236
		<u>10,405,236</u>
.....	FTEs	258.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 132.40 correctional officers and shall employ 3 additional staff for the purposes of compliance with the joint commission on the accreditation of health care organization standards.

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,107,068
		<u>3,102,068</u>
.....	FTEs	71.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 28 correctional officers and an additional nurse.

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	10,783,046
		<u>10,778,046</u>
.....	FTEs	267.15

As a condition, limitation, and qualification of this appropriation, the facility shall employ 141 correctional officers, and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, an additional nurse, and additional positions to maintain a licensed substance abuse program.

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,901,277
.....	FTEs	73.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 39 correctional officers and an additional 4 positions to establish a substance abuse treatment program and a sex offender program.

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,387,981
		<u>4,360,321</u>
.....	FTEs	118.30

As a condition, limitation, and qualification of this appropriation, the facility shall employ 68 correctional officers.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,613,061
		<u>3,586,606</u>
.....	FTEs	97.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 54 correctional officers and additional positions for a substance abuse treatment program.

Sec. 803. 1990 Iowa Acts, chapter 1268, section 5, subsection 1, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 805, is amended to read as follows:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,193,804
		<u>2,081,552</u>
.....	FTEs	42.52

Sec. 804. 1990 Iowa Acts, chapter 1268, section 5, subsection 4, unnumbered paragraph 1, as amended by 1991 Iowa Acts, House File 173,* section 806, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions at the correctional training center at Mt. Pleasant:

.....	\$	365,876
		<u>357,876</u>
.....	FTEs	8.22

Sec. 805. 1991 Iowa Acts, Senate File 209,** section 24, subsection 1, is amended to read as follows:

1. To supplement other funds appropriated by the general assembly in 1990 Iowa Acts, chapter 1268, section 6, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 807, for the first judicial district department of correctional services:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	133,000
		<u>45,000</u>

Sec. 806. 1990 Iowa Acts, chapter 1268, section 6, subsection 2, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the second judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	3,208,365
		<u>3,181,365</u>

Sec. 807. 1990 Iowa Acts, chapter 1268, section 6, subsection 3, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the third judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	1,932,014
		<u>1,867,014</u>

Sec. 808. 1990 Iowa Acts, chapter 1268, section 6, subsection 4, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the fourth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	1,816,247
		<u>1,796,747</u>

Sec. 809. 1990 Iowa Acts, chapter 1268, section 6, subsection 5, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the fifth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	5,468,203
		<u>5,418,203</u>

*Chapter 260 herein
**Chapter 263 herein

Sec. 810. 1990 Iowa Acts, chapter 1268, section 6, subsection 6, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the sixth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	3,982,335
		<u>3,857,335</u>

Sec. 811. 1990 Iowa Acts, chapter 1268, section 6, subsection 7, unnumbered paragraph 1 and paragraph a, are amended to read as follows:

For the seventh judicial district department of correctional services, the following amount, or so much thereof as is necessary:

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

.....	\$	3,227,824
		<u>3,191,824</u>

DIVISION IX TRANSFERS

Sec. 901. 1991 Iowa Acts, House File 173,* section 1101, unnumbered paragraph 4, following the governor's item veto, is amended to read as follows:

Notwithstanding the provisions relating to the setting of fees by the utility division under chapter 476, insurance division under chapter 505, banking division under chapter 524, credit union division under chapter 533, savings and loan division under chapter 534, and the professional licensing division under chapter 546, each division shall maintain billings for the remainder of the fiscal year so that the amount of unobligated and unencumbered moneys that will be transferred to the general fund from each of the revolving funds designated in subsections 21 through 26 shall equal the sum of the amount of reduction in the appropriation to the division from the appropriate revolving fund under section 411, 414, 415, 416, or 417 of this Act plus the amount estimated to be transferred to the general fund under this section from each revolving fund as included in the governor's fiscal year 1991 budget documents will equal at least the following designated amount: utilities trust fund, \$741,900; banking revolving fund, \$616,000; credit union revolving fund, \$166,000; savings and loan revolving fund, \$0; insurance revolving fund, \$260,800; professional licensing revolving fund, \$546,600.

Sec. 902. Notwithstanding any provision in section 99E.34 or other provision of law, the unobligated and unencumbered moneys on June 30, 1991, in the soil conservation account of the CLEAN fund, created in section 99E.10, shall be transferred to the general fund of the state on or before June 30, 1991. Transfers of moneys from the soil conservation account in the CLEAN fund shall not affect the formula for the distribution of moneys in the account.

Sec. 903. Notwithstanding any provision in section 99E.34, 455A.18, or other provision of law, the unobligated and unencumbered moneys on June 30, 1991, in the Iowa resources enhancement and protection fund, created in section 455A.18, or any of the accounts in the Iowa resources enhancement and protection fund shall be transferred to the general fund of the state. Moneys distributed from those accounts to other agencies which are unobligated or unencumbered on June 30, 1991, shall also be transferred to the general fund of the state. Such transfers may be made prior to June 30, 1991. Transfers of moneys from the accounts in the Iowa resources enhancement and protection fund shall not affect the formula for the distribution of moneys in each of those accounts as provided in section 455A.19.

Sec. 904. Notwithstanding any provision in section 455E.11 or other provision of law, the unobligated and unencumbered moneys on June 30, 1991, in the groundwater protection fund, created in section 455E.11, or any of the accounts, except the oil overcharge account, in the groundwater protection fund shall be transferred to the general fund of the state. Such transfers may be made prior to June 30, 1991. Transfers of moneys from the accounts in the groundwater protection fund shall not affect the formula for the distribution of moneys in each of those accounts.

*Chapter 260 herein

For purposes of this section, moneys collected and deposited into the groundwater protection fund during the fiscal year ending June 30, 1991, which were designated by formula for specific centers at any state board of regents institutions shall be considered encumbered and obligated funds.

Sec. 905.

1. Notwithstanding the restrictions relating to the transfer and use of moneys in the utilities trust fund in section 476.10, the insurance revolving fund in section 505.7, the banking revolving fund in section 524.207, the credit union revolving fund in section 533.67, and the professional licensing revolving fund in section 546.10, the cash balances in those five funds resulting from covered charges to regulated industries for purposes of cash flow and the build-up of surplus balances remaining on June 30, 1991, shall be transferred to the general fund of the state. However, state general fund cash balances shall be available from the general fund of the state to the utilities division, insurance division, banking division, credit union division, and the professional licensing and regulation division for cash flow purposes to enable the timely payment of expenses without regard to seasonal cash flow for the fiscal years ending June 30, 1992, and June 30, 1993. Upon completion of the fiscal year ending June 30, 1993, any amount transferred to the general fund of the state from each of those five funds shall be returned to the fund from which the amount was transferred.

2. Notwithstanding the restrictions relating to the use of the moneys in the fertilizer fund in section 200.9, and the pesticide fund in section 206.12, subsection 3, cash balances remaining on June 30, 1991, that are not needed to pay expenses of the fiscal year ending June 30, 1991, are transferred to the general fund of the state. However, state general fund cash balances shall be available from the general fund of the state to the department of agriculture and land stewardship for cash flow purposes to enable the timely payment of expenses incurred for purposes for which moneys in the fertilizer and pesticide funds are to be used for the fiscal years ending June 30, 1992, and June 30, 1993. Upon completion of the fiscal year ending June 30, 1993, any amount transferred to the general fund of the state from each of those two funds shall be returned to the fund from which the amount was transferred.

Sec. 906. Section 312.2, subsection 13, Code 1991, is amended to read as follows:

13. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the department of justice from revenues credited to the road use tax fund under section 423.24, subsection 1, paragraph "c", an amount equal to twenty-five cents on each title issuance for motor vehicle fraud law enforcement and prosecution purposes including, but not limited to, the enforcement of state and federal odometer laws.

DIVISION X
SUPPLEMENTAL APPROPRIATIONS
DEPARTMENT OF HUMAN SERVICES

Sec. 1001. 1991 Iowa Acts, Senate File 209,* sections 1, 2, 5, 6, 7, and 8, are amended to read as follows:

SECTION 1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 1, as amended by 1991 Iowa Acts, House File 173,** for aid to families with dependent children:

.....	\$	2,800,236
		3,119,456

SEC. 2. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 2, as amended by 1991 Iowa Acts, House File 173,** for medical assistance, including reimbursement for

*Chapter 263 herein
**Chapter 260 herein

abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

..... \$ 4,382,328
10,365,385

As a condition, limitation, and qualification of the supplemental funds appropriated in this section, notwithstanding the adoption of an administrative rule limiting coverage of organ transplants under the medical assistance program, the department shall continue through the fiscal year ending June 30, 1992, to provide medical assistance coverage for organ transplants to individuals who applied for and received approval from the department on or before January 1, 1991, for medical assistance coverage of an organ transplant.

As a condition, limitation, and qualification of the supplemental funds appropriated in this section, notwithstanding the adoption of an administrative rule limiting coverage of organ transplants under the medical assistance program, the department shall continue through the fiscal year ending June 30, 1992, to provide medical assistance coverage for organ transplants of the pancreas and the liver until the department establishes criteria for the coverage of these transplants. The criteria shall include but are not limited to health status and anticipated outcomes, including expected quality of life. The department may adopt emergency rules to implement the provisions of this subsection.

SEC. 5. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 13, as amended by 1991 Iowa Acts, House File 173,** for foster care:

..... \$ 7,873,597
10,183,571

SEC. 6. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 15, as amended by 1991 Iowa Acts, House File 173,** for home-based services on the condition that family planning services are funded, provided that if the department amends the allocation to a program funded under this section, then the department shall promptly notify the legislative fiscal bureau of the change:

..... \$ 309,956
557,902

SEC. 7. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 16, for community-based programs on the condition that the prevention grants relating to adolescent pregnancy are funded:

..... \$ 348,914
730,914

SEC. 8. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1990 Iowa Acts, chapter 1270, section 18, for court-ordered evaluations and treatment pursuant to section 232.141, subsection 4:

..... \$ 6,250,100
7,890,100

As a condition, limitation, and qualification of the funds appropriated in this section, not more than \$75,000 of the funds appropriated in this section shall be used to pay interest in an amount calculated in accordance with section 421.7 to service providers on their billings to the state payable pursuant to section 232.141, subsection 4, which during the period of January 1, 1991, through April 30, 1991, became more than 60 days past due.

*Item veto; see message at end of the Act
**Chapter 260 herein

Sec. 1002. IOWA INTERNATIONAL DEVELOPMENT FOUNDATION. There is appropriated from the general fund of the state to the Iowa international development foundation for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To provide funding to the Iowa international development foundation for the purposes for which the foundation was created:

..... \$ 50,000

DIVISION XI

Sec. 1101. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 1991, except the items which I hereby disapprove and which are designated as those portions of Section 1001 which are 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 President of the Senate on this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. President:

I hereby transmit Senate File 532, an Act relating to reductions and increases in appropriations made for the fiscal year ending June 30, 1991, to departments and agencies of state government and to other public purposes, transferring moneys to the general fund of the state, and providing an effective date.

Senate File 532 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 1001, which amends 1991 Iowa Acts, Senate File 209, Section 2. This provision attempts to condition supplemental funding for medical assistance in fiscal year 1991 by providing medical assistance coverage for adult liver and pancreas transplants through fiscal year 1992. While I believe it is appropriate to provide coverage under the Medicaid program for adult liver transplants, I do not believe it is appropriate to extend coverage to pancreas transplants at this time.

The Medicare program provides coverage of adult liver transplants but currently makes no provision for adult pancreas transplants. The safety, effectiveness, and reasonableness of adult liver transplants is clearly established while pancreas transplants are still considered investigational. As some Medicaid recipients are also Medicare recipients, the total amount of Medicaid funds needed to pay for the costs of liver transplants will be reduced by the amount covered by Medicare.

I am aware of the joint resolution* under consideration by the General Assembly to require coverage of adult liver transplants. With the passage of the resolution, the effect of this item veto is to only disallow coverage of adult pancreas transplants. I will be directing the Department of Human Services to develop criteria for coverage of adult liver transplants.

I am unable to approve the designated portion of Section 1001, which amends 1991 Iowa Acts, Senate File 209, Section 8. This provision would direct the payment of interest on claims paid under Juvenile Justice which became more than 60 days past due during the period of January 1, 1991, through April 30, 1991. Under current law, a procedure exists for persons who wish to challenge untimely payments by the state. These claimants like all other claimants should be required to use the existing procedure.

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 532 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, Governor

*HJR 10, chapter 274 herein

CHAPTER 265**APPROPRIATIONS FOR CLAIMS AGAINST THE STATE***H.F. 712*

AN ACT making appropriations from the road use tax fund of the state and the general fund of the state to certain persons in settlement of claims made against the state of Iowa.

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

Section 1. There is appropriated from the road use tax fund of the state to the following person the amount set opposite the person's name in full settlement of all claims which the person has against the state of Iowa:

<u>Claimant's</u> <u>Name</u>	<u>Claim No.</u>	<u>Nature</u> <u>of Claim</u>	<u>Amount</u>
William Devine Merville, Iowa	G90-0851	Registration fee refund	\$144.00

Sec. 2. There is appropriated from the general fund of the state to the following person the amount set opposite the person's name in full settlement of all claims which the person has against the state of Iowa:

<u>Claimant's</u> <u>Name</u>	<u>Claim No.</u>	<u>Nature</u> <u>of Claim</u>	<u>Amount</u>
Pak-A-Way Container Service Burlington, Iowa	G90-1445	Excessive weight citation reim- bursement	\$581.20

Sec. 3. The general assembly disapproves of all other claims submitted and considered by the joint appropriations subcommittee on claims as of April 4, 1991.

Approved May 29, 1991

CHAPTER 266**COMPENSATION FOR PUBLIC OFFICIALS AND EMPLOYEES***S.F. 548*

AN ACT relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges, by providing adjustments for salaries, and making appropriations, and 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, 1991, 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 pursuant to an 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:

a. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP Salary for the secretary of agriculture:	\$	60,000
b. DEPARTMENT OF JUSTICE Salary for the attorney general:	\$	73,600

<i>c. OFFICE OF THE AUDITOR OF STATE</i>	
<i>Salary for the auditor of state:</i>	
.....	\$ 60,000
<i>d. OFFICE OF THE SECRETARY OF STATE</i>	
<i>Salary for the secretary of state:</i>	
.....	\$ 60,000
<i>e. OFFICE OF THE TREASURER OF STATE</i>	
<i>Salary for the treasurer of state:</i>	
.....	\$ 60,000
<i>f. OFFICE OF THE GOVERNOR</i>	
<i>Salary for the governor:</i>	
.....	\$ 76,700
<i>g. OFFICE OF THE LIEUTENANT GOVERNOR</i>	
<i>Salary for the lieutenant governor:</i>	
.....	\$ 60,000*

***Sec. 2.**

1. *The salary rates specified in this section are effective for the fiscal year beginning July 1, 1991, 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 the agency specified in this section pursuant to an 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 persons holding the positions indicated:*

<i>a. Chief justice of the supreme court:</i>	
.....	\$ 89,000
<i>b. Each justice of the supreme court:</i>	
.....	\$ 85,700
<i>c. Chief judge of the court of appeals:</i>	
.....	\$ 85,600
<i>d. Each associate judge of the court of appeals:</i>	
.....	\$ 82,400
<i>e. Each chief judge of a judicial district:</i>	
.....	\$ 81,500
<i>f. Each district judge except the chief judge of a judicial district:</i>	
.....	\$ 78,300
<i>g. Each district associate judge:</i>	
.....	\$ 68,300
<i>h. Each judicial magistrate:</i>	
.....	\$ 17,200*

***Sec. 3.** *Persons receiving the salary rates established under sections 1 and 2 of this Act shall not receive any additional salary adjustments provided by this Act.**

***Sec. 4.** *The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 5 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, the availability of qualified candidates for the position, and subordinates' salaries. However, a salary established under this section shall not exceed the person's annual salary rate for the preceding fiscal year.*

The governor, in establishing salaries as provided in section 5 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 pursuant to section 5 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or

*Item veto; see message at end of the Act

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. 5. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 1991, and for subsequent fiscal 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, 1991, and as otherwise provided in this section:

	<u>Minimum</u>	<u>Maximum</u>
a. Range 1	\$ 7,500	\$ 22,700
b. Range 2	\$ 27,300	\$ 45,400
c. Range 3	\$ 37,500	\$ 53,000
d. Range 4	\$ 45,400	\$ 60,700
e. Range 5	\$ 53,000	\$ 68,300

2. The following are range 1 positions: There are no range 1 positions as of the fiscal year beginning July 1, 1991.

3. The following are range 2 positions: administrator of the criminal and juvenile justice planning division of the department of human rights, 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 on the status of blacks, the division of deaf services, the division of Latino affairs, administrator of the division of professional licensing and regulation 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: 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, and chairperson and members of the employment appeals board of the department of inspections and appeals.

5. The following are range 4 positions: superintendent of banking, superintendent of credit unions, superintendent of savings and loan associations, administrator of the alcoholic beverages division of the department of commerce, state public defender, and chairperson and members of the board of parole.

6. The following are range 5 positions: chairperson and members of the utilities board, consumer advocate, job service 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 racing and gaming commission of the department of inspections and appeals, and secretary of the state fair board.

7. The following salary ranges are effective for the fiscal year beginning July 1, 1991, and as otherwise provided in this section:

DEPARTMENT DIRECTORS' SALARIES

	<u>Minimum</u>	<u>Maximum</u>
a. Range 6	\$ 41,000	\$ 55,000
b. Range 7	\$ 56,100	\$ 68,800
c. Range 8	\$ 60,100	\$ 80,000
d. Range 9	\$ 67,100	\$ 95,100

8. The following are range 6 positions: department director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the law enforcement academy, director of the department for the blind, and executive secretary of the campaign finance disclosure commission.

*Item veto; see message at end of the Act

9. The following are range 7 positions: director of the department of cultural affairs, director of the department of personnel, director of the Iowa department of public health, director of the department of elder affairs, commissioner 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 range 8 positions: director of revenue and finance, director of the department of natural resources, director of the department of corrections, the state court administrator, director of the department of employment services, director of the department of management, and executive director of the Iowa finance authority.

11. The following are range 9 positions: director of the department of education, director of the department of human services, director of the department of economic development, executive director of the state board of regents, director of the state department of transportation, and lottery commissioner.*

*Sec. 6.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1991, 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:

a. Chairperson of the public employment relations board:		
.....	\$	53,000
b. Two members of the public employment relations board:		
.....	\$	49,200*

Sec. 7. The annual salary rates or ranges provided in sections 1, 2, 5, and 6 of this Act become effective for the fiscal year beginning July 1, 1991, with the pay period beginning June 21, 1991.

*Sec. 8. There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies the following amount, \$23,441,434, or so much thereof as may be necessary, to fund the following annual pay adjustments, expense reimbursements, and related benefits:

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 state police officers council 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 clerical bargaining unit.
7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the Iowa united professionals bargaining unit.
8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.
9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.
10. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 9 and 10 of this Act for employees not covered by a collective bargaining agreement.*

*Item veto; see message at end of the Act

Sec. 9.

1. All pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1991, shall be increased for employees who are not included in a bargaining unit under chapter 20 and who are not otherwise specified in this Act, by not less than nor more than 2 percent for the fiscal year beginning July 1, 1991, effective with the pay period beginning June 21, 1991. The department of personnel 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. Employees shall not 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 as provided in subsection 1.

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 does apply to office employees of the state board of regents.

4. The policies for implementation of this section shall be approved by the governor.*

Sec. 10. STATE BOARD OF REGENTS' SALARIES AND BENEFITS. *The funds allocated to the state board of regents for the purpose of providing increases 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, shall be used to increase the state board of regents' merit system pay plans as they exist for the fiscal year beginning July 1, 1991, and ending June 30, 1992, by increasing the salary levels for each grade and step within the plans by 2 percent for the fiscal year beginning July 1, 1991.* The employees shall not receive merit increases or the equivalent of a merit increase.

*Sec. 11. Of the funds appropriated in section 8 of this Act, the following amount, or so much thereof as may be necessary, shall be allocated to fund increases in the judges' and magistrates' salaries and related benefits as otherwise provided by law and for the state's contribution to the judicial retirement system provided for in chapter 602 required because of the increased salaries:

..... \$ 324,308*

*Sec. 12.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

To supplement other funds appropriated by the general assembly:

..... \$ 979,696

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

To supplement other funds appropriated by the general assembly:

..... \$ 2,423,428

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursement, and related benefits for public officials and employees as provided for in this Act.*

*Sec. 13. Of the funds appropriated in section 8 of this Act, the following amount, or so much thereof as may be necessary, shall be allocated to the following agencies or programs listed:

Regional libraries:

..... \$ 18,000

*Item veto; see message at end of the Act

*The funds shall be allocated by the department of management. The funds received by local programs under this section shall be used to pay the state's share of the authorized salary increases for local program employees.**

Sec. 14. 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 expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this Act.

Sec. 15. All funds appropriated to the salary adjustment fund for the state 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, 1991, and ending June 30, 1992.

Sec. 16. Funds appropriated from the general fund of the state in this Act relate only to salaries supported from general fund appropriations of the state.

Sec. 17. All federal grants to and the federal receipts of the agencies affected by this Act which are received and may be expended for purposes of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 18. There is appropriated from the health insurance reserve fund to the general fund of the state, on or before June 30, 1992, the following amount:

..... \$ 6,000,000

The portion of the transferred funds which reflects the employee's contribution and the interest that may be earned on that contribution shall be applied to pay claims and to reduce the employee's share of health insurance premiums incurred after July 31, 1992, and before July 30, 1993. It is the intent of this provision to ensure that the employee will suffer no diminution of property or benefit.

Sec. 19. There is appropriated from the health insurance reserve fund to the general fund of the state, on or before June 30, 1991, the following amount:

..... \$ 6,000,000

**Sec. 20. COMPENSATION AND BENEFITS STUDY. The director of the department of personnel, the director of the legislative service bureau, and the executive director of the state board of regents, or a designee of each director, shall conduct a study to determine the impact of the salary adjustment provisions in this Act and the changes in salary relationships as a result of the implementation of this Act, and to identify issues of concern and compensation equity. The committee shall meet at the call of the director of the legislative service bureau who shall serve as temporary chairperson.*

*The committee shall complete its study and report its findings and recommendations to the general assembly by February 1, 1992.**

Sec. 21. Section 99D.5, subsection 4, Code 1991, is amended to read as follows:

4. Commission members are each entitled to receive an annual salary of six thousand dollars. Members shall also be reimbursed for actual expenses incurred in the performance of their duties to a maximum of six thirty thousand dollars per year for each member the commission. Each member shall post a bond in the amount of ten thousand dollars, with sureties to be approved by the governor, to guarantee the proper handling and accounting of moneys and other properties required in the administration of this chapter. The premiums on the bonds shall be paid as other expenses of the commission.

Sec. 22. EFFECTIVE DATES. This section and section 19 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 31, 1991, except the items which I hereby disapprove and which are designated as Sections 1,2,3,4,5,6,7, and 8 in their entireties; that portion of Section 9, subsection 1 which is herein bracketed in ink and initialed by me; Section 9, subsections 2, 3, and 4 in

*Item veto; see message at end of the Act

their entirety; that portion of Section 10 which is herein bracketed in ink and initialed by me; Sections 11, 12, 13, 14, 15, 16, and 17 in their entireties; and Section 20 in its entirety. 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 548, an Act relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges, by providing adjustments for salaries, and making appropriations, and providing effective dates.

Senate File 548 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, and 20 in their entirety; the designated portion of Section 9, subsection 1; Section 9, subsections 2, 3 and 4 in their entirety; and the designated portion of Section 10.

Section 8 would provide for wage increases for contract-covered state employees in variable amounts, ranging from two percent to nine percent, at a cost to the state of \$23.4 million in general funds. Sections 2, 9 and 10 would provide for a two percent increase for most non-contract covered state employees. By vetoing these sections, state employee salaries for the next fiscal year will be frozen, and \$34 million of spending on salaries that we cannot afford will be avoided.

Approval of these sections would conflict with existing statutory and Constitutional responsibilities to balance the budget and to adhere to any statutory limitations on the state's funds and spending. Further, these sections would conflict with the state's statutory responsibility to maintain the orderly and efficient operation of governmental services. And, finally, the implementation of these sections would not allow for the continuance of pay equity based upon principles of comparable worth (Iowa Constitution and Iowa Code Sections 8.3(3), 20.7(4) and 79.18, respectively).

With legislative action just completed, Iowa is already facing a known deficit of at least \$75 million for the fiscal year covered by the proposed wage increases. As Governor, it is my responsibility to make the difficult decisions necessary to balance the budget in a way that avoids major disruptions in service. Clearly, \$23.4 million for salary increases, particularly when paired with the \$10.6 million for salary increases contained in House File 479 for employees of the Board of Regents, is far beyond what the state can afford under these difficult fiscal circumstances. In fact, even after making a substantial amount of cuts through item veto, further reductions in spending will be necessary to assure a balanced budget. Thus, I have indicated my intentions to make an across-the-board cut in spending in fiscal year 1992.

Implementation of the arbitrators' decisions, without the corresponding appropriation, would likewise result in a violation of existing statutory provisions providing for the efficient and orderly provision of governmental services (Iowa Code Section 20.7(4)). In order to maintain pay equity for state employees if the arbitrators' awards are implemented, layoffs of the magnitude required to fund the wage increases provided for in Senate File 548 would significantly impair the state's ability to provide the level of services necessary to meet its statutory duties and responsibilities. In fiscal year 1992, implementation would result in over 1,500 layoffs of state employees. That number increases to over an additional 1,900 layoffs in fiscal year 1993 if the across-the-board wage increases suggested by the arbitrators were implemented.

It is important to note that the state's collective bargaining law mandates that when terms of a proposed collective bargaining agreement are inconsistent with other Code provisions,

I am bound to adhere to existing statutes unless action is taken to remove the conflict (Iowa Code Section 20.28). In other words, an arbitrator's decision is final only insofar as it can be implemented without statutory conflict (Iowa Code Sections 20.22(3) and 20.17(6)). The arbitrators' decisions funded by Senate File 548 simply cannot be implemented without violating Iowa law.

Since the issuance of the arbitrators' awards, there has been a significant change of circumstance. The arbitrators' awards were premised on estimated revenue growths of a 6.1 percent increase for fiscal year 1992 and a 5 percent increase for fiscal year 1993. Those estimates have been revised downward twice by the Revenue Estimating Conference since the awards were issued resulting in a total reduction in projected revenues of over \$125 million. For this reason and because the implementation of the arbitrators' awards is inconsistent with statutory limitations on the state's funds, spending and budget, and because the implementation would substantially impair and limit the performance of our statutory duties, I have proposed that the state and the unions go back to the bargaining table and renegotiate the wage provisions for the 1991-93 labor agreements. To date, the unions have verbally declined my offer.

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 548 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 267

STATE GOVERNMENT APPROPRIATIONS AND OTHER PROVISIONS RELATING TO STATE FINANCES

H.F. 479

AN ACT relating to appropriations for state departments, agencies, programs, funds, including the department of human services, education programs and agencies, the department of economic development, justice-related programs and agencies, and INTERNET, and adjusting the school foundation aid program, adjusting certain standing appropriations, increasing the cigarette and tobacco products tax, providing for certain fees, decreasing the time period for declaring certain funds unclaimed, making relating statutory changes, and providing for effective and applicability dates.

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

DIVISION I DEPARTMENT OF HUMAN SERVICES

Sec. 101. **AID TO FAMILIES WITH DEPENDENT CHILDREN.** There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For aid to families with dependent children:

..... \$ 41,624,199

1. The department may fund the employee portion of the cash bonus program from unspent funds under the appropriation in this section and shall continue to evaluate the program. The department may adopt emergency rules to implement the provisions of this subsection.

2. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall continue to contract for services in developing and monitoring a demonstration waiver program to facilitate providing assistance in self-employment investment to aid to dependent children families. The demonstration waiver program shall be provided for the fiscal period beginning July 1, 1991, and ending June 30, 1993, or for as long as federal approval

of the program continues. Of the funds appropriated in this section, up to \$99,592 shall be used to provide technical assistance for aid to dependent children families seeking self-employment. The technical assistance may be provided through the department or through a contract with the division of job training of the Iowa department of economic development and through a contract with the corporation for enterprise development.

3. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall apply the self-employment investment demonstration waiver project statewide during the fiscal period delineated in the federal waiver submitted to operate the waiver project statewide, provided training is available to a recipient through a recognized self-employment training program. However, if the application for the federal waiver is denied and funding is available, the department may determine the counties in which it is feasible to operate the project and shall provide the project in those counties. The department may adopt emergency rules to implement the provisions of this subsection.

4. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall continue the special needs program under the aid to families with dependent children program.

5. As a condition, limitation, and qualification of the funds appropriated in this section, the department may use unspent funds under the appropriation in this section to continue development of the "X-PERT" eligibility determination system.

6. As a condition, limitation, and qualification of the funds appropriated in this section, \$42,620 shall be used to expand the AFDC electronic benefits transfer (EBT) program beyond the pilot program county and to implement EBT for the food stamp program.

7. a. As a condition, limitation, and qualification of the funds appropriated in this section, the schedule of living costs under the aid to families with dependent children program for the fiscal year beginning July 1, 1991, is established as follows:

- (1) For 1 person at \$365.
- (2) For 2 persons at \$719.
- (3) For 3 persons at \$849.
- (4) For 4 persons at \$986.
- (5) For 5 persons at \$1092.
- (6) For 6 persons at \$1216.
- (7) For 7 persons at \$1335.
- (8) For 8 persons at \$1457.
- (9) For 9 persons at \$1576.
- (10) For 10 persons at \$1724.
- (11) For each additional person over 10 persons at \$173.

b. However, the following schedule of basic needs under the aid to dependent children program established for the fiscal year beginning July 1, 1990, shall remain in effect for the fiscal year beginning July 1, 1991:

- (1) For 1 person at \$183.
- (2) For 2 persons at \$361.
- (3) For 3 persons at \$426.
- (4) For 4 persons at \$495.
- (5) For 5 persons at \$548.
- (6) For 6 persons at \$610.
- (7) For 7 persons at \$670.
- (8) For 8 persons at \$731.
- (9) For 9 persons at \$791.
- (10) For 10 persons at \$865.
- (11) For each additional person over 10 persons at \$87.

c. The department may adopt emergency rules to implement the provisions of this subsection.

8. The general assembly finds that investing resources in Iowa's citizens is a key part of continued economic development and growth; that it is the public policy of the state of Iowa to strive toward providing all of its citizens with the incentives and the resources needed to

successfully participate in the world labor market; and that development of a comprehensive and coordinated human investment policy is essential to welfare reform. This policy would:

- a. Empower the citizens participating in welfare programs.
- b. Focus on permanent improvements in the standard of living of citizens receiving public assistance, and not on income maintenance.
- c. Emphasize programs which offer the greatest potential for permanent improvement, such as job training, child day care, housing assistance, and economic development.
- d. Serve all Iowans who seek assistance.
- e. Utilize nongovernment resources available from participants and the private sector.
- f. Provide a range of services, relying upon open competition in the delivery of services.
- g. Include comprehensive data collection and assessment to evaluate the program.
- h. Inform all Iowans as to the basic goals and direction of the program.

As a condition, limitation, and qualification of the funds appropriated in this section, the department of human services shall apply to the corporation for enterprise development for Iowa's participation in the study phase of a "state human investment policy" demonstration project. Of the funds appropriated in this section, up to \$75,000 shall be used for costs associated with Iowa's participation in the project. The department shall make efforts to obtain additional private and federal funding for the project, and shall submit quarterly reports on the status of the project to the legislative fiscal bureau.

Sec. 102. EMERGENCY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For emergency assistance to families with dependent children under Title IV-A of the federal Social Security Act to match federal funding for homeless prevention programs:
 \$ 500,000

The emergency assistance provided for in this section shall be available beginning November 1, 1991, and shall be provided only if all other publicly funded resources have been exhausted. The emergency assistance includes, but is not limited to, assisting people who face eviction, potential eviction, or foreclosure, utility shutoff or fuel shortage, loss of heating energy supply or equipment, homelessness, utility or rental deposits, or other specified crisis which threatens family or living arrangements. The emergency assistance shall be available to migrant families who would otherwise meet eligibility criteria. The department shall notify each emergency assistance recipient that the recipient may report to the department any pressure or intimidation of the recipient resulting from the recipient's eligibility for emergency assistance. The department shall report quarterly to the legislative fiscal committee concerning the reports received by the department regarding pressure or intimidation of recipients of emergency assistance. The department may adopt emergency rules to implement the beginning date and notice provisions of this section.

Sec. 103. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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:
 \$ 236,771,049

- 1. 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 45 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 150 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.

2. Of the funds appropriated in this section, \$100,000 is allocated until January 31, 1992, for contingency assistance for the federal nutrition program for women, infants, and children and shall be transferred to the Iowa department of public health as necessary in order to fully utilize funding available for the program. The allocated funds shall be transferred as necessary to restore a reduction in federal funding for the federal fiscal year ending September 30, 1991, required to adjust for federal financial assistance provided during the federal fiscal year ending September 30, 1990, in excess of the federal funding allocation to the state for this program or to finance any state match expenditure in excess of the federal funding allocation for this program during the federal fiscal year ending September 30, 1991. Any moneys allocated in this subsection which are unexpended or unobligated on January 31, 1992, shall be available during the remainder of the fiscal year to the department of human services for the purposes of this section.

3. Notwithstanding section 8.39, the department may transfer funds appropriated in this section to a separate account established in the department's case management unit for expenditures required to provide case management services pursuant to the appropriation in this division for enhanced mental health, mental retardation, and developmental disabilities services, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were appropriated in this section.

4. If a medical assistant recipient is receiving care which is reimbursed under a federally approved home and community-based services waiver but would otherwise be approved for care in an intermediate care facility for the mentally retarded, the recipient's county of legal settlement shall reimburse the department on a monthly basis for the portion of the recipient's cost of care which is not paid from federal funds.

5. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall adopt rules pursuant to chapter 17A that establish criteria for intermediate care facilities for the mentally retarded, providing for family-scale size, location, and appropriate inclusion in the community. In determining whether a certificate of need for an intermediate care facility for the mentally retarded shall be issued under chapter 135, the health facilities council and the Iowa department of public health shall consider whether the proposed facility is in compliance with the rules adopted pursuant to this subsection.

6. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall develop methods to reduce recipient usage of ambulance services for reasons other than medical necessity, including notification of recipients who have received ambulance services that were not considered to be a medical necessity and ambulance services that have provided such services.

7. Of the funds appropriated in this section, \$70,929,582 is projected to be used for medical assistance reimbursement of nursing facilities.

8. As a condition, limitation, and qualification of the funds appropriated in this section, notwithstanding the adoption of an administrative rule limiting coverage of organ transplants under the medical assistance program, the department shall continue to provide medical assistance coverage for organ transplants of the pancreas and the liver until the department establishes criteria for the coverage of these transplants. The criteria shall include but are not limited to health status and anticipated outcomes, including expected quality of life. The department may adopt emergency rules to implement the provisions of this subsection.

9. As a condition, limitation, and qualification of the funds appropriated in this section, notwithstanding the adoption of an administrative rule limiting coverage of organ transplants

under the medical assistance program, the department shall continue to provide medical assistance coverage for organ transplants to individuals who applied for and received approval from the department on or before January 1, 1991, for medical assistance coverage of an organ transplant.

10. As a condition, limitation, and qualification of the funds appropriated in this section, if Senate File 342 is enacted by the Seventy-fourth General Assembly, 1991 Session, \$28,000 of the funds appropriated in this section shall be provided to the prevention of disabilities policy council for fulfillment of the federal matching funds requirement for use of the Iowa governor's planning council for developmental disabilities funds, for the purpose of section 225D.7, if enacted in Senate File 342.

11. It is the intent of the general assembly that the following programs under the medical assistance program shall be expanded which it is estimated will result in the indicated medical assistance expenditure savings: Iowa foundation for medical care utilization review, \$1,520,500; Unisys utilization review, \$180,000; and the "lock-in" program involving recipients with a history of seeking services from more than one provider, \$66,000. The department may adopt emergency rules to implement the provisions of this subsection.

12. As a condition, limitation, and qualification of the funds appropriated in this section, if Senate File 343,** or another provision providing for group health plan cost-sharing under the medical assistance program is enacted by the Seventy-fourth General Assembly, 1991 Session, the department may adopt emergency rules to implement the cost-sharing in accordance with federal requirements.

13. As a condition, limitation, and qualification of the funds appropriated in this section, notwithstanding any time limitation established in 1991 Iowa Acts, House File 173, section 105, the copayment provisions established in that section for physician services only shall be continued indefinitely.

14. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall work with the Iowa state association of counties and the accounting firm of Ryun, Givens, Smith & Co., or another capable entity, to develop cost containment measures for intermediate care facilities for the mentally retarded which are permitted under federal medicaid requirements. The department shall adopt rules pursuant to chapter 17A to implement the requirements developed under this subsection.

15. As a condition, limitation, and qualification of the funds appropriated in this section, if the department is implementing the medical assistance program through a contract with a health maintenance organization, the department shall ensure that a medical assistance recipient enrolled in a health maintenance organization has freedom of choice to obtain enhanced maternal or prenatal health services from a state supported maternal health center and that the center receives no less than the prevailing medical assistance program reimbursement amount for provision of the services. The enhanced services include but are not limited to nutritional and psychosocial counseling and medical case management.

16. As a condition, limitation, and qualification of the funds appropriated in this section, \$25,000 shall be provided as a grant to a birth center licensed under chapter 135G to demonstrate the efficacy of services provided by certified nurse midwives to medical assistance recipients.

17. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall apply to the federal health care financing administration for funding for community-based supported living arrangements which is available under Title XIX of the federal Social Security Act, § 1930.

Sec. 104. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... \$ 4,050,000

*Item veto; see message at end of the Act

**Chapter 158 herein

As a condition, limitation, and qualification of the funds appropriated in this section, the department shall continue to contract for drug utilization review under the medical assistance program.

**Sec. 105. HIV-AIDS INSURANCE CONTINUATION ASSISTANCE PILOT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For HIV-AIDS insurance continuation assistance pilot program:

..... \$ 60,000

1. *The department shall establish an HIV and AIDS insurance continuation assistance pilot program to be administered by the medical services division to provide insurance continuation assistance to persons with AIDS or HIV-related illnesses who are unable to maintain health insurance premium payments due to illness. The pilot program shall operate for a 2-year period beginning October 1, 1991. The funds shall be made available in a manner that provides the assistance, as needed, to recipients at any time until the end of the pilot project or until the appropriated funding is exhausted.*

2. *The department shall publicize the program for enrollment of potential participants through provision of information through the Iowa department of public health, the regional AIDS coalitions funded by the Iowa department of public health, physicians, hospitals, social workers, and social service providers, and gay and AIDS-related groups identified by the coalitions.*

3. *The program shall provide all of the following:*

a. *That an applicant is eligible for participation in the program if all of the following conditions are met:*

(1) *The applicant is a resident of the state.*

(2) *The applicant suffers from AIDS or an HIV-related illness.*

(3) *The applicant has an income of no more than 300 percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services and cash assets of no more than \$10,000.*

(4) *The applicant is enrolled in an individual or group private health insurance plan.*

(5) *The applicant is unable, due to AIDS or the HIV-related illness, to continue employment in order to pay the costs of insurance premiums.*

(6) *Enrollment in the program is the most cost-effective, available means of providing the applicant with health insurance coverage.*

b. *That an applicant is required to provide the following to verify eligibility for participation in the program:*

(1) *Documentation of income and assets, as required by rule of the department.*

(2) *Documentation through submission of a statement by the applicant's physician that the applicant suffers from AIDS or an HIV-related illness and that the applicant is, or will within a period of 6 months be, unable to continue employment.*

c. *An expedited eligibility determination process to ensure that an eligible applicant is not denied coverage under the applicant's existing policy due to nonpayment of premiums during the determination process period. This may include but is not limited to accepting preapplications from any HIV-infected person or the making of payments based on preliminary determinations.*

d. *A requirement that following enrollment in the program, a person must apply for medical assistance, if the department determines that the person is likely to be eligible for payment of premiums under the medical assistance program.*

e. *That all information relating to an applicant is confidential information and the provisions of chapter 141 are applicable to the information.*

4. *The department shall provide a preliminary report to the general assembly by January 1, 1992, and a final report to the general assembly by January 1, 1993, regarding the cost-effectiveness of the pilot program, the impact of the requirements of federal law on the pilot*

*Item veto; see message at end of the Act

program, and the current and projected costs to the state for payment of medical assistance for the health care costs of persons with AIDS or HIV-related illnesses.

5. For the purposes of this section, "AIDS" and "HIV" mean "AIDS" and "HIV" as defined in section 141.21.

6. For the purposes of this subsection, "health insurance plan" includes nonprofit health service corporation contracts regulated under chapter 514 and health maintenance organization evidences of coverage regulated under chapter 514B.

7. As a condition, limitation, and qualification of the funds appropriated in this section, the department may transfer not more than \$10,000 of the funds appropriated in this section to the appropriation in this division for general administration to be used for administrative costs associated with this program. The department is authorized a 0.5 FTE position in addition to the positions authorized in the appropriation in this division for general administration in order to administer the program.

8. The program shall start by October 1, 1991, and the department is authorized to adopt emergency rules to implement the provisions of this section by that date.*

*Sec. 106. HIV-AIDS HEALTH AND SUPPORT SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For HIV-AIDS health and support services:

..... \$ 60,000

1. The funds appropriated in this section shall be used to provide health and support services to persons with human immunodeficiency virus infection (HIV) or acquired immune deficiency syndrome (AIDS). Not more than 1 percent of the funds appropriated in this section shall be available to the department for administrative costs.

2. The department of human services shall establish an AIDS services committee to distribute the moneys appropriated in this section. The committee shall remain active until the completion of the duties required under this section. Members of the committee are entitled to actual and necessary expenses in the performance of their official duties. However, expense reimbursements shall not exceed 2 percent of the amount appropriated in this section. The department shall appoint committee members who are knowledgeable concerning HIV infection or AIDS. The committee may consist of persons representing the following: licensed physicians and social workers, hospice organizations, home health care agencies, the homosexual community, persons with HIV infection or AIDS, and a representative of an AIDS coalition funded by the Iowa department of public health. To the extent possible, the committee members shall be the same persons who served as members of the AIDS services task force established pursuant to 1990 Iowa Acts, chapter 1259, section 6, subsection 3. The department of human services shall appoint a temporary chairperson, call the committee meetings, provide meeting space and meeting notices, and receive consortia reports which shall be provided to committee members. The committee shall cooperate with the Iowa department of public health in decision making concerning the distribution of the funds appropriated in this section.

3. The committee shall make decisions concerning the distribution of the funds to regional HIV care consortia established pursuant to Title II of the federal Ryan White Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381. The decisions shall include determining the nonprofit consortia which will receive the funds, funding amounts, and the purposes for which the funds are to be used. The funds shall be used to provide health and support services to persons with HIV infection or AIDS living within the consortia area, as authorized by the federal Act and approved by the committee. The services may include, but are not limited to, case management, benefits advocacy, client basic emergency need grants, support groups, individual support programs, home health care, respite care, and attendant care. The committee shall hold at least two meetings, one to allocate funding to consortia and the other to receive reports from consortia and to develop recommendations for the general assembly.

*Item veto; see message at end of the Act

4. A consortia receiving funding under this section shall include representatives of agencies or organizations providing health and support services to persons with HIV infection or AIDS who reside within the consortia area and other affected persons. The consortia shall provide reasonable services to affected persons in both urban and rural portions of the consortia area with preference given to underserved rural areas. At least 10 percent of the funds provided to a consortia shall be used to provide services to women, children, and families of persons with HIV infection or AIDS. Moneys provided to a consortia under this section shall not be used to pay for an individual's services which are covered by private insurance or a publicly funded program.

5. A consortia receiving funds under this section shall provide information required by the committee which shall include but is not limited to all of the following:

- a. The number of persons with HIV infection or AIDS in the consortia area.
- b. Demographic information concerning the persons identified, including age, race, and gender distributions.
- c. The type and quantity of health and support services needs of the persons identified.
- d. The type and quantity of health and support services provided by the consortia.
- e. The type and quantity of health and support services the consortia is unable to provide due to lack of funding or other barriers to providing services.

6. The department shall distribute funds to nonprofit consortia by contract specifying the purposes, reporting requirements, and decisions established by the committee. This section is not subject to rulemaking under chapter 17A.*

Sec. 107. STATE SUPPLEMENTARY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance:

..... \$ 18,605,530

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. The department may adopt emergency rules to implement the provisions of this paragraph.

Sec. 108. AID TO INDIANS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For aid to Indians under section 252.43:

..... \$ 38,000

The tribal council shall not use more than 5 percent of the funds for administration purposes. The department may adopt emergency rules to implement the provisions of this paragraph.

Sec. 109. CHILD DAY CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For protective child day care assistance and state child care assistance:

..... \$ 7,104,072

1. It is the intent of the general assembly that \$3,107,695 of the funds appropriated in this section be used for protective child day care assistance.

2. It is the intent of the general assembly that \$3,737,446 of the funds appropriated in this section be used for state child care assistance.

3. a. The funds allocated in this section for protective and state child care assistance shall be allocated to the department of human services districts and each district shall distribute the allocation to the counties within the district. If a district determines that a specified

*Item veto; see message at end of the Act

portion of the funds provided to a county is sufficient to meet the county's current demand and projected growth, the district may transfer the excess amount of funds to another county. If the district determines that a specified portion of the funds provided to the district is sufficient to meet the district's current demand and projected growth for the remainder of the fiscal year, the excess amount may be transferred for use in another district.

b. For state child care assistance, eligibility shall be limited to children whose family income is equal to or less than 150 percent of the federal office of management and budget poverty guidelines. However, on or after October 1, 1991, the department may increase the income eligibility limit to be equal to or less than 75 percent of the Iowa median family income. Every effort shall be made to provide assistance for the entire fiscal year to families remaining eligible before providing assistance to eligible families who have not received assistance previously. For the entire fiscal year, the department shall develop a priority ranking of requirements for families who receive assistance, with special priority given to foster care families within the income guidelines. The requirements may include but are not limited to all of the following:

- (1) Families with an income equal to or less than 150 percent of the federal office of management and budget poverty guidelines.
- (2) Single parent families who are at risk of becoming eligible for the aid to families with dependent children program.
- (3) Families who have exhausted eligibility for transitional child care assistance.
- (4) Adolescent parents attending school.
- (5) Families who have children with special needs.
- (6) Families who are providing foster care if both foster parents are employed and child day care is consistent with the case plan.
- (7) Families with an income greater than 150 percent of the federal office of management and budget poverty guidelines but no more than 75 percent of the Iowa median family income.

c. The department may adopt emergency rules necessary to qualify to receive funding from the federal child care development block grant and the federal at-risk child care program. If required as a condition of receiving these funds, the rules may provide for eligibility, health and safety requirements, parental access to children, reimbursement rates, types of service provided, licensing standards, complaint registration procedures, or other rules necessary to establish a simplified or consolidated child day care policy.

d. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level consistent with the requirements of this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated under this section.

4. Of the funds appropriated in this section, \$258,931 is allocated for the fiscal year beginning July 1, 1991, for the statewide program for child day care resource and referral services under section 237A.26.

5. The department may use any of the funds appropriated in this section as a match to obtain federal grants for use in expanding child day care assistance and related programs.

Sec. 110. TRANSITIONAL CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For transitional child care assistance:

	\$ 323,311
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Notwithstanding section 239.21, the department of human services shall provide the transitional child care program in accordance with the federal Family Support Act of 1988, Pub.L. No. 100-485, § 302, and applicable federal regulations. Reimbursement for services shall be limited to registered or licensed child day care providers and programs providing care, supervision, or guidance of a child which is not included under the definition of "child day care" pursuant to section 237A.1, subsection 7.

Sec. 111. JOBS PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the JOBS program:

..... \$ 4,232,610

1. Of the funds appropriated in this section, \$3,690,610 is allocated for the JOBS program. If in accordance with federal requirements, effective September 1, 1991, reimbursement under the JOBS program for child day care services shall be limited to registered or licensed child day care providers and programs providing care, supervision, or guidance of a child which is not included under the definition of "child day care" pursuant to section 237A.1, subsection 7. However, this requirement shall not apply to persons specified by rule as an aid to families with dependent children relative or as otherwise eligible for reimbursement because a licensed or registered child day care provider or program is not available. The department may adopt emergency rules to implement the provisions of this subsection.

2. Of the funds allocated in this section, \$62,000 is allocated for the food stamp employment and training program.

3. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall work with family development and self-sufficiency grantees and the state's community action agencies to develop a structure that permits initiatives which raise local funds to match federal funds under the JOBS program in order to expand or to develop additional family development program initiatives.

4. Of the funds allocated in this section for the JOBS program, \$480,000 is allocated to the family development and self-sufficiency grant program as provided under section 217.12. This funding shall extend current grantee funding from December 31, 1991, to June 30, 1992.

a. No more than 5 percent of the funds allocated in this subsection shall be used for administration of the program and this percentage shall be determined for the entire fiscal year rather than on a 6-month basis. Federal financial participation received by the department relating to the funds allocated in this subsection shall be used for purposes designated under the appropriation in this division for aid to families with dependent children. Any other federal funds which are matched by other state or local funds and used for family development and self-sufficiency services shall be used for the grant program or the JOBS program.

b. Based upon the annual evaluation report concerning each grantee funded by this allocation, the family development and self-sufficiency council may use funds allocated to renew grants. Grant renewals shall be awarded on or before January 1, 1992, for a 6-month extension to June 30, 1992.

Sec. 112. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recovery, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 3,134,277
..... FTEs 253.50

1. The director of human services, within the limitations of the funds appropriated in this section, or funds transferred from the aid to families with dependent children program for this purpose, may establish new positions and add additional employees to the child support recovery unit when the director determines that both the current and additional employees together can reasonably be expected to recover for the aid to families with dependent children program and the nonpublic assistance support recovery program more than twice the amount of money required to pay the salaries and support for both the current and additional employees or the new positions are necessary for compliance with federal requirements and the anticipated increased recovery amount exceeds the cost of salaries and support for the new positions. In the event the director adds additional employees, the department shall

demonstrate the cost-effectiveness of the current and additional employees by reporting to the joint human services appropriations subcommittee the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recovered.

2. Notwithstanding any other provision in law, nonpublic assistance application and user fees received by the child support recovery program are appropriated and shall be used for the purposes of the program. The department may adopt emergency rules as necessary to implement the provisions of this subsection. The director of human services may exceed the full-time equivalent position limit authorized in this section if fees collected relating to the new positions are sufficient to pay the salaries and support for the positions. The director shall report any new positions added pursuant to this section to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau. The department may adopt emergency rules as necessary to implement the provisions of this subsection.

3. The director of human services, in consultation with the department of management and the legislative fiscal committee, is authorized to receive and deposit state child support incentive earnings in the manner specified under applicable federal requirements.

4. The director of human services may establish new positions and add additional state employees to the child support recovery unit if the director determines the employees are necessary to replace county-funded positions eliminated due to termination, reduction, or non-renewal of a chapter 28E contract. However, the director must also determine that the resulting increase in the state share of child support recovery incentives exceeds the cost of the positions, the positions are necessary to ensure continued federal funding of the program, or the new positions can reasonably be expected to recover more than twice the amount of money to pay the salaries and support for the new positions.

Sec. 113. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the operation of the state training school and the Iowa juvenile home, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

For the state juvenile institutions:

.....	\$	12,774,015
.....	FTEs	357.50

1. The following amounts of the funds appropriated and FTEs authorized in this section are allocated for the Iowa juvenile home at Toledo:

.....	\$	4,703,508
.....	FTEs	128.50

2. The following amounts of the funds appropriated and FTEs authorized in this section are allocated for the state training school at Eldora:

.....	\$	8,070,507
.....	FTEs	229.00

3. It is the intent of the general assembly that during the fiscal year beginning July 1, 1991, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21. It is also the intent of the general assembly that the state juvenile institutions apply for an adolescent pregnancy prevention grant for the fiscal year beginning July 1, 1991.

4. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in this appropriation.

5. The department shall report to the legislative fiscal bureau, on or before the 20th day of each month, the department's current expenditures for the institutions receiving allocations under this appropriation. The report shall include a comparison of actual to budgeted expenditures for each institution.

Sec. 114. FOSTER CARE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For foster care:

..... \$ 53,674,434

1. **As a condition, limitation, and qualification of the funds appropriated in this section, the department shall use moneys appropriated in this section to establish 30 or more enhanced service group care facility beds during the fiscal year beginning July 1, 1991.** The department may use moneys appropriated in this section to provide enhanced funding of services to family foster homes to avert placement of children in group care facilities and may continue to provide enhanced funding of services to group care facilities to avert placement of children in more expensive, less appropriate out-of-state facilities or in a state juvenile institution. The department shall give priority to serving children whose placement at the state training school or the Iowa juvenile home would cause the state juvenile institution to exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21.

2. The department may transfer a portion of the funds appropriated in this section to provide subsidized adoption services or to purchase adoption services, if funds allocated under the appropriation in this division for home-based services for adoption services are insufficient.

3. The department and state court administrator shall work together in implementing an agreement which enables the state to receive funding for eligible cases under the federal Social Security Act, Title IV-E.

4. Not more than 25 percent of the children placed in foster care funded under the federal Social Security Act, Title IV-E, shall be placed in foster care for a period of more than 24 months.

5. Of the funds appropriated in this section, \$92,000 is allocated for the foster home insurance fund. Notwithstanding section 237.13, the department may use funds appropriated in this section to purchase liability insurance for licensed foster parents in lieu of providing payment for claims filed against the foster home insurance fund, if comparable coverage can be obtained through private insurance. Notwithstanding section 8.33, funds remaining in the foster home insurance fund on June 30, 1992, shall not revert to the general fund but shall remain available for expenditure in the fiscal year beginning July 1, 1992, for the purposes designated.

**6. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall review the need to provide additional day treatment alternatives within the child welfare system and the potential to provide additional services by including day treatment provided by psychiatric medical institutions for children as a service reimbursed under medical assistance. The department shall identify the effect of providing day treatment services reimbursement under medical assistance upon state expenditures for residential treatment and other foster care services. The department may use funds appropriated in this division for medical assistance to pay the nonfederal share of costs for services reimbursed under medical assistance which are provided in a psychiatric medical institution for children.*

7. The department may use \$30,000 of the funds appropriated in this section to contract for a study of the effectiveness of needs-based and therapeutic family foster care and enhanced residential care.

8. *As a condition, limitation, and qualification of the funds appropriated in this section, the department shall develop a therapeutic foster care program in at least 1 district in the state. The program's foster care worker support staff shall serve not more than 7 foster families and shall provide respite and special support services to foster parents to enable them to serve in an active treatment capacity with the children under their care. Of the funds appropriated in this section, up to \$200,000 shall be used for therapeutic foster care reimbursement and \$284,667 for 8.00 FTEs under the appropriation and positions authorized in this division for field operations.**

9. Funds appropriated in this section may be used to recruit foster parents and to provide preservice and in-service training for foster parents.

*Item veto; see message at end of the Act

10. Of the funds appropriated in this section, up to \$140,000 may be used to develop and maintain the state's implementation of the national adoption and foster care information system pursuant to the requirements of Pub. L. No. 99-509.

11. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall continue a family foster care advisory committee to examine department practices and policies to improve the recruitment and retention of foster parents, provide training and professional guidance where appropriate, and seek the involvement of family foster care providers in designing, developing, and participating in the creation of therapeutic foster family homes. The department shall review initiatives of other states in recruiting foster parents from appropriate families who are recipients of public assistance. In consultation with the advisory committee, the department shall seek federal waivers and make program modifications as necessary to develop a similar program for Iowa upon receiving federal approval to do so.

12. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall establish specialized family foster care homes and provide specialized support and respite services to qualifying foster care families who accept infants with chemical addictions from intrauterine transmission who would otherwise remain in a hospital.

13. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall continue the demonstration program to decategorize child welfare services in the 4 counties in which the program has commenced. The department may approve additional applications from a county or consortium of counties to initiate a demonstration program provided the department, the boards of supervisors in the counties, and the affected judicial districts agree to implement the program. The schedule for implementing the demonstration program in additional counties shall provide that the program be implemented on or after January 1, 1992. The department shall establish for the demonstration project counties a child welfare fund composed of all or part of the amount that would otherwise be expected to be used for residents of the counties for foster care, family-centered services, subsidized adoption, child day care, local purchase of services, state juvenile institution care, mental health institute care, state hospital-school care, juvenile detention, department-direct services, and court-ordered evaluation and treatment of juvenile services and notwithstanding any other provision of law, the fund shall be considered encumbered. Notwithstanding other service funding provisions in law, the department shall establish the fund by transferring funds from the budgets affected, except for the funds appropriated for the state mental health institutes, the state hospital-schools, the state training school, and the Iowa juvenile home which shall remain on account for the county at these institutions. A limited amount of the fund may be used to support services and reimbursement rates not allowable within historical program or service categories and administrative rule. In addition, a limited amount of the child welfare fund may be used for the family assistance fund to provide resources for a family to remain together or to be unified. It is the intent of the general assembly that the demonstration program be designed to operate in a county for a 3-year period. The 3-year time period for a decategorization project in Dubuque, Polk, Pottawattamie, or Scott county shall be considered to begin on January 1 in the first year following the year in which the county's decategorization project was approved by the department.

14. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall implement changes in group foster care maintenance and service definitions to be consistent with the definitions under Title IV-E of the federal Social Security Act. **Federal financial participation provided under Title IV-E in excess of \$595,000, which is received as a result of the definition changes shall be apportioned to the providers implementing the changes. The excess amount shall be apportioned after the department has received all federal Title IV-E payments for the fiscal year. The excess amount shall be apportioned as a payment according to each provider's percentage of the total amount of payments made to providers implementing the changes under federal Title IV-E.**

15. As a condition, limitation, and qualification of the funds appropriated in this section, not more than \$30,000 of the funds appropriated in this section may be used to contract with the coalition of family and children's services or another suitable entity for the development

*Item veto; see message at end of the Act

of a computerized foster care placement information system for the state. The system shall be designed utilizing previously developed software techniques used in Pennsylvania and shall be capable of providing an on-line data base of the availability of particular foster care placements, technical support, training, and appropriate user documentation.

Sec. 115. CHILD PROTECTIVE SYSTEM IMPROVEMENTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For improvements in the state system for child protection:

..... \$ 561,500

The funding appropriated in this section shall be used as determined by the department for any of the following purposes:

1. For general administration of the department to improve staff training efforts.
2. For oversight of termination of parental rights and permanency planning efforts on a statewide basis on the condition that regular reports regarding the statewide program efforts shall be provided to the legislative fiscal bureau.
3. For use by the department in general administration to promote innovative treatment programs, write grants to obtain federal and private funding, and promote public and private efforts to treat and prevent child abuse.
4. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases.
5. For funding of the state multidisciplinary team to assist with difficult cases within the child abuse and foster care system and with respect to child protective investigation and initial case planning and to develop and coordinate local multidisciplinary teams.
6. For use by the department in conducting outcome-oriented evaluations of child protection, prevention, and treatment programs.
7. For specialized foster care permanency planning field operations staff.

Sec. 116. HOME-BASED SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For home-based services on the condition that family planning services are funded, provided that if the department amends the allocation to a program funded under this section, then the department shall promptly notify the legislative fiscal bureau of the change:

..... \$ 19,680,002

1. Of the funds appropriated in this section, \$30,000 shall 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. The contracts shall make maximum use of any matching resources available from the universities with which the department contracts.
2. Of the funds appropriated in this section, \$5,086,204 shall be used for family preservation and reunification services and training. A limited amount of the funds may be used for the family assistance fund to provide other resources required for a family participating in a project to stay together or to be reunified. The payment system for the project shall not be based upon units of time, but may be based upon the cost to serve a family, including adjustments according to the provider's performance and the outcome of the services provided to each family. The department shall use the statewide family preservation and decategorization committee to assist in selecting additional projects.

Sec. 117. COMMUNITY-BASED PROGRAMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For community-based programs:

..... \$ 3,224,421

1. As a condition, limitation, and qualification of the funds appropriated in this section, up to \$19,095 shall be used by the department as the financial aid from the state under section 232.142, subsection 3, for the cost of the establishment, improvement, operation, and maintenance of approved county or multicounty juvenile homes. Notwithstanding section 232.142, subsection 3, the amount provided in this subsection shall be the maximum amount of financial aid the state is obligated to provide pursuant to that provision.

2. Of the funds appropriated in this section, \$453,450 shall be used for adolescent pregnancy prevention grants. At least 75 percent of the funds shall be used for programs which incorporate family planning and pregnancy prevention services as the major component of the program. The department shall not expend more than 7 percent of the funds for administrative costs. The department shall adopt rules to implement this subsection. A grant may be awarded to a public school corporation, a maternal and child health center, an adolescent services provider, a project involving a state juvenile institution, or a nonprofit organization which is involved in adolescent issues. Grants shall be awarded for a 1-year period and shall be based on the demonstrated need for adolescent pregnancy prevention and adolescent parent services. Preference in awarding grants shall be given to projects for children placed at a state juvenile institution and projects which utilize a variety of community resources and agencies.

a. As used in this subsection, "adolescent" means a person who is less than 18 years of age or a person who is attending an accredited high school or pursuing a course of study which will lead to a high school diploma or its equivalent. The department shall establish guidelines which permit a grant recipient to continue providing services to a person who receives services under the grant as an adolescent and becomes 18 years of age or older.

b. A grant shall only be awarded to a project which provides 1 or more of the following services:

(1) Workshops and information programs for adolescents and parents of adolescents to improve communication between children and parents regarding human sexuality issues.

(2) Development and distribution of informational material designed to discourage adolescent sexual activity, to provide information regarding acquired immune deficiency syndrome and sexually transmitted diseases, and to encourage male and female adolescents to assume responsibility for their sexual activity and parenting.

(3) Early pregnancy detection, prenatal services including chlamydia testing, and counseling regarding decision-making options for pregnant adolescents.

(4) Case management and child care services provided to male and female adolescent parents.

c. Additional services may be offered by a grantee pursuant to a purchase of service contract with the department including child day care services; child development and parenting instruction; services to support high school completion, job training, and job placement; prevention of additional pregnancies during adolescence; and other personal services.

3. As a condition, limitation, and qualification of the funds appropriated in this section, at least \$216,550 shall be used to provide grants administered in accordance with the provisions for adolescent pregnancy prevention grants, except for requirements to target certain specific geographic areas of the state. The grants shall be awarded to fund any of the following purposes:

a. Programs targeted to children. A program shall include the following: components for parental involvement; parental education, including techniques for encouraging sexual abstinence; outreach services for recruiting parents and children into the program; and the provision of transportation to program staff and participants necessary for recruiting and encouraging program participation.

b. Programs intended to prevent an additional pregnancy by a parent who is less than 19 years of age. Preference in grant awards shall be given to programs which provide financial incentives to clients for their program participation and success in avoiding an additional pregnancy.

c. Providing additional pregnancy prevention grants. Preference in grant awards shall be given to programs which, in addition to other services, provide counseling to mixed gender groups of adolescents.

d. Programs intended to educate adolescents concerning the risks associated with alcohol and other drug use during pregnancy, including health, financial, emotional, and other potential long-term effects for mother and child.

4. As a condition, limitation, and qualification of the funds appropriated in this section, \$550,686 shall be used by the department for child abuse prevention grants.

Sec. 118. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For supplementation of federal social services block grant funds and for allocation to counties for the purchase of local services:

..... \$ 4,935,958

The funds appropriated in this section shall be allocated to 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, 1991, 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. The department may adopt emergency rules to implement the provisions of this subsection relating to an increase in the cost of living.

Sec. 119. COURT-ORDERED SERVICES PROVIDED TO JUVENILES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4:

..... \$ 4,013,271

1. It is the intent of the general assembly that the funds appropriated in this section shall be used in a manner that allows provision of court-ordered services to juveniles for the entire specified fiscal period without the need for supplemental funding. The court shall consider the overall cost-effectiveness of services ordered by the court for juveniles under chapter 232.

2. As a condition, limitation, and qualification of the funds appropriated in this section, and notwithstanding any other provision of law, \$6,150,000 of the funds appropriated in this division for home-based services shall be used in providing court-ordered family-centered, family preservation and family reunification services designed to achieve the goals contained in a juvenile's foster care case permanency plan. The department of human services shall develop policies and procedures to ensure that priority for these services is given to juveniles who are at-risk of being adjudicated as a delinquent, being found to be a child in need of assistance, or being involuntarily committed under chapter 125 or 229.

3. As a condition, limitation, and qualification of the funds appropriated in this section, and notwithstanding section 232.141 or any other provision of law, the funds appropriated in this section shall be allocated to the judicial districts as provided in this subsection. The allocations to the districts shall be made according to a formula developed pursuant to recommendations of a committee consisting of a representative of the director of human services, a representative of the state court administrator, a representative of the Iowa state association of counties, and a representative of service providers selected by the coalition of family and children's services. The recommendations shall be based upon each judicial district's utilization of juvenile justice moneys paid pursuant to section 232.141, subsection 4, during the period beginning July 1, 1985, and ending June 30, 1990. However, to the extent possible, services paid for pursuant to that section that would have been eligible for payment under other provisions shall not be included. The judicial district's population of juveniles, adjudicated juvenile delinquents, and children and families found to be in need of assistance, during the period beginning January 1, 1990, and ending December 31, 1990, shall also be considered in developing the recommendations. The state court administrator shall make the final decision on the allocations on or before June 15, 1991.

4. Each judicial district shall establish a planning group for the court-ordered services for juveniles provided in that district. A district planning group shall be appointed by the chief judge of the judicial district and shall include local representatives of the department of human services, youth advocates, public defenders where appropriate, the judicial department, county officials or staff, and service providers. A district planning group shall meet at least quarterly and shall perform all of the following activities:

a. Establish service priorities for spending the court-ordered services funds allocated to the district.

b. Develop procedures to evaluate and improve the quality and effectiveness of the services being provided.

c. Make recommendations concerning changes in the child welfare system that are needed to ensure that children and families receive the services necessary to meet their unique needs.

d. Make efforts to ensure quality services are provided at a reasonable cost.

e. Consider billings submitted for payment under this section to ensure that no other payment source is available.

Each district planning group shall submit an annual report to the state court administrator and the department of human services. The administrator and the department shall compile these reports and submit the reports to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau.

5. On or before June 15, 1991, the department of human services shall develop policies and procedures to ensure that the funds appropriated in this section are spent only after all reasonable efforts have been made to utilize other funding sources and community-based services. The policies and procedures shall be designed to achieve the following objectives relating to services provided under chapter 232:

a. Maximize the utilization of funds which may be available from the medical assistance program including usage of the early preventive, screening, diagnosis, and treatment (EPSDT) program.

b. Recover payments from any third-party insurance coverage which is liable for coverage of the services, including health insurance coverage.

c. Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs.

6. The department of human services, in consultation with the state court administrator and the judicial district planning groups, shall compile a monthly report describing spending in the districts for court-ordered services for juveniles, including the utilization of the medical assistance program. The reports shall be submitted on or before the twentieth day of each month to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau.

7. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court in a department of human services district shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively transfer funds between the districts' allocations as prudent.

8. Notwithstanding any provision of law, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141.

9. As a condition, limitation, and qualification of the funds appropriated in this section, and notwithstanding any provision of law to the contrary, \$50,000 of the funds appropriated in this section may be used by the department for the administration of the programs and services provided pursuant to orders entered under chapter 232, as a supplement to funds provided in other appropriations. The department shall cooperate with the legislative fiscal bureau in developing a management information system for spending for services ordered under chapter 232.

10. As a condition, limitation, and qualification of the funds appropriated in this section, up to \$202,000 of the funds appropriated in this section may be used by the judicial department for administration of the requirements under this section and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.

11. The department of human services may adopt emergency rules to implement the provisions of this section.

Sec. 120. IOWA VETERANS HOME. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For operation of the Iowa veterans home, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	29,722,461
.....	FTEs	828.80

1. The department may use the gifts accepted by the director 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.

2. Of the funds appropriated in this section, \$40,000 shall be transferred to the department of public defense, division of veterans affairs, and shall be used to computerize veterans records.

Sec. 121. 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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the state mental health institutes for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

1. State mental health institute at Cherokee:

.....	\$	14,928,541
.....	FTEs	389.75

2. State mental health institute at Clarinda:

.....	\$	7,638,209
.....	FTEs	189.16

3. State mental health institute at Independence:

.....	\$	16,005,884
.....	FTEs	436.27

4. State mental health institute at Mount Pleasant:

.....	\$	9,260,073
.....	FTEs	211.50

Sec. 122. 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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the state hospital-schools, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

1. State hospital-school at Glenwood:

.....	\$	39,142,956
.....	FTEs	1,157.00

2. State hospital-school at Woodward:

.....	\$	32,054,985
.....	FTEs	931.85

*Item veto; see message at end of the Act

Sec. 123. MENTAL HEALTH AND MENTAL RETARDATION SERVICES FUND. Notwithstanding 1990 Iowa Acts, chapter 1250, section 18, \$3,200,000 of the funds appropriated to the special mental health services fund established in that section shall be transferred to the state community mental health and mental retardation services fund established in section 225C.7 and shall be used for the purposes designated in that section. The amount transferred pursuant to this section and section 124 of this division shall not be subject to the formula provided in 1990 Iowa Acts, chapter 1250, section 18, subsection 4.

Sec. 124. ENHANCED SERVICES – COUNTY PAYMENT. Notwithstanding 1990 Iowa Acts, chapter 1250, section 18, \$2,360,000 of the funds appropriated to the special mental health services fund established in that section, or so much thereof as is necessary, shall be transferred to supplement the appropriation in section 128 of this division for the state candidate services fund for the purpose of providing funds to counties pursuant to section 128, subsection 5 of this division. The amount transferred pursuant to this section and section 123 of this division shall not be subject to the formula provided in 1990 Iowa Acts, chapter 1250, section 18, subsection 4.

Sec. 125. MENTAL HEALTH – MENTAL RETARDATION – DEVELOPMENTAL DISABILITIES SPECIAL SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental health, mental retardation, and developmental disabilities special services:
..... \$ 382,500

1. The department and the Iowa finance authority shall develop methods to implement the financing for existing community-based facilities and to implement financing for small community-based facilities, including those facilities which may be developed under a federally approved home and community-based waiver for services provided under the medical assistance program. The department shall develop criteria for these facilities which may include provisions to restrict placements to current state hospital-school clients or to avert the placement of persons in a state hospital-school. The department shall assure that clients are referred to these facilities upon their development.

2. Of the funds appropriated in this section, \$257,219 is allocated to provide supplemental per diems to community-based residential care facilities and community living arrangements. The per diem is restricted to clients placed from the state hospital-schools and persons averted from placement in a state hospital-school who meet the appropriate level of functioning for this type of care.

3. Of the funds appropriated in this section, \$125,281 is allocated to provide funds for construction and start-up costs to develop community living arrangements to provide for persons who are mentally ill and homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

4. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall adopt rules pursuant to chapter 17A providing for reimbursement under state supplementary assistance to pay for supervised apartment living and cooperative housing arrangements for persons with disabilities. The rules shall take effect July 1, 1992.

Sec. 126. FAMILY SUPPORT SUBSIDY PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:
..... \$ 675,000

Sec. 127. SPECIAL NEEDS GRANTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and

*Item veto; see message at end of the Act

ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To provide special needs grants to families with a family member at home who has a developmental disability or to a person with a developmental disability:

..... \$ 55,000

Grants must be used by a family to defray special costs of caring for the family member to prevent out-of-home placement of the family member or to provide for independent living costs. A grant may provide up to \$5,000 per person for costs associated with an assistive animal. The grants may be administered by a private nonprofit agency which serves people statewide provided that no administrative costs are received by the agency. Regular reports regarding coordination of the special needs grants with the family support subsidy program shall be provided to the legislative fiscal bureau.

Sec. 128. ENHANCED MENTAL HEALTH – MENTAL RETARDATION – DEVELOPMENTAL DISABILITIES SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state candidate services fund:

..... \$ 2,545,911

1. The enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is continued, as established under 1988 Iowa Acts, chapter 1276, section 14, subsection 1, for the fiscal year which begins July 1, 1991, and ends June 30, 1992. The oversight committee shall issue a final decision regarding any issue of disagreement between a county and the department relating to expenditures for candidate services or the county's maintenance of effort.

2. For purposes of this section, "candidate services" means day treatment, partial hospitalization, and case management.

3. a. The county of legal settlement shall be billed for 50 percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness.

b. If the department has contracted with a county or a consortium of counties to be the provider of case management services, the department is responsible for any costs included within the unit rate for case management services which are disallowed for reimbursement pursuant to Title XIX of the federal Social Security Act by the federal health care financing administration. The department shall use funds appropriated under this section to credit a county for the county's share of any amounts overpaid due to the disallowed costs. If certain costs are disallowed due to requirements or preferences of a particular county in the provision of case management services the county shall not receive credit for the amount of the costs.

c. Case management services provided to children shall only be reimbursed under the medical assistance program if the services are provided in a county approved by the department to implement the program to decategorize child welfare services. In addition, the county's decategorization plan must demonstrate that the amount necessary for payment of the non-federal share of the cost for the services is available within funds allocated for the purpose of decategorization. The department may adopt emergency rules to implement the provisions of this paragraph.

4. A county is responsible to continue to expend at least the agreed upon amount expended for services in the fiscal year which ended June 30, 1987, for the fiscal year beginning July 1, 1991, for services to persons with mental retardation, a developmental disability, or chronic mental illness. Notwithstanding section 8.33, if a county does not expend the agreed upon amount in the fiscal year, the balance not expended shall not revert to the general fund of the county, but shall be carried over to the next fiscal year to be expended for the provision of services to persons with mental retardation, a developmental disability, or mental illness including, but not limited to, the chronically mentally ill, and shall be used as additional

funds. The additional funds shall be used, to the greatest extent possible, to meet unmet needs of persons with mental retardation, a developmental disability, or mental illness. This subsection does not relieve the county from any other funding obligations required by law, including but not limited to the obligations in section 222.60.

5. The department, in conjunction with the oversight committee, and with the agreement of each county, shall establish the actual amount expended for each candidate service for persons with mental retardation, a developmental disability, or chronic mental illness in the fiscal year which ended June 30, 1987, and this amount shall be deemed each county's base year expenditure for the candidate service. A disagreement between the department and a county as to the actual amount expended shall be decided by the oversight committee.

The department, in conjunction with the oversight committee, and with the agreement of each county, shall determine the expenditures in the fiscal year beginning July 1, 1990, by each county for the candidate services, including the amount the county contributes under subsection 3. If the expenditures in the fiscal year beginning July 1, 1990, exceed the base year expenditures for candidate services, then the county shall receive from the funds appropriated under this section the least amount of the following:

a. The difference between the total expenditures for the candidate services in the fiscal year beginning July 1, 1990, and the base year expenditures.

b. The amount expended by the county under subsection 3 for the fiscal year beginning July 1, 1990.

c. The amount by which total expenditures for persons with mental retardation, a developmental disability, or chronic mental illness for the fiscal year beginning July 1, 1990, less any carryover amount from the fiscal year which began July 1, 1989, exceed the maintenance of effort expenditures under subsection 4.

The department may utilize a debit-credit approach in order to implement the financial transactions with counties required by this subsection.

6. Notwithstanding section 225C.20, case management services shall be provided by the department except when a county or a consortium of counties contracts with the department to provide the services. A county or consortium of counties may contract to be the provider at any time and the department shall agree to the contract so long as the contract meets the standards for case management adopted by the department. The county or consortium of counties may subcontract for the provision of case management services if the subcontract meets the same standards. A mental health, mental retardation, and developmental disabilities coordinating board may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the coordinating board shall provide written notification of a proposed change to the department on or before August 15 and written notification of an approved change on or before October 15 in the fiscal year which precedes the fiscal year in which the change will take effect.

7. This section does not relieve the county from any other funding obligations required by law, including but not limited to the obligations in section 222.60.

8. Nothing in this division 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 division shall be construed as, is intended as, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

9. For the purposes of this section only, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill.

10. Where the department contracts with a county or consortium of counties to provide case management services, the state shall appear and defend the department's employees and agents acting in an official capacity on the department's behalf and the state shall indemnify the employees and agents for acts within the scope of their employment. The state's duties to defend and indemnify shall not apply if the conduct upon which any claim is based constitutes a willful and wanton act or omission or malfeasance in office.

Sec. 129. FIELD OPERATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For field operations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	41,364,127
.....	FTEs	2,289.30

1. Staff who are designated as "Title XIX case management staff" are considered to be in addition to the limit for full-time equivalent positions and the funds appropriated for field operations. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall report quarterly to the chairpersons and ranking members of the legislative fiscal committee of the legislative council, the members of the joint human services appropriations subcommittee, and the legislative fiscal bureau regarding the total number of Title XIX case management staff positions filled, including the number of positions which were filled by persons who were already employed by the department in another capacity.

2. As a condition, limitation, and qualification of the funds appropriated in this section, upon the request of a county, the department shall work with the county to develop a funding plan for persons with mental retardation, a developmental disability, or chronic mental illness who are not eligible to receive case management provided under the medical assistance program and are receiving service management. With an agreed upon funding plan, the department is authorized to combine state funds that would otherwise be expended on service management with county funds to upgrade services provided to the persons from service management to case management. Staff required to implement this subsection are not subject to the limitations on full-time equivalent positions and funds appropriated for field operations.

3. As a condition, limitation, and qualification of the funds appropriated in this section, if the field operations staffing level meets the funded full-time equivalent position limit authorized in this section and a district identifies a critical position vacancy or a position with a caseweight factor greater than 120 percent of the budgeted caseweight factor for the position, the director of human services may exceed the full-time equivalent position limit authorized under this section in the amount necessary to fill the critical position vacancy or to reduce the caseweight factor to the budgeted level. For purposes of this subsection, "critical position vacancy" includes a clerical position in an office limited to a single clerical staff position. The budgeted caseweight factor for the fiscal year beginning July 1, 1991, and ending June 30, 1992, is 196 for income maintenance workers and 191 for service workers. If the department is able to increase federal financial participation relating to field operations, the moneys shall be used to reduce the budgeted caseweight factor funded by the appropriation in this section for income maintenance and service workers. **In addition, if the field operations staffing level meets the funded full-time equivalent position limit authorized in this section and there is a critical position vacancy in the state or the statewide average caseweight factor for a particular type of position exceeds 105 percent of the budgeted caseweight factor for that type of position, the director of human services may exceed the full-time equivalent position limit authorized in this section in an amount necessary to fill the critical position vacancy or to reduce the caseweight factor to the budgeted level. If expenditures remain within the amount appropriated in this section, the department may exceed the full-time equivalent position limit authorized in this section. The department shall report monthly to the chairpersons and ranking members of the joint human services appropriations subcommittee and to the legislative fiscal bureau regarding caseweight factor computations in each district, the statewide average caseweight factor, the existence of a critical position vacancy in any district, and action taken by the department to address any critical position vacancy problem or excess caseweight factor.**

4. Notwithstanding the full-time equivalent position limit authorized in this section, a county implementing a decategorization project, consistent with the county's decategorization plan, may modify the staffing level in the county's human services office and the modification shall

*Item veto: see message at end of the Act

not affect other county or district human services staffing levels and shall not be considered to be subject to the full-time equivalent position limit in this section.

5. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall review the current field operations service delivery system structure. Within the funds budgeted and full-time equivalent positions authorized under this appropriation, the department shall make changes necessary to improve the system's administrative efficiency and effectiveness and to streamline these functions. Emphasis shall be placed upon increasing the program support, training, and supervision of staff who work directly with clients.

6. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall eliminate the department of human services district offices in all districts except for the Des Moines district. The department shall work with the Iowa state association of counties and the affected counties to develop a transition plan for the office elimination and to equitably spread the associated costs.

7. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall report to the members of the joint human services appropriations subcommittee on actions taken by the department to implement uniform reporting of maintenance and service costs for the financial reports used by service providers for reimbursement under the state supplementary assistance program and for reimbursement of purchase of service contracts under the social services block grant. The actions may include but are not limited to the development of uniform rules and consolidated cost reports. This report shall be submitted on or before October 1, 1991.

Sec. 130. 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, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	9,256,818
.....	FTEs	358.45

1. Full-time equivalent positions which are funded entirely with federal, public, or private grants are exempt from the limits on the number of full-time equivalent positions provided in this section, but are approved only for the period of time for which the federal funds or grants are available for the position.

2. As a condition, limitation, and qualification of the funds appropriated in this section, if a state institution administered by the department is to be closed or reduced in size, prior to the closing or reduction the department shall initiate and coordinate efforts in cooperation with the Iowa department of economic development to develop new jobs in the area in which the state institution is located.

3. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall seek federal approval of home and community-based waivers for services provided under medical assistance to persons with mental retardation and effective February 1, 1992, contingent upon federal approval of the waivers, the department shall take all measures necessary to implement the waivers, including, but not limited to, filling not more than 12 employee positions to perform duties as necessary to implement the waivers. The department shall fill the positions in a manner which results in the positions being equivalent to 4.00 FTEs for the fiscal year, however, the positions shall be annualized for the purposes of establishing the number of full-time equivalent positions in this appropriation for the fiscal year. The department may adopt emergency rules to implement the provisions of this subsection.

4. As a condition, limitation, and qualification of the funds appropriated in this section, \$30,000 shall be transferred to the governor's planning council for developmental disabilities for use in contracting to continue operating a computerized information and referral project for Iowans with developmental disabilities and their families.

5. As a condition, limitation, and qualification of the funds appropriated in this section, 1.00 FTE shall be assigned to expand the AFDC electronic benefits transfer program (EBT) beyond the pilot program county and to implement EBT for the food stamp program.

*Item veto; see message at end of the Act

6. As a condition, limitation, and qualification of the funds appropriated in this section, the department shall apply to the Robert Wood Johnson foundation for a grant to investigate the feasibility of establishing a system with a single state authority and regional subauthorities for the planning, funding, and administration of services for persons with mental illness. The application process shall be coordinated with the requirements of the federal Mental Health Planning Act, Pub. L. No. 99-660, and federal mental health law amendments enacted in 1990. The department shall work with legislators, advocacy groups, county representatives, and service providers as necessary in developing the grant application.

7. As a condition, limitation, and qualification of the funds appropriated in this section, \$69,145 and 1.5 FTEs of the moneys appropriated and positions authorized in this section shall be used to implement section 217.9A, establishing the commission on children, youth, and families in the department pursuant to Senate File 479,* if enacted by the Seventy-fourth General Assembly, 1991 Session.

8. As a condition, limitation, and qualification of the funds appropriated in this section, the department, in consultation with the child development coordinating council and the family development and self-sufficiency council, shall develop a proposal for submission to the federal family support administration for a state family resource and support program grant under the federal Claude Pepper Young Americans Act of 1990, Pub. L. No. 101-501 § 933, as codified in 42 U.S.C. § 12339. The department may also apply for a planning grant under that Act. In making application, the department shall build upon existing effective programs in Iowa provided through the child development coordinating council, the family development and self-sufficiency council, adolescent pregnancy prevention grants, and child abuse prevention grants.

Sec. 131. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:	\$	93,283
.....		

Sec. 132. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. For the fiscal year beginning July 1, 1991, the following providers shall not have their medical assistance reimbursement rates increased over the rates in effect on June 30, 1991: providers of waived services under the home and community-based programs, optometrists for service fees only, opticians for service fees only, podiatrists, dentists, chiropractors, physical therapists, birthing centers, ambulance services, independent laboratories, area education agencies, clinics, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, hearing aid dealers, orthopedic shoe dealers, ambulatory surgery centers, and genetic counseling clinics. Reimbursement for optometric products shall not be increased. The department of human services may utilize flexibility in allocating the increase for durable medical products and supplies so that equipment and supplies which have greater wholesale cost increases may be reimbursed at a higher rate and those which have a lower or no wholesale cost increase may be reimbursed at a lower rate or have no increase. Reimbursement rates for physicians and certified registered nurse anesthetists shall not be increased. Reimbursement rates for maternal health centers shall not be increased.

b. For the fiscal year beginning July 1, 1991, the following shall have their medical assistance reimbursement rates established at the rates in effect on February 28, 1991: psychiatric medical institutions for children, early preventive screening, diagnosis, and treatment providers, providers of obstetric services when provided by physicians or certified midwives, pediatric services, and durable medical products and supplies.

***c. The department shall provide a differential per diem reimbursement rate to a psychiatric medical institution for children for short-term treatment or diagnosis services provided within a segregated unit of the institution. The differential per diem reimbursement rate shall not*

*Chapter 109 herein

**Item veto; see message at end of the Act

*exceed 120 percent of the per diem rate authorized in this section for psychiatric medical institutions for children.**

d. The dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1991. The reimbursement policy for pharmacies shall be in accordance with federal requirements. Total adjustments to reimbursements for prescription drugs shall remain within funds appropriated.

e. Effective July 1, 1991, reimbursement rates to hospitals shall not be increased over the rates in effect on June 30, 1991.

f. Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal medicare program.

g. Home health agencies certified for the medical assistance program, hospice services, and acute care mental hospitals shall be reimbursed for their current federal medicare audited costs.

h. Effective July 1, 1991, the basis for establishing the maximum medical assistance reimbursement rate for nursing facilities shall be the 70th percentile of facility costs as calculated from the June 30, 1991, unaudited compilation of cost and statistical data. **However, to the extent funds are available under the allocation for reimbursement of nursing facilities within the appropriation for medical assistance in this Act, the basis shall be increased to not more than the 74th percentile of facility costs as calculated from the same data.**

i. Effective July 1, 1991, the amount provided under the medical assistance program to nursing facilities during the fiscal year ending June 30, 1991, in addition to the approved per diem rate, pursuant to 1990 Iowa Acts, chapter 1270, section 31, subsection 1, paragraph "e", subparagraph (1), shall no longer be provided.

**2. For the fiscal year beginning July 1, 1991, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall be \$20.01 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be \$14.31 per day. For the fiscal year beginning July 1, 1991, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be \$397.95 per month.*

*3. For services provided by social services providers reimbursed by the department in the fiscal year beginning July 1, 1991, rates shall be increased by 2 percent over the unreduced rates in effect on June 30, 1991. However, any increase provided under this subsection shall not cause the provider's reimbursement rate to exceed the provider's actual and allowable cost plus the inflationary factor authorized in this section.**

4. Notwithstanding the provisions of subsection 3, the department may implement revisions of the methodology for purchasing group foster care services to establish rates for group foster care services based on the study of these issues funded by the general assembly in the fiscal year which began July 1, 1989, provided the overall budget amount for the expenditures is not exceeded and the revisions of the methodology are agreed to by the affected service providers.

5. If the department's reimbursement methodology for any provider reimbursed in accordance with this section includes an inflation factor, this factor shall not exceed the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31, 1990.

6. In determining reimbursement rates for facilities reimbursed under this division, including but not limited to foster care providers, residential care facilities, nursing facilities, and community living arrangements, the department shall not include private moneys contributed to the facility in its reimbursement rate determination unless these moneys are contributed for services provided to specific individuals for whom the reimbursement rate is established by the department.

7. The department may adopt emergency rules to implement the provisions of this section except for subsection 6 for which the department shall adopt nonemergency rules pursuant to chapter 17A.

Sec. 133. ASSISTANCE TO GAMBLERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

*Item veto; see message at end of the Act

For the gamblers assistance program, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	400,000
.....	FTEs	3.00

1. The department may adopt emergency rules to implement the provisions of this section within the funds appropriated in this section.

2. The Iowa lottery board and the state racing and gaming commission shall cooperate with the gamblers assistance program to incorporate information regarding the gamblers assistance program and its toll-free telephone number in printed materials distributed. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.

Sec. 134. REQUIREMENTS RELATING TO PERSONS WITH DISABILITIES. Subject to the limitations of the appropriations in this Act for the state mental health institutes and for the state hospital-schools, the department of human services shall modify staffing structures at the state hospital-schools and the state mental health institutes consistent with accreditation and certification requirements and the findings of the study on staffing commissioned by the general assembly in order to improve the level of direct staffing, reduce or simplify the levels of organizational authority where appropriate, and reduce the use of overtime. If, after review of the study recommendations, the department of human services decides to establish the position of "human resource specialist" at the state hospital-schools, the positions shall be established within the department of personnel and the department of human services may transfer to the department of personnel the associated full-time equivalent positions and moneys equal to the salary costs for the positions. The maintenance of sufficient direct care staff to assure worker and patient safety is of highest priority. The department shall work with all levels of affected employees in carrying out this staff restructuring. The department shall work to assure that vacant positions in direct care are filled promptly and expeditiously.

Sec. 135. FULL-TIME EQUIVALENT LIMIT NOTIFICATION. The Iowa veterans home, the state mental health institutes, and the state hospital-schools may exceed the number of full-time equivalent positions authorized in this Act if the additional positions are specifically related to licensing, certification, or accreditation standards or citations. The department shall notify the co-chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau if the specified number is exceeded. The notification shall include an estimate of the number of full-time equivalent positions added and the fiscal effect of the addition.

Sec. 136. COMPUTERIZATION — ASSESSMENT OF FINANCIAL IMPACT. In order to assess the financial impact of computerizing functions within the department of human services, the department of general services, information services division, shall monitor the utilization of the central processing unit resources maintained by the division, and shall provide quarterly reports to the legislative fiscal committee of the legislative council and the legislative fiscal bureau. The quarterly reports shall contain an analysis of the central processing unit resources utilized by the department of human services by each computerized application within the department. The reports shall also contain information on computerized applications which are under development, and shall project the central processing unit utilization which will occur in 6, 12, 18, and 24 months. The reports shall be designed to enable the legislative fiscal committee and the legislative fiscal bureau to assess the fiscal impact of various computerized applications, with emphasis upon the need for the division to purchase additional computer hardware.

Sec. 137. RULE IMPLEMENTATION PROHIBITION. The department of human services shall not implement 441 Iowa administrative code, rule 81.10, subrule 5, which was delayed by the administrative rules review committee at the committee's meeting on November 13, 1990.

Sec. 138. Section 99E.10, subsection 1, paragraph a, Code 1991, is amended by adding the following new unnumbered paragraph:

*Item veto; see message at end of the Act

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this lettered paragraph, directing that a portion of gross lottery revenues be deposited into the gamblers assistance fund or the provisions of section 99F.11 directing that a portion of the adjusted gross receipts under chapter 99F be deposited into the gamblers assistance fund, for the fiscal period beginning July 1, 1991, and ending June 30, 1993, moneys that were to be deposited into the gamblers assistance fund pursuant to this lettered paragraph and section 99F.11, subsection 3, shall be deposited into the general fund of the state.

Sec. 139. Section 135C.2, subsection 5, paragraph b, Code 1991, is amended to read as follows:

b. A facility must be located in an area zoned for single or multiple-family housing or in an unincorporated area and must be constructed in compliance with applicable local housing codes and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. The rules adopted by the state fire marshal for the special classification shall be no more restrictive than the rules adopted by the state fire marshal for demonstration waiver project facilities pursuant to 1986 Iowa Acts, chapter 1246, section 206, subsection 2. Local housing codes shall not be more restrictive than the rules adopted for the special classification by the state fire marshal and the state building code requirements for single or multiple-family housing.

Sec. 140. Section 135G.4, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. Each application for a birth center license or renewal of a license, shall be accompanied by a license fee. The fee amount shall be equivalent to the fee amount established for a hospital in accordance with section 135B.4. The fees shall be deposited in the general fund of the state.

Sec. 141. Section 230.12, Code 1991, is amended to read as follows:

230.12 ACTION TO DETERMINE LEGAL SETTLEMENT.

1. When a dispute arises between different counties or between the administrator and a county as to the legal settlement of a person admitted or committed to a state hospital for the mentally ill, the attorney general, at the request of the administrator, shall, without the advancement of fees, cause an action to be brought in the district court of any county where such dispute exists, to determine such the legal settlement. Said This action may be brought at any time when it appears that said the dispute cannot be amicably settled. All counties which may be the place of such the legal settlement, so far as known, shall be made defendants and the allegation of such the settlement may be in the alternative. Said The action shall be tried as in equity.

2. If the action involves a dispute between counties, the county determined to be the county of legal settlement shall reimburse a county for the amount of costs paid by that county on behalf of the person and for interest on this amount in accordance with section 535.3. In addition, the court may order the county determined to be the county of legal settlement to reimburse any other county involved in the dispute for the other county's reasonable legal costs related to the dispute and may tax the reasonable legal costs as court costs. The court may order the county determined to be the county of legal settlement to pay a penalty to the other county, in an amount which does not exceed twenty percent of the total amount of reimbursement and interest.

Sec. 142. Section 237A.3, subsection 1, Code 1991, is amended to read as follows:

1. A person who operates or establishes a family day care home may apply to the department for registration under this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family day care home that the home complies with rules adopted by the department. The registration certificate shall be posted in a conspicuous place in the family day care home, shall state the name of the registrant, the number of individuals who may be received for care at any one time, and the address of the home, and shall include a check list of registration compliances. No greater number of children than is authorized by the certificate shall be kept in the family day care home at any one time. However, a registered or unregistered family day care home may provide care for more than six but

less than twelve children at any one time for a period of less than two hours, but shall not do so unless the home does not provide care at any one time for more than provided that each child in excess of six children who are not attending is attending school full-time on a regular basis. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending school full-time on a regular basis, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home. The registration process may be repeated on an annual basis. A child day care provider or program which is not a family day care home by reason of the definition of child day care in section 237A.1, subsection 7, but which provides care, supervision or guidance to a child may be issued a certificate of registration under this chapter.

Sec. 143. NEW SECTION. 237A.27 CRISIS CHILD CARE.

The department shall establish a special child care registration or licensure classification for crisis child care which is provided on a temporary emergency basis to a child when there is reason to believe that the child may be subject to abuse or neglect. The special classification is not subject to the definitional restrictions of child day care in this chapter relating to the provision of child day care for a period of less than twenty-four hours per day on a regular basis. However, the provision of crisis child care shall be limited to a period of not more than seventy-two hours for a child during any single stay. A person providing crisis child care must be registered or licensed under this chapter and must be participating in the federal crisis nursery pilot project. The department shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 144. EMERGENCY RULES. If specifically authorized by a provision of this division, the department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. In addition, the department may adopt administrative rules in accordance with the provisions of this section as necessary to comply with federal requirements or to adjust to a change in the level of federal funding which affect refugee programs during the fiscal period beginning July 1, 1990, and ending June 30, 1992. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 145. EFFECTIVE DATE. Section 103, subsections 8 and 9, section 130, subsection 6, section 137, and section 144 of this division, being deemed of immediate importance, take effect upon enactment.

DIVISION II
DEPARTMENT OF EDUCATION

Sec. 201. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	5,562,266
	FTEs	137.25

2. CORRECTIONS EDUCATION PROGRAM

For educational programs at state penal institutions:

	\$	2,120,000
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As a condition, limitation, and qualification of the appropriation in this subsection, the utilization of educational technology in the prison education system shall be expanded and a tracking system shall be developed and implemented to provide information regarding the effects of recidivism and employment success.

Persons employed to provide instructional services under this paragraph who were previously employed through the department of corrections to provide instructional services to inmates under programs under the jurisdiction of the department of corrections shall be given credit for all unused sick leave that the persons accrued while employed through the department of corrections.

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	128,000
.....	FTEs	2.00

4. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs which shall be disbursed according to federal regulations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,056,205
.....	FTEs	14.00

5. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a non-public school as authorized by section 301.1. The funding is limited to \$20 per pupil and shall not exceed the comparable services offered to resident public school pupils:

.....	\$	600,000
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6. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	868,000
.....	FTEs	39.60

7. VOCATIONAL AGRICULTURE YOUTH ORGANIZATION

To assist a vocational agriculture youth organization sponsored by the schools to support the foundation established by that vocational agriculture youth organization:

.....	\$	39,000
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8. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,680,000
.....	FTEs	319.50

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	21,303
.....	FTEs	1.50

9. COMMUNITY COLLEGES

Notwithstanding chapter 286A, for general state financial aid to merged areas as defined in section 280A.2, for vocational education programs in accordance with chapters 258 and 280A, to purchase instructional equipment for vocational and technical courses of instruction in community colleges, and for salary increases:

.....	\$	91,272,564
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The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	\$	4,250,321
b. Merged Area II	\$	5,156,814
c. Merged Area III	\$	4,989,059
d. Merged Area IV	\$	2,343,177
e. Merged Area V	\$	4,945,241
f. Merged Area VI	\$	4,658,853
g. Merged Area VII	\$	6,393,002

h. Merged Area IX	\$	8,031,744
i. Merged Area X	\$	12,422,071
j. Merged Area XI	\$	13,346,353
k. Merged Area XII	\$	5,267,124
l. Merged Area XIII	\$	5,424,134
m. Merged Area XIV	\$	2,397,781
n. Merged Area XV	\$	7,439,535
o. Merged Area XVI	\$	4,207,355

10. COMMUNITY COLLEGE PERSONAL PROPERTY TAX REPLACEMENT

For general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13:

..... \$ 828,012

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	\$	65,152
b. Merged Area II	\$	50,567
c. Merged Area III	\$	33,891
d. Merged Area IV	\$	23,204
e. Merged Area V	\$	60,042
f. Merged Area VI	\$	34,514
g. Merged Area VII	\$	57,884
h. Merged Area IX	\$	69,103
i. Merged Area X	\$	97,180
j. Merged Area XI	\$	142,463
k. Merged Area XII	\$	46,200
l. Merged Area XIII	\$	40,972
m. Merged Area XIV	\$	20,826
n. Merged Area XV	\$	55,026
o. Merged Area XVI	\$	30,988

Sec. 202. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Notwithstanding chapter 286A for state financial aid to merged areas to be accrued as income and used for expenditures incurred by the community colleges during the fiscal year beginning July 1, 1991, and ending June 30, 1992:

..... \$ 16,106,923

The funds appropriated in this section shall be allocated as follows:

a. Merged Area I	\$	750,057
b. Merged Area II	\$	910,026
c. Merged Area III	\$	880,422
d. Merged Area IV	\$	413,502
e. Merged Area V	\$	872,690
f. Merged Area VI	\$	822,150
g. Merged Area VII	\$	1,128,177
h. Merged Area IX	\$	1,417,367
i. Merged Area X	\$	2,192,130
j. Merged Area XI	\$	2,355,239
k. Merged Area XII	\$	929,492
l. Merged Area XIII	\$	957,200
m. Merged Area XIV	\$	423,138
n. Merged Area XV	\$	1,312,859
o. Merged Area XVI	\$	742,474

2. Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1992.

Sec. 203. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13 to be accrued as income and used for expenditures incurred by the community colleges during the fiscal year beginning July 1, 1991, and ending June 30, 1992:

.....	\$	354,840
The funds appropriated in this subsection shall be allocated as follows:		
a. Merged Area I	\$	27,922
b. Merged Area II	\$	21,671
c. Merged Area III	\$	14,525
d. Merged Area IV	\$	9,924
e. Merged Area V	\$	25,732
f. Merged Area VI	\$	14,792
g. Merged Area VII	\$	24,807
h. Merged Area IX	\$	29,615
i. Merged Area X	\$	41,649
j. Merged Area XI	\$	61,056
k. Merged Area XII	\$	19,800
l. Merged Area XIII	\$	17,559
m. Merged Area XIV	\$	8,925
n. Merged Area XV	\$	23,582
o. Merged Area XVI	\$	13,281

2. Funds appropriated in subsection 1 shall be allocated pursuant to this section and paid on or about August 15, 1992.

Sec. 204. Moneys allocated to community colleges under section 201, subsections 9 and 10 of this division, for expenditures incurred during the fiscal year beginning July 1, 1991, and ending June 30, 1992, 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 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. The payments received by community colleges on or about August 15 under sections 202 and 203 of this division are accounts receivable for the previous fiscal year.

Sec. 205. Notwithstanding the standing appropriations in section 279.51 for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the amount appropriated from the general fund of the state to the department of education pursuant to that section for the following designated purposes shall not exceed the following amounts for programs for at-risk children under section 279.51, subsection 1:

.....	\$	11,088,000
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As a condition, limitation, and qualification of the funds appropriated in this section, allocations of funds appropriated under this section for the fiscal year beginning July 1, 1991, and ending June 30, 1992, for each of the programs enumerated under section 279.51, subsection 1, shall be made in the same proportion to the total amount appropriated under this section as the program allocations under section 279.51, subsection 1, relate to the total amount appropriated under section 279.51, subsection 1. Notwithstanding section 279.51, subsection 2, any funds received by the child development coordinating council under this section which exceed the total amount received by the council under section 279.51 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, shall not be used for the purposes specified under section 279.51, subsection 2, paragraph "b", subparagraph (1). Of the moneys available to the child development coordinating council and the department for at-risk programs under this section, a total of no less than \$1,000,000 shall be expended for grants to districts with populations

of 1,000 or fewer pupils, and the area education agencies that serve those districts. The department of education and the child development coordinating council shall, in consultation with each other, determine the proportional amounts of each of the grants authorized under section 279.51 which are to be awarded to districts with populations of less than 1,000 pupils to meet the requirements of this section.

**Sec. 206. Notwithstanding the appropriation provided in section 294A.25, subsection 1, there is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as may be necessary, to be used for the purpose designated and for not more than the following full-time equivalent position:*

<i>Notwithstanding section 294A.25, for the educational excellence program:</i>	
..... \$	89,162,500
..... FTEs	1.00

As a condition, limitation, and qualification of the funds appropriated in this section, and notwithstanding the allocation specified for phase III under section 294A.25, subsection 6, from the moneys appropriated under this section and available for expenditure for phase III, the department shall expend \$100,000 and shall use 2.00 of the FTEs allocated in section 201, subsection 1 for administration of phase III of the educational excellence program.

*As a condition, limitation, and qualification of the funds appropriated in this section, and notwithstanding the allocation specified for phase III under section 294A.25, subsection 6, from the moneys appropriated under this section and available for expenditure for phase III, the department shall, subject to the review of the chairpersons and ranking members of the education committees of the general assembly, expend \$250,000 to provide demonstration projects in comprehensive school transformation in no more than ten public school districts. The objective of the projects shall be to demonstrate how public schools can be transformed from corporate to collegial learning environments for teachers, students, and administrators for the purpose of maximizing student learning and to diffuse information about the process of transformation to neighboring schools. The projects shall also demonstrate how phase III funds can be used to promote school transformation by providing focus to phase III efforts in such areas as technology, individualization of instruction, and decentralization of decision making. However, funds allocated to districts under this section shall not be used to supplant current phase III expenditures. Districts participating in a project may use phase III funds to supplement the purposes and activities of the project in the manner provided under section 294A.14. Districts participating in a project may also pool funds to provide conferences and to contract with consultants and facilitators to provide services to support the goals of the project. Projects shall use the school building as the basic administrative and clinical unit for demonstration. The department may expend up to \$10,000 for purposes of developing guidelines and administering the selection, approval, and evaluation process for proposed projects. In developing a selection process for demonstration projects, the department of education shall establish an 11-member selection committee, which shall include, but is not limited to, licensed practitioners and ex officio nonvoting members of the general assembly. A majority of the members of the committee shall consist of licensed teachers and principals. The committee shall select projects which give promise of accomplishing comprehensive school transformation at the building level during the time that the project is in place. Each project shall contain an evaluation component, which provides for self-evaluation by participating districts and evaluation by the department of education. The selection committee shall establish criteria for ascertaining a particular district's readiness for comprehensive change and give preference in the project selection process to districts which meet the readiness criteria. Each participating district shall, at the conclusion of a project, submit a copy of the district's self-evaluation in a report to the department of education. The department shall compile the reports, along with the department's evaluations of each of the projects, and submit the results in a report to the general assembly by March 1, 1994.**

*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 education for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For expenditures incurred by school districts during the previous fiscal year for vocational education aid to secondary schools:

..... \$ 3,666,360

Funds appropriated by this section shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 280A.23 as a result of the enactment of 1989 Iowa Acts, chapter 278. Funds shall be used as reimbursement for vocational education expenditures made by secondary schools in the manner provided by the department of education for implementation of the standards set in 1989 Iowa Acts, chapter 278. The department shall inform school districts by July 1, 1991, of the criteria for reimbursement with funds appropriated under this section.

COLLEGE STUDENT AID COMMISSION

Sec. 208. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 346,000
 FTEs 8.05

2. UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

a. For grants to juniors and seniors and for forgivable loans to freshmen and sophomores, who are Iowa students attending the university of osteopathic medicine and health sciences, under the grant program pursuant to section 261.18 and the forgivable loan program pursuant to section 261.19A:

..... \$ 400,000

b. For the university of osteopathic medicine and health sciences for the admission and education of Iowa students in each of the 4 years of classes at the university of osteopathic medicine and health sciences pursuant to section 261.19:

..... \$ 430,000

3. STUDENT AID PROGRAMS

For payments to students for student aid programs:

..... \$ 1,866,112

As a condition, limitation, and qualification of the funds appropriated in this subsection, \$1,474,062 shall be expended for an Iowa grant program, with funds to be allocated to institutions pursuant to section 261.93A.

4. NATIONAL GUARD LOAN REPAYMENT

For payments to students for the national guard loan repayment program in section 261.49:

..... \$ 225,000

Sec. 209. There is appropriated from the loan reserve account to the college student aid commission for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

For operating costs of the Stafford loan program including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 3,671,016
 FTEs 36.52

STATE BOARD OF REGENTS

Sec. 210. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,111,820
.....	FTEs	18.08

**As a condition, limitation, and qualification of the moneys appropriated in this paragraph, the state board of regents shall not use reimbursements from the institutions under the control of the state board of regents for funding the office of the state board of regents.*

*As a condition, limitation, and qualification of the funds appropriated in this paragraph, the state board of regents shall permit KUNI to broadcast from the greater Des Moines area if KUNI acquires a transmitter or translator at no cost to the university of northern Iowa or the state for the purpose of simulcasting KUNI's programming, receives an assigned frequency, and obtains necessary federal communication commission (FCC) licensing.**

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 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:

.....	\$	19,231,162
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c. For funds to be allocated to the southwest Iowa graduate studies center:

.....	\$	37,000
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d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

.....	\$	71,000
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e. For funds to be allocated to the quad-cities graduate studies center:

.....	\$	150,000
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2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	179,503,448
.....	FTEs	4,287.37

To the extent the appropriation made in this paragraph is a reduction in the total amount budgeted for the fiscal year beginning July 1, 1991, and ending June 30, 1992, and the state university of Iowa determines the amount is insufficient to fund all of the university's budgetary units, consideration shall be given to adjustments reducing budgetary units in the following order of priority:

- (1) University administrative moneys.
- (2) Equipment and deferred maintenance.
- (3) Short-term furloughs of administrative personnel.
- (4) Short-term furloughs of other personnel.
- (5) Other operating budget expenditures.
- (6) Force reduction.

As a condition, limitation, and qualification of the funds appropriated in this paragraph, if the state university of Iowa receives total funds in excess of the amount projected to be received by the university from federal support, interest, tuition fees, reimbursement for indirect costs, sales and service, and income sources other than state appropriations, the university shall report the amount received, which is in excess of the amount projected, to the department of management and the legislative fiscal bureau by August 1, 1991.

As a condition, limitation, and qualification of moneys appropriated in this paragraph, from moneys available to the state university of Iowa, \$50,000 shall be awarded to faculty members and teaching assistants who have been recognized for exceptional teaching. An exceptional teaching recognition award is for a one-year period and is in addition to the faculty member's or teaching assistant's salary. Not later than December 15, 1991, the state board of regents

*Item veto; see message at end of the Act

shall report the names of recipients of teaching excellence awards, and the amounts of the awards granted, to the joint education appropriations subcommittee and to the legislative fiscal bureau.

It is the intent of the general assembly to provide sufficient funding necessary to ensure the university of Iowa receives federal matching funds for the university of Iowa driving simulation center if funds from federal and private sources are available for expenditure by the center.

b. Child care and sick child care program

For salaries for child care center directors and sick child care:

..... \$ 60,000

c. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation:

..... \$ 60,000

d. University hospitals

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions for medical and surgical treatment of indigent patients as provided in chapter 255:

..... \$ 28,861,586

..... FTEs 5,319.83

As a condition, limitation, and qualification of the funds appropriated in this paragraph, the university of Iowa hospitals and clinics shall conduct a study to develop recommendations for providing a continuum of statewide geriatric care, from acute hospital care to long-term institutional care, as well as community-based care that meets the unique medical, emotional, economic, and social needs of the geriatric population in Iowa. The study shall include all of the following:

- (1) Identification of the statewide institutional and community resources necessary to meet the unique needs of the geriatric patient population in Iowa.
- (2) Identification of case management services required to coordinate the geriatric patient's movement from one level of care to the next in responding to the needs of geriatric patients.
- (3) Identification of the necessary components of a statewide interdisciplinary geriatric evaluation program, including development of a model for a facility or program, to be established at the university of Iowa hospitals and clinics to address the medical, emotional, economic, and social care needs of geriatric patients referred to the university of Iowa hospitals and clinics.
- (4) Development of recommendations for medical residency training in geriatrics, including mechanisms to ensure interdisciplinary training which is responsive to the continuum of geriatric patient needs.
- (5) Identification of geriatric care program components that exist within the state and those that should be added, including estimates of the costs of implementing the expanded program identified in the study.

Not later than February 15, 1992, the university of Iowa hospitals and clinics shall submit a report detailing its study findings and recommendations to the general assembly.

e. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions and for the care, treatment, and maintenance of committed and voluntary public patients:

..... \$ 6,912,441

..... FTEs 284.57

f. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 5,477,339

..... FTEs 184.44

g. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,870,775
.....	FTEs	67.55

h. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,036,941
.....	FTEs	106.25

i. Family practice program

For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	1,825,278
.....	FTEs	177.27

j. Child health care services

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, and for not more than the following full-time equivalent positions:

.....	\$	437,298
.....	FTEs	12.51

k. Agricultural health and safety programs

For agricultural health and safety programs:

.....	\$	246,093
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l. Statewide tumor registry

For the statewide tumor registry and for not more than the following full-time equivalent positions:

.....	\$	187,691
.....	FTEs	5.05

m. Center for biocatalysis

For the center for biocatalysis:

.....	\$	300,000
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n. As a condition, limitation, and qualification of the appropriation made in paragraph "d", the total quota allocated to the counties for indigent patients for the fiscal year commencing July 1, 1991, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1990. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

o. As a condition, limitation, and qualification of the appropriation made in paragraph "d", funds appropriated in that paragraph 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 45 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 150 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.

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	146,003,742
.....	FTEs	3,737.83

To the extent the appropriation made in this paragraph is a reduction in the total amount budgeted for the fiscal year beginning July 1, 1991, and ending June 30, 1992, and the Iowa state university of science and technology determines the amount is insufficient to fund all of the university's budgetary units, consideration shall be given to adjustments reducing budgetary units in the following order of priority:

- (1) University administrative moneys.
- (2) Equipment and deferred maintenance.
- (3) Short-term furloughs of administrative personnel.
- (4) Short-term furloughs of other personnel.
- (5) Other operating budget expenditures.
- (6) Force reduction.

As a condition, limitation, and qualification of the funds appropriated under this paragraph, if the Iowa state university of science and technology receives total funds in excess of the amount projected to be received by the university from federal support, interest, tuition fees, reimbursement for indirect costs, sales and service, and income sources other than state appropriations, the university shall report the amount received, which is in excess of the amount projected, to the department of management and the legislative fiscal bureau by August 1, 1991.

As a condition, limitation, and qualification of moneys appropriated in this paragraph, from moneys available to Iowa state university of science and technology, \$50,000 shall be awarded to faculty members and teaching assistants who have been recognized for exceptional teaching. An exceptional teaching recognition award is for a one-year period and is in addition to the faculty member or teaching assistant's salary. Not later than December 1, 1991, the state board of regents shall report the names of recipients of teaching excellence awards, and the amounts of the awards granted, to the joint education appropriations subcommittee and to the legislative fiscal bureau.

b. Child care and sick child care program

For subsidized evening child care and sick child care:

.....	\$	60,000
.....	FTEs	2.00

c. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	18,165,260
.....	FTEs	546.92

d. Comprehensive agricultural research

For conducting the comprehensive agricultural research program:

.....	\$	3,948,492
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As a condition, limitation, and qualification of the funds appropriated in this paragraph, Iowa state university of science and technology shall expend from the appropriation in this paragraph during the fiscal year beginning July 1, 1991, and ending June 30, 1992, no less than the amount appropriated for comprehensive agricultural research programs for the fiscal year beginning July 1, 1990, and ending June 30, 1991.

e. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	17,117,008
.....	FTEs	475.94

As a condition, limitation, and qualification of the funds appropriated in this paragraph, Iowa state university of science and technology shall expend from the appropriation in this paragraph during the fiscal year beginning July 1, 1991, and ending June 30, 1992, no less than the amount appropriated for the cooperative extension service in agriculture and home economics for the fiscal year beginning July 1, 1990, and ending June 30, 1991.

As a condition, limitation, and qualification of the funds appropriated in this paragraph, \$25,000 shall be expended for a child farm safety program.

f. Fire service education

For salaries and support and for not more than the following full-time equivalent positions:

.....	\$	410,836
.....	FTEs	11.00

g. Leopold center

For agricultural research grants at Iowa state university under section 266.39B:

.....	\$	592,224
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h. Institute for physical research and technology

For the institute for physical research and technology:

.....	\$	300,000
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4. UNIVERSITY OF NORTHERN IOWA

a. For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	60,933,927
.....	FTEs	1,411.68

To the extent the appropriation made in this paragraph is a reduction in the total amount budgeted for the fiscal year beginning July 1, 1991, and ending June 30, 1992, and the university of northern Iowa determines the amount is insufficient to fund all of the university's budgetary units, consideration shall be given to adjustments reducing budgetary units in the following order of priority:

- (1) University administrative moneys.
- (2) Equipment and deferred maintenance.
- (3) Short-term furloughs of administrative personnel.
- (4) Short-term furloughs of other personnel.
- (5) Other operating budget expenditures.
- (6) Force reduction.

As a condition, limitation, and qualification of the funds appropriated under this paragraph, if the university of northern Iowa receives total funds in excess of the amount projected to be received by the university from federal support, interest, tuition fees, reimbursement for indirect costs, sales and service, and income sources other than state appropriations, the university shall report the amount received, which is in excess of the amount projected, to the department of management and the legislative fiscal bureau by August 1, 1991.

As a condition, limitation, and qualification of the funds appropriated in paragraph "a", from moneys available for salaries at the university of northern Iowa, the university shall expend \$25,000 for teaching excellence awards to teaching faculty members and teaching assistants. Teaching excellence awards shall be granted to faculty members and teaching assistants for excellence in the quality of classroom instruction. Awards may either be built into a faculty member's or teaching assistant's base salary or given as a one-time award and shall not be in conflict with a collective bargaining agreement between an employee organization and the university. Not later than December 1, 1991, the state board of regents shall report the names of the recipients of teaching excellence awards, and the amounts of the awards granted to the joint education appropriations subcommittee of the general assembly, and to the legislative fiscal bureau.

b. Child care

For staff positions and building structure modifications to meet state child care facility standards:

.....	\$	60,000
.....	FTEs	1.50

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,099,185
.....	FTEs	131.53

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,383,500
.....	FTEs	92.45

7. TUITION AND TRANSPORTATION COST

For payment to local school boards for the tuition and transportation costs of students residing in the Iowa braille and sight saving school and the state school for the deaf pursuant to section 262.43 and for payment of certain clothing and transportation costs for students at these schools pursuant to section 270.5:

.....	\$	7,500
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Sec. 211. Reallocations of sums received under section 210, subsections 2, 3, 4, 5, and 6, of this division, including sums received for salaries, shall be reported on a quarterly basis to the co-chairpersons and ranking members of both the legislative fiscal committee and the joint education appropriations subcommittee.

Sec. 212. STATE BOARD OF REGENTS — SALARIES AND BENEFITS — FACULTY AND PROFESSIONAL AND SCIENTIFIC STAFF.

*1. The state board of regents shall use moneys from funds appropriated to fund the annual pay adjustments, expense reimbursements, and related benefits for the collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

2. 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:

a. The amount necessary to fund for the fiscal year beginning July 1, 1991, and ending June 30, 1992, an average base salary increase of 2 percent for the fiscal year beginning July 1, 1991, of the base salaries of professional and scientific staff members, except board office employees paid during the preceding fiscal year, to be allocated to professional and scientific staff members at the discretion of the state board of regents.* The staff members shall not receive a merit increase or the equivalent of a merit increase.

b. For faculty members who are not included in the collective bargaining agreement made final under chapter 20, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, an average base salary increase for the fiscal year beginning July 1, 1991, to be allocated at the discretion of the state board of regents.

Sec. 213. As a condition, limitation, and qualification of the appropriations made to the state board of regents and regents' institutions under this division, for the fiscal years beginning July 1, 1991, and July 1, 1992, the state board of regents shall use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of 6 years.

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 214. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants, and for not more than the following full-time equivalent positions:

*Item veto; see message at end of the Act

.....	\$	1,167,000
.....	FTEs	13.00

As a condition, limitation, and qualification of the funds appropriated in this subsection, the department may use funds appropriated in this subsection to provide funds to areawide arts and cultural service organizations which meet the requirements of Senate File 268,* if Senate File 268 is enacted by the 1991 Session of the Seventy-fourth General Assembly.

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,653,000
.....	FTEs	76.00

As a condition, limitation, and qualification of the funds appropriated in this subsection, the division shall allocate \$10,000 to the Iowa historical society for the operating and maintenance costs of the Plum Grove residence of former Governor Lucas.

3. TERRACE HILL COMMISSION

For salaries, support, maintenance, miscellaneous purposes, for the operation of Terrace Hill and for not more than the following full-time equivalent positions:

.....	\$	175,000
.....	FTEs	5.75

As a condition, limitation, and qualification of the funds appropriated under this subsection, the Terrace Hill commission shall explore alternative funding sources for the funding of the salaries, support, maintenance, and miscellaneous purposes, including the operation of Terrace Hill, with the goal of obtaining full funding through sources other than state appropriations in the future.

4. LIBRARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,179,000
.....	FTEs	42.00

5. REGIONAL LIBRARY SYSTEM

For state aid:

.....	\$	1,607,000
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6. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	427,000
.....	FTEs	10.00

7. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.89:

.....	\$	784,000
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From the amount appropriated in this subsection, consideration shall be given to the awarding of grant moneys to be used for commemorative art or sculpture work depicting an aspect of the armed services of the United States in recent wars or action through the Persian Gulf conflict and to be located in city or county owned parks or premises of memorial buildings as provided in chapter 37 of the Code. Separate grants shall not exceed \$40,000 for each grant under guidelines defined in section 303.3 or 303.89.

8. TOWN SQUARE PROJECT

For the Iowa town square project:

.....	\$	66,000
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***9. DANISH HERITAGE MUSEUM*

For the Danish heritage museum located in Elk Horn, Iowa:

.....	\$	30,000**
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*Chapter 157 herein

**Item veto; see message at end of the Act

10. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,365,000
.....	FTEs	103.00

Sec. 215. Notwithstanding section 8.33, funds appropriated in 1990 Iowa Acts, chapter 1272, section 14, subsection 1, paragraph "b", remaining unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 210, subsection 1, paragraph "b", of this division during the fiscal year beginning July 1, 1991, and ending June 30, 1992.

Sec. 216. Notwithstanding sections 258.16 and 282.7 effective July 1, 1992, community colleges, local education agencies, and area education agencies may establish by mutual agreement area vocational consortia to assume and exercise the duties and responsibilities established for regional vocational education planning boards under those sections.

Sec. 217. Notwithstanding any credit hour prerequisite requirements contained in sections 261.9, 261.17, 261.18, and 261.19A, sections 261.44 through 261.89, and sections 261.92 through 261.105, or in any other Iowa student financial aid program administered by the college student aid commission, a person who is a "displaced worker" as defined under section 261.5 shall be eligible to receive funds under any Iowa student financial aid program administered by the commission, if the person meets any applicable prerequisite financial need criteria for the financial aid program.

Sec. 218. Section 261.25, subsections 1, 2, and 3, Code 1991, as amended by 1991 Iowa Acts, House File 173,* section 908, 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 thirty-two million ~~six~~ four hundred ~~eight~~ eighty thousand ~~seven~~ hundred ~~ninety~~ five 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 eight hundred thirteen thousand ~~eight~~ hundred ~~forty~~ dollars for scholarships.
3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million three hundred fifteen thousand ~~six~~ hundred ~~forty~~ seven dollars for vocational-technical tuition grants.

Sec. 219. Section 261.85, unnumbered paragraph 1, Code 1991, as amended by 1991 Iowa Acts, House File 173,* section 909, is amended to read as follows:

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of three million eighty-five thousand ~~six~~ hundred ~~eighty~~ four dollars for the work-study program.

Sec. 220. Notwithstanding the allocation of phase III moneys under sections 294A.14 and 294A.25, for the fiscal year beginning July 1, 1991, prior to the allocation to school districts and area education agencies, \$125,000 of the moneys allocated for phase III shall be retained by the department of education to continue to contract with the regional educational laboratory for this state to establish and monitor an independent evaluation of the operation of phase III of the educational excellence program. The results of the evaluation shall be reported to the department of education and to the general assembly by January 1, 1992.

Sec. 221. Notwithstanding sections 302.1 and 302.1A, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the portion of the interest earned on the permanent school fund that is not transferred to the credit of the first in the nation in education foundation and not transferred to the credit of the national center for gifted and talented education shall be credited as a payment by the historical division of the department of cultural affairs of the principal and interest due on moneys loaned to the historical division under section 303.18.

Sec. 222. Section 11.6, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

*Chapter 260 herein

The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of activity all school funds, the certified annual financial report, and the certified enrollment as provided in section 257.11. Examinations of community colleges shall include an audit of eligible and noneligible contact hours as defined in section 286A.2. Eligible and noneligible contact hours and the certified enrollment shall be certified to the department of management.

Sec. 223. Section 73.17, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A community college or area education agency shall, on a quarterly basis, and a school district shall, on an annual basis, review the community college's, area education agency's, or school district's anticipated purchasing requirements. A community college, area education agency, or school district shall notify the department of education, which shall report to the department of economic development, of their anticipated purchases and recommended procurements with unit quantities and total costs for procurement contracts designated to satisfy the targeted small business procurement goal not later than August 15 of each fiscal year and quarterly thereafter, except that school districts shall report annually.

Sec. 224. Section 73.18, Code 1991, is amended to read as follows:

73.18 NOTICE OF SOLICITATION FOR BIDS — IDENTIFICATION OF TARGETED SMALL BUSINESSES.

The director of each agency or department releasing a solicitation for bids or request for proposal under the targeted small business procurement goal program shall notify the director of the department of economic development prior to or upon release of the solicitation. A community college, area education agency, or school district shall notify the department of education which shall notify the department of economic development prior to or upon release of the release of the solicitation. The director of the department of economic development shall notify the soliciting agency or department, or community college, area education agency, or school district, of any targeted small businesses which have been certified pursuant to section 10A.104, subsection 8, and which may be qualified to bid.

Sec. 225. Section 73.19, Code 1991, is amended to read as follows:

73.19 NEGOTIATED PRICE OR BID CONTRACT.

In awarding a contract under the targeted small business procurement goal program, a director of an agency or department, or community college, area education agency, or school district, having purchasing authority may use either a negotiated price or bid contract procedure. A director of an agency or department, or community college, area education agency, or school district, using a negotiated contract shall consider any targeted small business engaged in that business. The director of the department of economic development or the director of the department of management may assist in the negotiation of a contract price under this section. Surety bonds guaranteed by the United States small business administration are acceptable security for a construction award under this section.

Sec. 226. Section 255.1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county general relief director shall ascertain from the local office of human services if an applicant for the indigent patient program would qualify for medical assistance or the medically needy program under chapter 249A without the spend-down provision required pursuant to section 249A.3, subsection 2, paragraph "g". If

the applicant qualifies, the patient shall be certified for medical assistance and shall not be counted under chapter 255.

Sec. 227. Section 255.26, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The state auditor shall certify the total cost of commitment, ~~transportation~~ and caring for each indigent patient under the terms of this statute to the county auditor of such patient's legal residence, and such certificate shall be preserved by the county auditor and shall be a debt due from the patient or the persons legally responsible for the patient's care, maintenance or support; and whenever in the judgment of the board of supervisors the same or any part thereof shall be collectible, the said board may in its own name collect the same and is hereby authorized to institute suits for such purpose; and after deducting the county's share of such cost shall cause the balance to be paid into the state treasury to reimburse the university hospital fund. Transportation shall be provided at no charge to a patient who is certified for medical assistance under chapter 249A, and shall be reimbursed from the university hospital fund.

Sec. 228. Section 257.37, subsection 2, as enacted by 1991 Iowa Acts, Senate File 141,* section 2, is amended by striking the subsection and inserting in lieu thereof the following:

2. Thirty percent of the budget of an area for media services shall be expended for media resource material which shall only be used for the purchase or replacement of material required in section 273.6, subsection 1. Funds shall be paid to area education agencies as provided in section 257.35.

***Sec. 229. Section 261.19, unnumbered paragraph 2, Code 1991, is amended to read as follows:*

*The college student aid commission shall determine a subvention amount per resident student by dividing the funds appropriated for this section by a number equal to the total of twenty-two percent of the total students enrolled. If fewer than twenty-two percent of the total number of students enrolled are Iowa residents, the college student aid commission shall deduct from the funds appropriated subvention amount for total Iowa students enrolled an amount equal to the product of two times the product of the subvention amount per resident student multiplied by the number of students required to equal twenty-two percent of the total students enrolled.***

Sec. 230. Section 261.19A, unnumbered paragraph 2, Code 1991, is amended to read as follows:

An eligible student is eligible for loan forgiveness in the amount of three thousand five hundred dollars per year of practice in the state of Iowa for up to a maximum of four years. If a student fails to complete a year of practice in the state, as practice is defined by the college student aid commission, the loan amount for that year shall not be forgiven. Forgivable loans to eligible students shall not become due, for repayment purposes, until after the student has completed the student's residency.

***Sec. 231. Section 261.38, subsection 5, Code 1991, is amended to read as follows:*

*5. The treasurer of state shall invest any funds, including those in the loan reserve account, and the interest income earned shall be credited back to the loan reserve account. The treasurer may invest up to forty percent of the funds in the loan reserve account in tax-exempt investments issued by an agency of the state of Iowa. If any of the tax-exempt investments are for purposes of financing the construction or improvement of state facilities, the executive council, established under chapter 19, shall review and approve the proposed construction or improvement prior to the investment of loan reserve account funds in the tax-exempt investments.***

Sec. 232. Section 261.50, subsection 3, Code 1991, is amended to read as follows:

3. Agrees to practice in an eligible community of fewer than five thousand population for a minimum period of four consecutive years or is practicing in a federally approved community health center or health manpower shortage area.

*Chapter 6 herein

**Item veto: see message at end of the Act

Sec. 233. **NEW SECTION. 261.93A APPROPRIATION – PERCENTAGES.**

Of the funds appropriated to the college student aid commission to be allocated for the Iowa grant program for each fiscal year, thirty-seven and six-tenths percent shall be reserved for students attending regents' institutions, twenty-five and nine-tenths percent shall be reserved for students attending community colleges, and thirty-six and five-tenths percent shall be reserved for students attending private colleges and universities. Funds appropriated for the Iowa grant program shall be used to supplement, not supplant, funds appropriated for other existing programs at the eligible institutions.

**Sec. 234. Section 262.9, Code 1991, is amended by adding the following new subsection:*
NEW SUBSECTION. 27. Develop and adopt a policy that shall govern any future asset sale of the Iowa state university of science and technology's television station, WOITV. The policy shall provide for the sale of the station only if anticipated revenues from the sale exceed the benefits of continued operation and the cost for the university to purchase or acquire comparable services to those that are being provided to the university by the station at the time of any sale. The policy shall further provide that the revenues received from the sale shall be placed in an endowment to be held and managed by the university. The proceeds from the endowment shall be used only for the specifically stated missions of the university.

a. "Station" shall be defined to include the license, any share of a transmission facility, any programming contracts, any booked sales revenues, and the network affiliation agreement.

b. "Comparable services" shall be defined to include, but not be limited to, use of modern communications equipment by faculty, staff, and students; access to trained communications specialists; availability to internships by and employment opportunities for students; and provision for antenna location, transmission line placement, and transmitter space for the university's radio stations.*

Sec. 235. **NEW SECTION. 262.9A PROHIBITION ON CONTROLLED SUBSTANCES.**

The state board of regents shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by an institution or in conjunction with activities sponsored by an institution governed by the board. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the institutions shall provide substance abuse prevention programs for students and employees.

Sec. 236. Section 262.43, Code 1991, is amended to read as follows:

262.43 STUDENTS RESIDING ON STATE-OWNED LAND.

The state board of regents shall pay to the local school boards the tuition payments and transportation costs, as otherwise authorized by statutes for the elementary or high school education of students residing on land owned by the state and under the control of the state board of regents. Such payments for the three institutions of higher learning, the state University of Iowa, the Iowa State University of science and technology and the University of Northern Iowa, shall be made from the funds of the respective institutions other than state appropriations, and for the ~~three two~~ noncollegiate institutions, the Iowa braille and sight saving school, and the state school for the deaf and the state sanatorium, there is hereby appropriated out of any funds in the state treasury not otherwise appropriated a sum sufficient to make such payments the payments and costs shall be paid from moneys appropriated to the state board of regents.

Sec. 237. **NEW SECTION. 263A.14 INDIGENT PATIENT PROGRAM REPORT.**

Funds shall not be allocated to the university hospital fund until the superintendent of the university of Iowa hospitals and clinics has filed with the department of revenue and finance and the legislative fiscal bureau a quarterly report containing the account required in section 255.24. The report shall include information required in section 255.24 for patients by the type of service provided.

*Item veto; see message at end of the Act

Sec. 238. NEW SECTION. 268.5 IOWA ACADEMY OF SCIENCE APPROPRIATION LIMITATIONS.

The university shall use no more than twenty percent of the funds allocated to the university for the Iowa academy of science for administrative purposes for the Iowa academy of science or for publication of the Iowa academy of science journal. The university shall expend the remainder of the moneys appropriated for research projects and studies awarded by the Iowa academy of science. The Iowa academy of science shall permit all grant recipients to publish the results of the recipients' research projects and studies in the Iowa academy of science journal at no cost to the grant recipient.

Sec. 239. Section 279.51, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. For the fiscal year beginning July 1, 1990, three million dollars, and for each fiscal year thereafter, four million dollars of the funds appropriated shall be allocated as grants to school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students with preference given to innovative programs for the early elementary school years. The grant allocations made in this paragraph may be renewed for additional periods of time. Of the amount allocated under this paragraph for each fiscal year, seventy-five thousand dollars shall be allocated to school districts which have an actual student population of ten thousand or less and have an actual non-English speaking student population which represents greater than five percent of the total actual student population for grants to elementary schools in those districts.

Sec. 240. Section 279.51, subsection 1, paragraph f, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In succeeding fiscal years, notwithstanding section 256A.3, subsection 6, of the amount appropriated for a fiscal year, less the amount allocated under paragraph "a", three and thirty-three hundredths percent may be used for administrative costs. However, if the amount appropriated for the fiscal year, less the amount allocated under paragraph "a", times three and thirty-three hundredths percent is greater than the amount received for use for administrative costs during the fiscal year beginning July 1, 1990, then the amount to be used for administrative costs shall be reduced to equal the amount received during the fiscal year beginning July 1, 1990.

Sec. 241. Section 280A.34, Code 1991, is amended to read as follows:

280A.34 CERTAIN USES OF FUNDS PROHIBITED.

Funds obtained pursuant to section 280A.17; subsections 3, 4, and 5 of section 280A.18; section 280A.19; and section 280A.22 shall not be used for the construction or maintenance of athletic buildings or grounds but may be used for a project under section 280A.56.

Sec. 242. NEW SECTION. 280A.40 PROHIBITION ON CONTROLLED SUBSTANCES.

Each merged area school shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by the merged area school or in conjunction with activities sponsored by a merged area school. Each merged area school shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the merged area school shall provide substance abuse prevention programs for students and employees.

Sec. 243. Section 280A.56, subsection 3, Code 1991, is amended to read as follows:

3. "Project" means the acquisition by purchase, lease in accordance with section 280A.38, or construction of buildings for use as student residence halls and dormitories, including dining and other incidental facilities therefor, and additions to such buildings, the reconstruction, completion, equipment, improvement, repair or remodeling of residence halls, dormitories, or additions or incidental facilities, and the acquisition of property of every kind and description, whether real, personal, or mixed, by gift, purchase, lease, condemnation, or otherwise and the improvement of the property.

Sec. 244. Section 280A.56, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. "Bonds or notes" means revenue bonds or revenue notes which are payable solely from net rents, profits, and other income derived from the operation of residence halls, dormitories, incidental facilities, and additions.

Sec. 245. Section 280A.58, unnumbered paragraph 1, Code 1991, is amended to read as follows:

To pay all or any part of the cost of carrying out any project at any institution the board is authorized to borrow money and to issue and sell negotiable bonds or notes and to refund and refinance bonds or notes issued for any project or for refunding purposes at a lower rate, the same rate, or a higher rate or rates of interest and from time to time as often as the board shall find it to be advisable and necessary so to do. Bonds or notes issued to refund other bonds or notes issued by the board for residence hall or dormitory purposes at any institution, including dining or other facilities and additions, or issued for refunding purposes, may either be sold in the manner specified for the selling of certificates under section 280B.6 and the proceeds applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded. A finding by the board in the resolution authorizing the issuance of the refunding bonds or notes, that the bonds or notes being refunded were issued for a purpose specified in this division and constitute binding obligations of the board, shall be conclusive and may be relied upon by any holder of any refunding bond or note issued under the provisions of this division. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be refunded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded or, to fund interest in arrears or about to become due, or to allow for sufficient funding of the escrow account on the bonds to be refunded.

Sec. 246. Section 280A.59, Code 1991, is amended to read as follows:

280A.59 RATES AND TERMS OF BONDS OR NOTES.

The bonds or notes may bear a date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face of the bonds, and may contain any terms and covenants as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, the cost of the project shall be deemed to include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, any underwriter discount, and engineering, administrative and legal expenses. The bonds or notes shall be executed by the president of the board of trustees and attested by the secretary and the coupons attached to the bonds or notes shall be executed with the original or facsimile signatures of said president and secretary. Any bonds or notes bearing the signatures of officers in office on the date of the signing shall be valid and binding for all purposes, notwithstanding that before delivery of the bonds or notes any or all persons whose signatures appear on the bonds or notes shall have ceased to be officers. Each bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the net rents, profits and income derived from the operation of residence halls or dormitories, including dining and other incidental facilities, at the institution named, and that it does not constitute a charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of

bonds or notes shall be recorded in the office of the treasurer of the institution on behalf of which the bonds or notes are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

Sec. 247. Section 280A.60, Code 1991, is amended to read as follows:

280A.60 REFUNDING ISSUANCE RESOLUTION.

Upon the determination by the board to undertake and carry out any project or to refund outstanding bonds or notes, the board shall adopt a resolution generally describing the contemplated project and setting forth the estimated cost, or describing the obligations to be refunded, fixing the amount of bonds or notes to be issued, the maturity or maturities, the interest rate or rates and all details of the project. The resolution shall contain any covenants as may be determined by the board as to the issuance of additional bonds or notes that may be issued payable from the net rents, profits and income of the residence halls or dormitories, the amendment or modification of the resolution authorizing the issuance of any bonds or notes, the manner, terms and conditions and the amount or percentage of assenting bonds or notes necessary to effectuate the amendment or modification, and any other covenants as may be deemed necessary or desirable. In the discretion of the board any bonds or notes issued under the terms of this division may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa; ~~but no such trust indenture shall convey or mortgage the buildings or facilities or any part of the buildings or facilities.~~ The provisions of this division and of any resolution or other proceedings authorizing the issuance of bonds or notes and providing for the establishment and maintenance of adequate rates, fees or rentals and the application of the proceeds thereof shall constitute a contract with the holders of the bonds or notes.

Sec. 248. Section 286A.11, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Thirty-eight thousand dollars if the northwest Iowa technical college has filed a request with the department of education for the lease, purchase, or lease-purchase of equipment for the heavy equipment program.

Sec. 249. Section 286A.14A, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department of education shall provide for the establishment of a community college excellence 2000 account in the office of the treasurer of state for deposit of moneys appropriated to the account for purposes of funding quality instructional centers and program and administrative sharing agreements under sections 280A.45 and 280A.46. ~~There is appropriated from the general fund of the state to the department of education, for the fiscal year beginning July 1, 1991, one million two hundred thousand dollars.~~ There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1992, an amount equal to two and five-tenths percent of the total state general aid generated for all community colleges during the budget year under this chapter for deposit in the community college excellence 2000 account. In the next succeeding two fiscal years, the percent multiplier shall be increased in equal increments until the multiplier reaches seven and one-half percent of the total state general aid generated for all community colleges during the budget year.

**Sec. 250. Section 294A.14, unnumbered paragraphs 1, 6, and 10, Code 1991, are amended to read as follows:*

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.18. 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. Of the moneys allocated for phase III, five hundred thousand dollars shall be used for supplemental pay plans in districts which provide for additional instructional work assignments relating to college-bound student support programs for minority students.

For school districts, a performance-based pay plan may provide for additional salary for individual teachers, for teachers assigned to a specific discipline, or 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, for additional salary for all teachers assigned to a specific discipline within an area education agency, or for additional salary for individual teachers assigned to a multidisciplinary team within an area education agency. If the plan provides additional salary for all teachers assigned to an attendance center, specific discipline, or multidisciplinary team, the receipt of additional salary by those teachers shall be determined on the basis of whether that attendance center, specific discipline, or multidisciplinary team meets specific objectives adopted for that attendance center, specific discipline, or multidisciplinary team. 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 through use of learning techniques which may include, but are not limited to, reading instruction using phonics techniques.

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, attendance at workshops and other programs for service as cooperating teachers for student teachers, 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, participation in college-bound student support programs for minority students, 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.*

*Sec. 251. Section 294A.14, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, college-bound student support programs for minority students shall include one or more of the following:

1. Self-esteem enhancement for minority students.
2. Mentoring for minority students.
3. Methods to provide greater involvement of minority parents in the educational process.
4. Individual or group academic preparedness coaching for minority students.
5. A continuum of academic tutorial services for minority students.
6. Outreach programs which connect minority students with higher education programs.
7. School and business partnerships which provide direct support to minority students.*

*Sec. 252. Section 294A.16, unnumbered paragraph 3, Code 1991, is amended to read as follows:

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. In approving school district supplemental pay plans which provide for additional instructional work assignments relating to college-bound student support programs for minority students, the department shall give preference to plans which provide for the forming of consortia with local community colleges and community-based organizations.*

*Sec. 253. Section 303.3, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

*Item veto; see message at end of the Act

3. Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert but shall be available for expenditure for purposes of the contract until August 30 of the succeeding fiscal year.*

Sec. 254. Section 303.94, unnumbered paragraph 1, Code 1991, is amended to read as follows: The state library includes, but is not limited to, a medical library, ~~and~~ a law library, and a patents depository library.

*Sec. 255. Section 303.94, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION. 3.** *The patents depository library shall be headed by a patents librarian, appointed by the director, subject to chapter 19A.*

a. *The patents librarian shall do all of the following:*

(1) *Operate the patents depository library which shall always be available for free use by the residents of Iowa under rules adopted by the department.*

(2) *Comply with any federal requirements concerning patent depositories.*

(3) *Assist library users and train staff to assist library users in utilizing the library and the patent backfile.*

(4) *Perform other duties imposed by law or by the rules of the department.*

b. *The patents librarian may do any of the following:*

(1) *Foster public awareness of the library and its services, through advertising, public service announcements, and other means.*

(2) *Receive and expend money for providing programs and services. The librarian may receive, accept, and administer moneys appropriated or granted to the patents depository library, separate from the general library fund, by the federal government or by any other public or private agency.*

(3) *Solicit and accept gifts, contributions, bequests, endowments, and other moneys or library materials. The librarian shall, to the extent possible, use gifts, contributions, bequests, and endowments in accordance with the expressed desires of the person making the gift, contribution, bequest, or endowment. The librarian shall report the gifts, contributions, bequests, endowments, and other moneys received pursuant to this subparagraph to the department, for inclusion in its annual report to the general assembly under section 303.92, subsection 3.*

*Interest earned on moneys accepted under this subparagraph, except funds appropriated to the patents depository library from the general fund of the state, shall be credited to the fund or funds to which the moneys have been deposited, and is available for any or all purposes of the library under this subparagraph. Section 8.33 does not apply to funds credited to the patents depository library under this subparagraph.**

Sec. 256. Section 286A.19, Code 1991, is repealed.

Sec. 257. Sections 207 and 215 of this division, being deemed of immediate importance, take effect upon enactment.

DIVISION III
ECONOMIC DEVELOPMENT APPROPRIATIONS

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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	878,350
	FTEs	22.00

b. Rural resource coordination

*Item veto; see message at end of the Act

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for rural resource coordination, rural community leadership, and the rural enterprise fund:

.....	\$	740,000
.....	FTEs	2.50

As a condition, limitation, and qualification of the appropriation under this subsection, \$425,000 shall be allocated to the rural enterprise fund, and \$140,000 shall be allocated for rural community leadership.

c. Primary research and computer center

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	350,000
.....	FTEs	6.50

d. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	190,000
.....	FTEs	2.00

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,000,000
.....	FTEs	14.00

As a condition, limitation, and qualification of the appropriation made by this paragraph, the department shall establish a marketing initiative to assist Iowa companies producing recycling or reclamation equipment or services to expand into national markets.

As a condition, limitation, and qualification of the appropriation made by this paragraph, not more than thirty percent of the funds appropriated may be used for administration. The balance shall be used for marketing advertising.

b. Small business programs

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the small business program and the small business advisory council:

.....	\$	235,000
.....	FTEs	4.50

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	100,000
.....	FTEs	3.00

d. Incubators:

.....	\$	80,000
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The department may establish criteria to provide funding beyond the initial three-year start-up period to existing small business and rural incubators.

e. Community economic betterment program

For deposit in the community economic betterment program funds for salaries, support, and for not more than the following full-time equivalent positions:

.....	\$	3,760,000
.....	FTEs	6.00

All grants, loans, and forgivable loans awarded under this paragraph shall be approved by the board. Notwithstanding section 8.33, moneys in this special fund at the end of each fiscal year shall not revert to the general fund but shall remain in the community economic betterment program fund.

f. Microenterprise development revolving fund

For deposit in the microenterprise development revolving fund established pursuant to section 15.240 for salaries, support, and for not more than the following full-time equivalent positions:

.....	\$	720,000
.....	FTEs	4.00

For the fiscal year beginning July 1, 1991, a minimum of \$500,000 shall be allocated to the targeted small business financial assistance program account and a minimum of \$220,000 shall be allocated to the self-employment loan program account. However, any amounts of those two minimum allocations that have not been committed on January 15, 1992, may be reallocated to the other accounts in the microenterprise development revolving fund.

g. Targeted small business program

For the salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

.....	\$	50,000
.....	FTEs	1.00

3. COMMUNITY AND RURAL DEVELOPMENT DIVISION

a. Community development block grant

For administration and related federal housing and urban development grant administration for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	320,855
.....	FTEs	14.00

b. Rural community 2000 program

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,600,000
.....	FTEs	1.25

Notwithstanding section 15.283, subsection 4, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, all funds allocated under this paragraph shall be used for traditional and new infrastructure and planning as specified under sections 15.284, 15.285, and 15.286A, as enacted by 1991 Iowa Acts, Senate File 254,* section 9.

As a condition, limitation, and qualification of the appropriation under this paragraph, not more than \$300,000 shall be allocated for the planning category.

c. Community progress

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration of the community economic preparedness program, the Iowa community betterment program, and the city development board:

.....	\$	467,350
.....	FTEs	7.50

d. Councils of governments

To provide to Iowa's councils of governments funds for planning and technical assistance funds to assist local governments to develop community development strategies for addressing long-term and short-term community needs:

.....	\$	300,000
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e. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

.....	\$	365,000
.....	FTEs	3.00

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

f. Regional economic development centers

*Chapter 23 herein

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	768,000
.....	FTEs	2.00

As a condition, limitation, and qualification of the appropriation under this paragraph, not more than 10 percent shall be used by the department for administration of the program.

4. INTERNATIONAL DIVISION

a. International trade operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	550,000
.....	FTEs	6.00

As a condition, limitation, and qualification of the appropriation under this paragraph, \$160,000 shall be used in conjunction with the Iowa international development foundation for trade development with eastern Europe and the Soviet Union, including but not limited to Czechoslovakia, Hungary, and Poland. The foundation shall report to the general assembly by March 15, 1992, regarding its use of these funds, including, but not limited to, business contacts made, ties established, and trade developments made by the foundation.

b. European trade office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	285,000
.....	FTEs	2.50

c. Asian trade office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	255,000
.....	FTEs	2.00

d. Japan trade office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	300,000
.....	FTEs	2.00

As a condition, limitation, and qualification of the appropriations under paragraph "b" through paragraph "d", the department shall report to the general assembly by February 1, 1992, regarding its use of the funds appropriated, including but not limited to business contacts made, ties established, and trade developments made.

e. Export trade activities program

For export trade activities, including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, by providing for the lease/sublease of showcase space in existing world trade centers, by providing temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support for not more than the following full-time equivalent position:

.....	\$	350,000
.....	FTEs	0.25

f. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

.....	\$	4,000
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g. Partner state program:

.....	\$	100,000
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The department may contract with private groups or organizations which are the most appropriate to administer this program. The groups and organizations participating in the

program shall, to the fullest extent possible, provide the funds to match the appropriation made in this paragraph.

h. Peace institute

For allocation to the Iowa peace institute established in chapter 38:

..... \$ 100,000

5. TOURISM DIVISION

a. Tourism operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 745,000

..... FTEs 15.97

As a condition, limitation, and qualification of the appropriation made in this paragraph, the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing.

b. Tourism advertising

For contracting exclusively for tourism advertising for in-state and out-of-state tourism marketing services, tourism promotion programs, electronic media, print media, and printed materials:

..... \$ 2,540,000

As a condition, limitation, and qualification of the appropriation made in this paragraph, the department shall develop public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

c. Welcome center program:

..... \$ 350,000

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

As a condition, limitation, and qualification of the appropriations made in this subsection, moneys appropriated shall be used for implementation of the recommendations of the statewide long-range plan for developing and operating welcome centers throughout the state.

Notwithstanding section 8.33, pursuant to 1990 Iowa Acts, chapter 1255, section 37, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 1001, the amount of \$275,000 shall be available for the fiscal year beginning July 1, 1991, for completion of contract negotiations for the establishment of the welcome center in the Council Bluffs area.

d. Mississippi river parkway commission

For support, maintenance, and miscellaneous purposes:

..... \$ 19,000

6. WORK FORCE DEVELOPMENT DIVISION

a. Youth work force programs

For purposes of the conservation corps, including salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 1,261,614

..... FTEs 1.90

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

b. Iowa corps

For purposes of the Iowa corps, including salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 107,500

..... FTEs 1.00

*Chapter 260 herein

Notwithstanding section 8.33, moneys obligated for the payment of tuition credits under this program but not expended at the end of the fiscal year shall not revert to any fund but shall be available for expenditure during succeeding fiscal years.

c. Job retraining program

To the Iowa employment retraining fund created in section 15.298 including salaries and support for not more than the following full-time equivalent positions:

.....	\$	1,000,000
.....	FTEs	1.60

d. Work force investment program including salaries and support for not more than the following full-time equivalent position:

.....	\$	1,000,000
.....	FTEs	0.90

This program shall be administered through the department of economic development in consultation with the state job training coordinating council. The program shall be operated on a competitive grant basis and funds shall be available for projects that increase Iowa's pool of available labor via training and support services. \$300,000 of the amount appropriated in this paragraph shall be available specifically for displaced homemaker programs.

e. Labor management councils

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	202,320
.....	FTEs	1.05

As a condition, limitation, and qualification of receiving a grant from funds appropriated by this paragraph, grantees shall facilitate the active participation of labor as members of labor management councils. Grantees shall make a good faith effort to either schedule meetings during nonworking hours, or obtain voluntary agreements with employers to allow employees time off to attend labor management council meetings with no loss of pay or other benefits.

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

Notwithstanding section 8.33, pursuant to 1990 Iowa Acts, chapter 1255, section 37, subsection 1, as amended by 1991 Iowa Acts, House File 173,* section 1001, moneys remaining unencumbered or unobligated shall be available for expenditure for the fiscal year beginning July 1, 1991, for the same purposes.

Sec. 302. Notwithstanding section 28.120, subsections 5 and 6, there is appropriated from the Iowa community development loan fund to the department of economic development for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

RURAL DEVELOPMENT FINANCING:

.....	\$	50,000
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Notwithstanding section 8.39, funds appropriated by this section shall not be subject to transfer.

Sec. 303. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund created in the office of the treasurer of state to the department of economic development for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For administration of chapter 280B, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	125,000
.....	FTEs	2.40

*Chapter 260 herein

*2. For payment to the community colleges to supplement the coordination and instruction of apprentice related instruction, and instructional equipment for apprenticeship programs as provided in section 280A.44:

..... \$ 125,000

As a condition, limitation, and qualification of the appropriation under this subsection, funds shall be allocated to each community college on the basis of the percentage of total contact hours enrolled in apprenticeship training at community colleges as of July 1, 1991.*

3. For the target alliance program if funds remain in the job training fund after the appropriations in subsections 1 and 2 are made:

..... \$ 30,000

Sec. 304. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the housing improvement fund created in section 220.100 for purposes of the fund:

..... \$ 2,800,000

Sec. 305. There is appropriated from the general fund of the state to the Wallace technology transfer foundation for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and other operational purposes, for funding the small business innovation research program, and for funding activities as provided in section 28.158:

..... \$ 2,660,000

As a condition, limitation, and qualification of the appropriation under this section, \$75,000 of the funds appropriated in this subsection shall be transferred to the Iowa quality coalition for productivity enhancement projects.

2. For transfer to the Iowa product development corporation fund established in section 28.89:

..... \$ 1,000,000

Sec. 306. There is appropriated from the general fund of the state to INTERNET for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the international network on trade fund created by the INTERNET board:

..... \$ 515,000

As a condition, limitation, and qualification of the appropriation under this section, \$140,000 shall be allocated to the department of economic development for the Iowa international development foundation for the salaries and support for not more than the following full-time equivalent positions:

..... FTEs 1.50

The full-time equivalent positions receiving moneys from the allocation for the Iowa international development foundation are employees of the department of economic development.

Sec. 307. There is appropriated from the general fund of the state to the Iowa state university of science and technology for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary to be used for the purpose designated:

For funding the small business development centers:

..... \$ 1,190,000

Sec. 308. There is appropriated from the community college job training fund created in section 280C.6, subsection 1, as amended by 1991 Iowa Acts, Senate File 90,** to the department of economic development for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

*Item veto; see message at end of the Act
**Chapter 2 herein

For salaries, support, maintenance, and miscellaneous purposes for the administration of the Iowa small business new jobs training Act, and for not more than the following full-time equivalent position:

.....	\$	38,954
.....	FTEs	.70

Sec. 309. Section 15.286, subsection 2, Code 1991, is amended to read as follows:

2. Applicants must be seeking funds to assist in meeting the area needs of lower and very low income families in pursuit of decent housing or in meeting the purposes of the housing trust improvement fund program as described in section 220.100, subsection 2.

Sec. 310. Section 15.286, subsection 4, paragraph b, subparagraph (1), Code 1991, is amended to read as follows:

(1) Assistance that will be used to meet the purposes of the housing trust improvement fund program.

Sec. 311. Section 15.286A, subsection 2, as enacted by 1991 Iowa Acts, Senate File 254, section 9, is amended to read as follows:

2. A city, cluster of cities, county, group of counties, ~~unincorporated community, group of unincorporated communities,~~ council of governments, or regional planning commission, or one of these entities on behalf of an unincorporated community or group of unincorporated communities, is eligible to apply for loans or grants from this category for planning efforts related to the community builder program.

Sec. 312. Section 15.287, Code 1991, is amended to read as follows:

15.287 REVOLVING FUND.

The Iowa finance authority shall establish a revolving fund for the program and shall transfer to the department moneys to be administered by the department. The moneys in the revolving fund are appropriated for purposes of the program. Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert to any other fund but shall remain in the revolving fund. The fund shall consist of all appropriations, grants, or gifts received by the authority or the department specifically for use under this part and all repayments of loans or grants made under this part. However, loan repayments from loans made under section 28.120, which are not allocated to another program, shall be deposited in the revolving fund and shall be available for allocation by the director for categories administered by the department.

Sec. 313. Section 28.120, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Loan repayments made under this section and unallocated in the special account in subsection 5, shall be allocated to the revolving account of the rural community 2000 program created in section 15.287.

Sec. 314. Section 28.143, subsection 1, paragraph e, Code 1991, is amended to read as follows:

e. The superintendent of savings and loans credit unions.

Sec. 315. Section 28.144, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

28.144 PRESIDENT OF THE CORPORATION.

The director of the department shall appoint the president of the corporation from the division within the department that administers business financial assistance programs. Administrative and staff support shall be furnished by the department.

Sec. 316. Section 220.100, Code 1991, is amended to read as follows:

220.100 HOUSING TRUST IMPROVEMENT FUND PROGRAM.

1. A housing trust improvement fund is created within the authority. The moneys in the housing trust improvement fund are annually appropriated to the authority which shall

allocate the available funds among and within the programs authorized by this section. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year shall not revert to any other fund but shall be available for expenditure for subsequent fiscal years. Notwithstanding section 453.7, interest or earnings on moneys in the fund or appropriated to the fund shall be credited to the fund. The authority may expend up to four percent of the moneys appropriated for the programs in this section for administrative costs of the authority for those programs. The authority may provide financial assistance to a housing sponsor or an individual 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, expansion, or costs of operating operations of group home shelter shelters 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 multi-family 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. Funds provided under this program shall not be restricted to first-time home buyers but shall be limited to mortgages under \$55,000, except in those areas of the state where the median price of homes exceeds the state average. The assistance provided shall include at least one of the following kinds of assistance:

(1) Closing costs assistance.

(2) Down payment assistance.

(3) Home maintenance and repair assistance.

(4) Loan processing assistance through a loan endorser review contractor who acts on behalf of the authority in assisting lenders in processing loans that will qualify for government insurance or guarantee or for financing under the authority's mortgage revenue bond program.

(5) Mortgage insurance program.

Five percent of the moneys expended under this program shall be used to finance the purchase or acquisition, in communities with a population of less than ten thousand, of manufactured homes as defined in 42 U.S.C. § 5403. Moneys available for this purpose which are unencumbered or unobligated at the end of the fiscal year shall revert to the housing improvement fund for reallocation for the next fiscal year.

Not more than 50 percent of the assistance provided under this program shall be provided under subparagraphs (4) and (5). So long as at least one of the kinds of assistance described in subparagraphs (1) through (5) are provided, additional assistance not described in subparagraphs (1) through (5) may also be provided.

e. The housing category of the rural community 2000 program, as described in section 15.286.

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 a for-profit entity, nonprofit corporations and local governments and joint ventures corporation, local government, or a joint venture involving a private for-profit entity, 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. During each regular session of the general assembly, the authority shall present, to the appropriate appropriations subcommittee, a report concerning the total estimated resources to be available for expenditure under this section for the next fiscal year and the amount the authority proposes to allocate to each program under this section.

7 8. A homelessness advisory committee is created consisting of the executive director or the executive director's designee, the directors or their designees from the departments of economic development, elder affairs, human services, and human rights, and at least three individuals from the private sector to be selected by the executive director. The advisory committee shall advise the authority in coordinating programs that provide for the homeless.

Sec. 317. Section 428A.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

There is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state shall be are granted, assigned, transferred, or otherwise conveyed, a tax determined in the following manner: When there is no consideration or when the deed instrument or writing is executed and tendered for recording as an instrument corrective of title, and so states, there shall be is no tax. When there is consideration and the actual market value of the real property transferred is in excess of five hundred dollars, the tax shall be ~~fifty-five~~ is eighty cents for each five hundred dollars or fractional part of five hundred dollars in excess of five hundred dollars. The term "consideration", as used in this chapter, means the full amount of the actual sale price of the real property involved, paid or to be paid, including the amount of an incumbrance or lien on the property, whether assumed or not by the grantee. It ~~shall be~~ is presumed that the sale price so stated ~~shall include~~ includes the value of all personal property transferred as part of the sale unless the dollar value of ~~said~~ personal property is stated on the instrument of conveyance. When the dollar value of the personal property included in the sale is so stated, it shall be deducted from the consideration shown on the instrument for the purpose of determining the tax.

Sec. 318. Section 428A.8, Code 1991, is amended to read as follows:

428A.8 REMITTANCE TO STATE TREASURER — PORTION RETAINED IN COUNTY.

On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state ~~seventy-five~~ eighty-two and three-fourths percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit the receipts in the general fund of the state.

The county recorder shall deposit the remaining ~~twenty-five~~ seventeen and one-fourth percent of the receipts in the county general fund.

The county recorder shall keep records and make reports with respect to the real estate transfer tax as the director of revenue and finance prescribes.

Sec. 319. Section 15.232, Code 1991, is repealed.

DIVISION IV
JUSTICE SYSTEMS APPROPRIATIONS

Sec. 401. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the general office of attorney general for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:		
.....	\$	4,416,222
.....	FTEs	177.00

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	137,545
.....	FTEs	4.75

In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the attorney general shall provide up to \$41,000 in state matching funds from moneys retained by the attorney general from property forfeited pursuant to section 809.13, for the prosecuting attorney training program, the prosecuting intern program, or both. Counties participating in the prosecuting intern program shall match the state funds.

3. 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, 1991, and ending June 30, 1992, an amount not exceeding \$95,000 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.

4. 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, 1991, and ending June 30, 1992, an amount not exceeding \$50,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16, and \$25,000 for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older Iowans. 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. Notwithstanding section 8.33, funds received in a previous fiscal year which have not been expended shall be credited to this fiscal year.

5. For the farm mediation service program:

.....	\$	100,000
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6. For the legal assistance for farmers program:

.....	\$	100,000
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7. For victim assistance grants, as provided in Senate File 444,* if Senate File 444 is enacted by the Seventy-fourth General Assembly, first regular session, in a manner which raises certain court costs and fees and deposits the resulting receipts either directly into the general fund of the state, or into the general fund of the state through the court revenue distribution account:

.....	\$	1,400,000
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As a condition, limitation, and qualification of this appropriation, no more than \$60,000 shall be expended for the costs of the general office of the attorney general's administrative duties pursuant to Senate File 444,* and \$100,000 shall be awarded to the department of corrections for one-time costs associated with establishing batterers' treatment programs in the judicial district departments of correctional services, as set forth in Senate File 444. The department of corrections shall award the \$100,000 on a competitive basis to the judicial district departments of correctional services. The remaining funds shall be used to provide grants to care providers providing services to crime victims of domestic abuse or to crime victims of rape and sexual assault.

However, if Senate File 444* is not enacted by the Seventy-fourth General Assembly, first regular session, in a manner which raises certain court costs and fees and deposits the resulting receipts either directly into the general fund, or into the general fund through the court revenue distribution account, there is appropriated from the general fund of the state to the

*Chapter 218 herein

department of justice for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary to be used for the purpose designated:

For victim assistance grants:

..... \$ 1,071,782

Whether or not Senate File 444* is enacted by the Seventy-fourth General Assembly, notwithstanding section 8.33 or 8.39, any balance remaining from the appropriation pursuant to this subsection shall not revert to the general fund of the state, and shall not be transferred to any other program.

8. For the GASA prosecuting attorney program:

..... \$ 103,400

..... FTEs 1.00

9. The balance of the fund created under section 321J.17 may be used to provide salary and support of not more than 6 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

10. The department of justice shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include comparisons of the moneys and percentage spent of budgeted to actual revenues and expenditures on a cumulative basis for full-time equivalent positions and available moneys.

Sec. 402. There is appropriated from the general fund to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 2,000,000

..... FTEs 32.00

Sec. 403. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 770,000

..... FTEs 18.00

As a condition, limitation, and qualification of this appropriation the board of parole shall maintain an automated docket and shall maintain the board's automated risk assessment model.

As a condition, limitation, and qualification of this appropriation the board of parole shall employ 2 statistical research analysts to assist with the application of the risk assessment model in the parole decision-making process. The board of parole shall also require the board's administrative staff to be cross-trained to assure that each individual on that staff is familiar with all tasks performed by the staff.

It is the intent of the general assembly that the department of corrections and the board of parole shall review, and implement as necessary, the findings and recommendations contained in the final report prepared by the consultant and presented to the corrections system review task force which was established by 1988 Iowa Acts, chapter 1271, as they relate to the department of corrections and the board of parole. The board shall report to the justice system appropriations subcommittee during the 1992 legislative session, at the request of the subcommittee, steps taken to implement any of those recommendations, or the reasons for failing to implement such recommendations.

Sec. 404. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

*Chapter 218 herein

1. For the operation of adult correctional institutions, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	21,829,312
.....	FTEs	502.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 310 correctional officers.

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	16,153,646
.....	FTEs	356.00

(1) As a condition, limitation, and qualification of this appropriation, the facility shall employ 211 correctional officers and a part-time chaplain of a minority race.

(2) Of the funds appropriated, the department's budget for Anamosa shall include funding for 2 full-time substance abuse counselors for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	13,737,933
.....	FTEs	307.53

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,149,032
.....	FTEs	91.72

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	11,606,136
.....	FTEs	267.15

As a condition, limitation, and qualification of this appropriation, the facility shall employ 141 correctional officers, and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities.

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,988,999
.....	FTEs	82.89

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,318,793
.....	FTEs	137.20

As a condition, limitation, and qualification of this appropriation, the facility shall employ 6 additional counselors to expand "The Other Way" substance abuse treatment program. The facility may provide up to \$205,250 as a state match requirement to receive federal substance abuse treatment grants.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,760,300
.....	FTEs	112.14

2. The department of corrections shall provide a report to the co-chairpersons and ranking members of the justice system appropriations subcommittee and the legislative fiscal bureau on or before January 15, 1992, outlining the implementation of the centralized education program for the correctional system. The report shall include a listing of the educational institutions that are involved, the amount of any federal funds received for use with these programs, and any other pertinent information.

3. If the inmate tort claim fund for inmate claims of less than \$50 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. The amounts appropriated to this fund pursuant to 1987 Iowa Acts, chapter 234, section 304, subsection 2, are not subject to reversion under section 8.33.

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 \$50.

Sec. 405. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,141,828
.....	FTEs	43.52

As a condition, limitation, and qualification of this appropriation the department shall employ an education director and clerk to administer a centralized education program for the correctional system.

The department shall monitor the use of the classification model by the judicial district departments of correctional services and has the authority to override a district department's decision regarding classification of community-based clients. The department shall notify a district department of the reasons for the override.

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 and for offenders confined pursuant to section 246.513:

.....	\$	250,000
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3. For federal prison reimbursement and miscellaneous contracts:

.....	\$	360,000
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The department of corrections shall use funds appropriated by this subsection to continue to contract for the services of a Muslim imam.

4. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions at the correctional training center at Mt. Pleasant:

.....	\$	375,000
.....	FTEs	8.22

5. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1989 Iowa Acts, chapter 316, section 7, subsection 6:

.....	\$	625,860
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6. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, chapter 1257, section 24:

.....	\$	3,143,250
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Sec. 406.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 5,628,321

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "a", and the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "a".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

b. For the second judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 3,987,710

The district department shall continue the sex offender treatment program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "b".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

c. For the third judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 2,471,347

The district department shall continue the sex offender treatment program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "c", and the intensive supervision program established within the district in 1990 Iowa Acts, chapter 1268, section 6, subsection 3, paragraph "d".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

d. For the fourth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 2,004,154

The district department shall continue the sex offender treatment program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "d".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

e. For the fifth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 7,163,590

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "e", and shall continue to provide for the rental of electronic monitoring equipment.

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

f. For the sixth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 5,594,770

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "f", and the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "f".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

g. For the seventh judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 3,908,666

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "g", and shall continue the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "g".

The district department shall continue the job development program established within the district in 1990 Iowa Acts, chapter 1268, section 6, subsection 7, paragraph "e".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

h. For the eighth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 3,170,622

The district department shall continue the intensive supervision program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "h", and shall continue the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "h".

The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

i. For the department of corrections for the assistance and support of each judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 91,057

2. 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 section.

3. The department of corrections shall continue to contract with a judicial district department of correctional services to provide for the rental of electronic monitoring equipment which shall be available statewide.

4. Each judicial district department of correctional services and the department of corrections shall continue the treatment alternatives to street crime programs established in 1989 Iowa Acts, chapter 225, section 9.

5. The first, sixth, and eighth judicial district departments of correctional services and the department of corrections shall continue the job training and development grant programs established in 1989 Iowa Acts, chapter 316, section 7, subsection 2.

6. The department of corrections shall not make an intradepartmental transfer of moneys appropriated to the department, unless notice of the intradepartmental transfer is given prior to its effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the transfer and details concerning the work load and performance measures upon which the transfers are based.

7. The governor's alliance on substance abuse shall consider federal grants made to the department of corrections for the benefit of each of the eight judicial district departments of correctional services as local government grants, as defined pursuant to federal regulations.

Sec. 407. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, including fully compensating clerks of court, trial court supervisors, trial court technicians II, and financial supervisors I and II for the full 40-hour workweek, juvenile court officers, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, receipt and disbursement of child support payments, and maintenance, equipment, and miscellaneous purposes:

..... \$ 73,200,000

As a condition, limitation, and qualification of this appropriation, the department shall reimburse the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court during the fiscal year beginning July 1, 1991.

As a condition, limitation, and qualification of this appropriation, the judicial department, except for purposes of internal processing, shall use the current state budget system, the state payroll system, and the Iowa finance and accounting system in administration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

The judicial department shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include a comparison of the dollars and percentage spent of budgeted versus actual revenues and expenditures on a cumulative basis for full-time equivalent positions and dollars.

Of the funds appropriated under this subsection, not more than \$1,800,000 may be transferred into the revolving fund established pursuant to section 602.1302, subsection 3, to be used for the payment of jury and witness fees and mileage.

2. For the juvenile victim restitution program:

..... \$ 100,000

Sec. 408. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa court information system:

..... \$ 875,000

As a condition, limitation, and qualification of this appropriation, the judicial department, except for purposes of internal processing, shall use the current state budget system, the state payroll system, and the Iowa finance and accounting system in administration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

The judicial department shall not change the appropriations from the amounts appropriated under this section, 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 work load and performance measures upon which the changes are based.

The judicial department shall conduct a comparable worth study concerning juvenile court officers. As used in this paragraph, "comparable worth" means comparable worth as defined in section 602.1204. The judicial department shall report its findings and recommendations to the joint justice systems appropriations subcommittee by January 1, 1992. No pay grade changes resulting from the study shall be implemented prior to July 1, 1992, subject to sufficient salary adjustment funds being appropriated specifically for that purpose.

Sec. 409. The department of corrections, judicial district departments of correctional services, board of parole, and the judicial department shall continue to develop an automated data system for use in the sharing of information between the department of corrections, judicial district departments of correctional services, board of parole, and the judicial department. The information to be shared shall concern any individual who may, as the result of an arrest or infraction of any law, be subject to the jurisdiction of the department of corrections, judicial district departments of correctional services, or board of parole.

Sec. 410. Section 13.15, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The rules shall provide for an hourly mediation fee not to exceed twenty-five dollars per hour per party fifty dollars for the borrower and one hundred dollars for the creditor. The hourly mediation fee may be waived for any party demonstrating financial hardship upon application to the farm mediation service.

**Sec. 411. NEW SECTION. 13.26 FARM ASSISTANCE FUND ESTABLISHED.*

*A farm assistance fund is established as a separate fund in the state treasury under the control of the department of justice. It is the intent of the general assembly that the moneys deposited in the fund shall be used for legal assistance to financially distressed farmers. These funds shall be used only to the extent appropriated by the general assembly. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to any fund but shall remain in the fund for the subsequent fiscal year.**

**Sec. 412. Section 312.2, subsection 13, Code 1991, as amended by 1991 Iowa Acts, House File 173, section 1223, is amended to read as follows:*

13. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the department of justice from the road use tax fund an amount equal to twenty-five cents on each title issuance for motor vehicle fraud law enforcement and prosecution purposes ~~including, but not limited to, the enforcement of state and federal odometer laws, the prosecution of highway-related criminal matters, and the training of county attorney and attorney general staff in the prosecution of violations of chapters 321, 321A, and 321J, and related offenses.~~

*Notwithstanding the provisions of this subsection directing that twenty-five cents on each title issuance be annually credited to the department of justice for deposit into the motor vehicle fraud account, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, the twenty-five cents on each title issuance shall be deposited into the general fund of the state.**

Sec. 413. Section 356.26, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The district court may also grant by order to any person sentenced to a county jail the privilege of a sentence of in-home detention where the county sheriff has certified to the court that the jail has an in-home detention program. ~~The department of corrections shall report to the legislative fiscal bureau on a semiannual basis concerning utilization of in-home detention, including the counties which have established such programs and the number of prisoners allowed in-home detention privileges.~~

Sec. 414. Section 602.1301, subsection 2, paragraph a, subparagraph (1), Code 1991, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) Iowa court information system.

Sec. 415. Section 602.8102, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 163A. Make every reasonable effort to collect all outstanding fines, penalties, surcharges, and court costs. The clerk shall notify in writing within forty-five days after assessment, those persons who have unpaid fines, penalties, surcharges, and court costs.

**Sec. 416. Section 654.18, subsection 1, paragraph d, Code 1991, is amended to read as follows:*

d. The mortgagor and mortgagee shall file a jointly executed document with the county recorder in the county where the real property is located stating that the mortgagor and

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mortgagee have elected to follow the alternative voluntary foreclosure procedures pursuant to this section. If the subject property is agricultural land used for farming, as defined in section 172C.1, in addition to the fee collected pursuant to section 331.604, the recorder shall collect a fee of sixty dollars for filing the document, and shall remit the sixty-dollar fee to the treasurer of state for deposit in the farm assistance fund established in section 13.26.*

**Sec. 417. Section 654.19, Code 1991, is amended to read as follows:*

654.19 DEED IN LIEU OF FORECLOSURE — AGRICULTURAL LAND.

*In lieu of a foreclosure action in court due to default on a recorded mortgage or deed of trust of real property, if the subject property is agricultural land used for farming, as defined in section 172C.1, the mortgagee and mortgagor may enter into an agreement in which the mortgagor agrees to transfer the agricultural land to the mortgagee in satisfaction of all or part of the mortgage obligation as agreed upon by the parties. The agreement may grant the mortgagor a right to purchase the agricultural land for a period not to exceed five years, and may entitle the mortgagor to lease the agricultural land. The agreement shall be recorded with the deed transferring title to the mortgagee. In addition to the fee collected pursuant to section 331.604, the recorder shall collect a fee of sixty dollars for recording the agreement and deed, and shall remit the sixty-dollar fee to the treasurer of state for deposit in the farm assistance fund established in section 13.26. A transfer of title and agreement pursuant to this section does not constitute an equitable mortgage.**

**Sec. 418. Section 655A.7, Code 1991, is amended to read as follows:*

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. In addition to the fee collected pursuant to section 331.604, the recorder shall collect a fee of sixty dollars for recording the documents required by this section, and shall remit the sixty-dollar fee to the treasurer of state for deposit in the farm assistance fund established in section 13.26.**

**Sec. 419. Section 656.5, Code 1991, is amended to read as follows:*

656.5 PROOF AND RECORD OF SERVICE.

*If the terms and conditions as to which there is default are not performed within said thirty days, the party serving said notice or causing the same to be served, may file for record in the office of the county recorder a copy of the notice aforesaid with proofs of service attached or endorsed thereon (and, in case of service by publication, a personal affidavit that personal service could not be made within this state), and when so filed and recorded, the said record shall be constructive notice to all parties of the due forfeiture and cancellation of said contract. If the subject property is agricultural land used for farming, as defined in section 172C.1, in addition to the fee collected pursuant to section 331.604, the recorder shall collect a fee of sixty dollars for filing the notice, and shall remit the sixty-dollar fee to the treasurer of state for deposit in the farm assistance fund established in section 13.26.**

Sec. 420. Section 905.4, subsection 5, Code 1991, is amended to read as follows:

5. Arrange for, by contract or on such alternative basis as may be mutually acceptable, and equip suitable quarters at one or more sites in the district as may be necessary for the district department's community-based correctional program, provided that the board shall to the greatest extent feasible utilize existing facilities and shall keep capital expenditures for acquisition, renovation and repair of facilities to a minimum. The district board shall not enter into lease-purchase agreements for the purposes of constructing, renovating, expanding, or otherwise improving a community-based correctional facility or office unless express authorization

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has been granted by the general assembly, and current funding is adequate to meet the lease-purchase obligation.

Sec. 421. Section 905.6, subsection 5, Code 1991, is amended to read as follows:

5. Act as secretary to the district board, prepare its agenda and record its proceedings. The district shall provide a copy of minutes from each meeting of the district board to the legislative fiscal bureau.

Sec. 422. 1990 Iowa Acts, chapter 1224, section 1, unnumbered paragraph 1, is amended to read as follows:

In order to implement this Act, the department of human services and the judicial department shall mutually agree on a schedule to complete the transfer of support payment collection and disbursement responsibilities from the collection services center to the clerks of the district court. The schedule shall provide for the completion of the transfer of the responsibilities for all affected orders by June 30, ~~1991~~ 1993. The following procedure shall be used for any order affected by the initial transfer of responsibilities:

**Sec. 423. 1990 Iowa Acts, chapter 1257, section 24, subsection 4, unnumbered paragraph 2, is amended to read as follows:*

*As a condition, limitation, and qualification of this appropriation, the beds shall be used for a 30-to-60-day shock revocation program for parole and probation violators who are male offenders. The beds shall be administered by the state department of corrections.**

Sec. 424. 1990 Iowa Acts, chapter 1268, section 5, subsection 2, is amended to read as follows:

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 and for offenders confined pursuant to section 246.513:

..... \$ 215,000

Sec. 425. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

1. Section 420 of this division takes effect on January 1, 1992.

2. Sections 422 and 424 of this division, being deemed of immediate importance, take effect upon enactment. Section 424 of the division applies retroactively to July 1, 1990.

DIVISION V
RELATING TO STANDING APPROPRIATIONS AND TAXES

Sec. 501. Notwithstanding the standing appropriation in sections 425A.1 to the family farm tax credit fund and 426.1 to the agricultural land tax credit fund, there is appropriated from the general fund of the state to the agricultural land tax credit fund for the fiscal year beginning July 1, 1991, the sum of \$43,065,000 of which the first \$10,000,000 shall be deposited into the family farm tax credit fund in lieu of the standing appropriation made in section 425A.1.

Sec. 502.

1. Notwithstanding the standing appropriation in section 405A.8 to the department of revenue and finance for personal property tax replacement under chapter 405A, there is appropriated from the general fund of the state under section 405A.8 for the fiscal year beginning July 1, 1991, the sum of \$61,934,033.

2. Notwithstanding the standing appropriation in section 425.39, the amount appropriated from the general fund of the state under section 425.39, for the fiscal year beginning July 1, 1991, for purposes of implementing the extraordinary property tax and reimbursement division of chapter 425, shall not exceed \$11,880,300. The director shall pay, in full, all claims to be paid during the fiscal year beginning July 1, 1991, for reimbursement of rent constituting property taxes paid. If the amount of claims for credit for property taxes due to be paid during the fiscal year beginning July 1, 1991, exceed the amount remaining after payment to renters the director of revenue and finance shall prorate the payments to the counties for the

*Item veto; see message at end of the Act

property tax credit. In order for the director to carry out the requirements of this subsection, notwithstanding any provision to the contrary in sections 425.16 through 425.39, claims for reimbursement for rent constituting property taxes paid filed before May 1, 1992, shall be eligible to be paid in full during the fiscal year ending June 30, 1992, and those claims filed on or after May 1, 1992, shall be eligible to be paid during the fiscal year beginning July 1, 1992, and the director is not required to make payments to counties for the property tax credit before June 15, 1992.

Sec. 503. Notwithstanding the amount of the standing appropriation from the general fund of the state under section 455A.18, subsection 4, there is appropriated from the general fund of the state, in lieu of the appropriation made in section 455A.18, for the fiscal year beginning July 1, 1991, to the Iowa resources enhancement and protection fund the sum of \$10,900,000. However, if moneys from the lottery are appropriated by the state to the Iowa resources enhancement and protection fund, the amount appropriated under this section shall be reduced by the amount appropriated from the lottery.

Sec. 504. 1990 Iowa Acts, chapter 1250, section 18, unnumbered paragraph 2, is amended to read as follows:

For the special mental health services fund:

.....	\$	10,500,000
		<u>10,395,000</u>

**Sec. 505. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

1. For payment of expenses and compensation of commission of inquiry commissioners pursuant to section 229.35:

.....	\$	1,000
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2. For payment of transfer expenses of mentally ill persons with no county of legal settlement pursuant to section 230.8 and recovery of such persons' commitment costs pursuant to section 230.11:

.....	\$	107,000*
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Sec. 506. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For payment of recording fees pursuant to section 422.26:

.....	\$	50,000
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Sec. 507. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 1991, the amount appropriated from the general fund of the state pursuant to those sections for the following designated purposes shall not exceed the following amounts:

1. For administering absentee ballots of state residents serving in the armed forces under section 53.50:

.....	\$	2,574
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2. For the reimbursement of fees and charges presented to but not owed the state under section 12.13:

.....	\$	0
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3. For the cost of printing or manufacturing of cigarette and little cigar tax stamps under section 98.7:

.....	\$	126,126
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4. For deposit in and the use of the livestock disease fund under section 267.8:

.....	\$	291,060
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*Item veto; see message at end of the Act

5. To pay the state's portion of the cost of benefits calculated in section 411.20, subsections 2 and 3, under section 411.20, subsection 1:

..... \$ 3,201,660

6. To reimburse counties for the loss of property tax revenues as follows:

a. Homestead tax credit under section 425.1:

..... \$ 102,960,000

b. Military service tax credit under section 426A.1:

..... \$ 3,069,000

c. Machinery and computer equipment tax replacement under section 427B.13:

..... \$ 0

If the amounts of calculated county reimbursement exceed any of the amounts specified in this subsection the director of revenue and finance shall prorate the amount available.

7. For costs of postconviction relief proceedings pursuant to section 663A.5 and costs and fees of parole revocation proceedings and criminal cases brought against an inmate under section 815.1:

..... \$ 70,000

8. For state employees salary book printing under section 18.75, subsection 8:

..... \$ 4,950

**9. To the expenses incurred or costs taxed to the state in a proceeding brought by or against a state department or agency under section 19.10:*

..... \$ 81,180

10. To pay necessary expenses incurred to perform or cause to be performed any legal duty imposed on the executive council under section 19.29:

..... \$ 1,881,000*

11. To pay the cost of public improvement assessments against state-owned land under section 307.45:

..... \$ 0

**12. For payment of costs of habeas corpus proceedings where plaintiff is confined in a state institution under section 663.44:*

..... \$ 0

13. To pay claims and awards against the state under sections 25.2 and 25A.11:

..... \$ 2,970,000*

14. For the payment of salary and expenses of a deputy sheriff responsible for law enforcement on the Indian settlement under section 331.660:

..... \$ 24,255

**15. For compensation of officers and enlisted men in and the expenses of the national guard under section 29A.29:*

..... \$ 38,808

16. For payment of workers' compensation claims due employees of the state under section 85.57:

..... \$ 5,692,500

17. For deposit into the state communications network fund under section 18.137:

..... \$ 0

18. For payment of state school foundation aid under section 257.16, including state aid for increasing enrollment in section 257.13, an amount which equals one-half of one percent less than the amount computed under the state school foundation aid formula.

Notwithstanding chapter 257, if the portion of the budget of a school district or area education agency for special education support services to be funded by state aid appropriated under section 257.16 exceeds the amount appropriated under this subsection, the director of the department of management shall allocate state aid payments in the manner provided in this subsection:

a. In order to allocate the reduction in the state aid to be paid to area education agencies for special education support services, the director of the department of management shall reduce the state aid paid to each area education agency by one-half of one percent of the special education support services foundation base multiplied by the weighted enrollment in the area education agency.

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b. The director of the department of management shall determine the amounts to be paid to school districts as an advance for increasing enrollment under section 257.13 and shall reduce those amounts by one-half of one percent.

c. The director of the department of management shall allocate the difference between the money appropriated by this subsection and the total of the state aid payments made to area education agencies for special education support services and the amount paid to school districts as an advance for increasing enrollment. The difference shall be paid to school districts as state school foundation aid. The director of the department of management shall divide the amount to be paid to school districts by the weighted enrollment in the state to determine a per pupil amount of state aid and shall multiply that per pupil amount of state aid by one-half of one percent for the state aid reduction per pupil. The state aid paid to each school district under section 257.16 shall be reduced by an amount equal to the state aid reduction per pupil multiplied by the weighted enrollment of the district. School districts not receiving the entire amount of state school foundation aid under chapter 257 for the budget year beginning July 1, 1991, may use their cash reserve to make up the lost aid and, unless the general assembly prohibits the levy by February 15, 1992, may raise the lost state aid by a cash reserve levy under section 298.10 to replace the state school foundation aid reduction.*

19. For the payment of claims of public school districts for transportation services to non-public school pupils under section 285.2:

..... \$ 6,156,729

If the claims exceed the amount available under this subsection, the director of the department of education shall prorate the claims of the school districts.

20. To pay instructional support state aid under section 257.20:

..... \$ 12,935,000

If the portion of the budget to be funded by instructional support state aid computed under section 257.20 exceeds the amount available under this subsection, the director of the department of management shall prorate the amount available to the school districts entitled to such aid. School districts not receiving the full amount of such state aid shall not raise the lost state aid by property tax.

21. For payment of franchise tax allocations to cities and counties under section 422.65:

..... \$ 9,702,000

If the amounts to be allocated as computed under section 422.65 to cities and counties exceed the amount available under this subsection, the director of revenue and finance shall prorate the amount to be paid to each city and county.

Sec. 508. Section 97B.72, unnumbered paragraph 2, Code 1991, is amended to read as follows:

There is appropriated from the general fund of the state to the department of personnel moneys available to the general assembly under section 2.12 an amount sufficient to pay the contributions of the employer based on service of the members in an amount equal to the contributions which would have been made if the members of the general assembly who made employee contributions had been members of the system during their service in the general assembly plus two percent interest plus interest dividends for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years at two percent interest plus the interest dividend rate calculated for the previous year, compounded annually, from the end of the calendar year in which contribution was made to the first day of the month of such date.

Sec. 509. Section 98.6, subsection 1, Code 1991, is amended to read as follows:

1. There is hereby levied, assessed, and imposed, and shall be collected and paid to the department, the following taxes on all cigarettes used or otherwise disposed of in this state for any purpose whatsoever:

*Item veto; see message at end of the Act

Class A. On cigarettes weighing not more than three pounds per thousand, ~~six and one-half~~ eighteen mills on each such cigarette.

Class B. On cigarettes weighing more than three pounds per thousand, ~~seven and one-half~~ eighteen mills on each such cigarette.

Sec. 510. Section 98.6, subsection 2, Code 1991, is amended by striking the subsection.

Sec. 511. Section 98.43, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor ~~thereof~~ of tobacco products, at the rate of ~~nineteen~~ twenty-two percent of the wholesale sales price of the tobacco products, except little cigars as defined in section 98.42. Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 98.6, payable at the time and in the manner provided in section 98.6; and stamps shall be affixed as provided in division I of this chapter. The tax on tobacco products, excluding little cigars, shall be imposed at the time the distributor does any of the following:

Sec. 512. Section 98.43, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at the rate of ~~nineteen~~ twenty-two percent of the cost of the tobacco products.

Sec. 513. Section 135D.22, subsection 2, paragraph b, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the effective date provision in 1990 Iowa Acts, chapter 1250, section 21, this lettered paragraph is effective for mobile home tax claims filed on or after January 1, 1993, and any claims filed under this lettered paragraph before that date shall not be allowed.

**Sec. 514. Section 229.35, Code 1991, is amended to read as follows:*

229.35 COMMISSION OF INQUIRY — COMPENSATION — PAYMENT.

Said The commissioners of a commission of inquiry shall be entitled to their necessary expenses and a reasonable compensation, to be allowed by the judge, who shall certify the same amounts to the director of revenue and finance who shall thereupon draw the proper warrants on any funds in the state treasury not otherwise appropriated pay such amounts from moneys appropriated to the department of human services. The applicant shall pay said these costs and expenses if the judge shall so order on a finding that the complaint was filed without probable cause.*

**Sec. 515. Section 230.8, Code 1991, is amended to read as follows:*

230.8 TRANSFERS OF MENTALLY ILL PERSONS — EXPENSES.

The transfer to state hospitals or to the places of their legal settlement of mentally ill persons who have no legal settlement in this state or whose legal settlement is unknown, shall be made according to the directions of the administrator, and when practicable by employees of state hospitals, and the actual and necessary expenses of such these transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the administrator, from any funds in the state treasury not otherwise appropriated to the department of human services.*

**Sec. 516. Section 230.11, Code 1991, is amended to read as follows:*

230.11 RECOVERY OF COSTS FROM STATE.

Costs and expenses attending the taking into custody, care, and investigation of a person who has been admitted or committed to a state hospital, veterans administration hospital or other agency of the United States government, for the mentally ill and who has no legal settlement in this state or whose legal settlement is unknown, including cost of commitment, if any, shall be paid out of any money in the state treasury not otherwise from moneys appropriated to the department of human services, on itemized vouchers executed by the auditor of the county which has paid them, and approved by the administrator.*

*Item veto; see message at end of the Act

Sec. 517. Section 257.1, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For the budget year commencing July 1, 1991, and for each succeeding budget year the regular program foundation base per pupil is eighty-three and five-tenths percent of the regular program state cost per pupil. For each succeeding budget year, the regular program foundation base shall increase twenty-five hundredths percent per year until the regular program foundation base reaches eighty-five percent of the regular program state cost per pupil, except that the regular program foundation base per pupil for the portion of weighted enrollment that is additional enrollment because of special education is seventy-nine percent of the regular program state cost per pupil. For the budget year commencing July 1, 1991, and for each succeeding budget year the special education support services foundation base is eighty-three and five-tenths seventy-nine percent of the special education support services state cost per pupil. It shall increase at the same rate as the regular program foundation base. The combined foundation base is the sum of the regular program foundation base and the special education support services foundation base.

Sec. 518. Section 257.2, subsection 12, Code 1991, is amended by striking the subsection.

Sec. 519. Section 257.15, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, in computing the amount of revenues generated by the foundation property tax and the additional property tax under chapter 442, Code 1989, the computation shall be based on a regular program foundation base per pupil of eighty-three percent of the regular program state cost per pupil except that for the portion of weighted enrollment that is additional enrollment because of special education the regular program foundation base per pupil shall be seventy-nine percent of the regular program state cost per pupil. The special education support services foundation base shall be seventy-nine percent of the special education support services state cost per pupil.

Sec. 520. Section 257.31, subsections 6 and 11, Code 1991, are amended by striking the subsections.

Sec. 521. Section 270.5, Code 1991, is amended to read as follows:

270.5 CERTIFICATION TO DIRECTOR OF REVENUE AND FINANCE.

The superintendent shall, on the first days of June and December of each year, certify to the director of revenue and finance the amounts due from the several counties pursuant to sections 270.4 and 270.6, and the director of revenue and finance shall thereupon pass the same to the credit of the institution the amounts due to the general fund of the state, and charge the amount to the proper county.

Sec. 522. Section 422.26, unnumbered paragraph 6, Code 1991, is amended to read as follows:

The department shall pay, from moneys appropriated to the department for this purpose, a recording fee as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Sec. 523. Section 442.3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The state foundation base for the school year beginning July 1, 1986 is eighty percent of the state cost per pupil. The state foundation base for the school year beginning July 1, 1987 is eighty-one and one-half percent of the state cost per pupil. For each succeeding school year, the state foundation base shall be increased by the amount of one-half percent of the state cost per pupil, up to a maximum of eighty-five eighty-three percent of the state cost per pupil. The district foundation base is the larger of the state foundation base or the amount per pupil which the district will receive from foundation property tax and state school foundation aid.

Sec. 524. Section 425.23, subsection 1, paragraph b, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the effective date provisions in 1990 Iowa Acts, chapter 1250, section 21, this lettered paragraph is effective for property tax claims filed on or after January 1, 1993, and for rent reimbursement claims filed on or after January 1, 1994, and all such claims filed under this lettered paragraph before such dates shall not be allowed.

**Sec. 525. Section 820.24, Code 1991, is amended to read as follows:*

820.24 EXPENSES — HOW PAID.

*When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the state treasury funds appropriated to the office of the governor, on the certificate of the governor and warrant of the director of revenue and finance; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and all necessary and actual traveling expenses incurred in returning the prisoner.**

Sec. 526. Section 906.10, Code 1991, is repealed.

Sec. 527. Sections 509 through 512 of this division take effect June 1, 1991.

Sec. 528. Sections 517, 519, and 523 of this division, being deemed of immediate importance, take effect upon enactment.

Sec. 529. Sections 513 and 524 of this division, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1991.

DIVISION VI
MISCELLANEOUS CODE CHANGES

**Sec. 601. Section 18.12, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 18A. Establish fee schedules for use of facilities which are funded through the sale of tax-exempt investments such as those which the treasurer of state is authorized to invest in under section 261.38, subsection 5. Revenue received as a result of the fee schedules shall be used to repay tax-exempt investments for the facility for which the fees are charged.**

Sec. 602. Section 18.117, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A state officer or employee shall not use a state-owned motor vehicle for personal private use, nor shall the officer or employee be compensated for driving a privately owned motor vehicle unless it is done on state business with the approval of the state vehicle dispatcher, and in that case the officer or employee shall receive ~~twenty-one cents per mile~~ an amount to be determined by the state which may be the maximum allowable under the federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. A statutory provision stipulating necessary mileage, travel, or actual expenses reimbursement to a state officer falls under the mileage reimbursement limitation provided in this section unless specifically provided otherwise. Any peace officer employed by the state as defined in section 801.4 who is required to use a private vehicle in the performance of official duties shall receive reimbursement for mileage expense at the rate specified in this section. However, the state vehicle dispatcher may delegate authority to officials of the state, and department heads, for the use of private vehicles on state business up to a yearly mileage figure established by the director of general services. If a state motor vehicle has been assigned to a state officer or employee, the officer or employee shall not collect mileage for the use of a privately owned vehicle unless the state vehicle assigned is not usable.

Sec. 603. Section 73.7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this chapter or other statutes, a governing body of the state, in its sole discretion, is permitted to enter into negotiations with a supplier of coal produced within the state of Iowa in order to modify an existing contract for the purchase of coal. The governing body and the supplier may modify the contract in any manner mutually agreed upon.

*Item veto; see message at end of the Act

Sec. 604. Section 79.9, Code 1991, is amended to read as follows:

79.9 CHARGE FOR USE OF AUTOMOBILE BY OTHER THAN STATE OFFICER OR EMPLOYEE.

When a public officer or employee, other than a state officer or employee, is entitled to be paid for expenses in performing a public duty, a charge shall be made, allowed and paid for the use of an automobile, as determined by the local governing body, in an amount ~~not exceeding twenty-one cents per mile~~ which may be the maximum allowable under federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. A statutory provision stipulating necessary mileage, travel, or actual reimbursement to a local public officer or employee falls within the mileage reimbursement limitation specified in this section unless specifically provided otherwise. A political subdivision may authorize the use of private vehicles for the conduct of official business of the political subdivision at an annual amount in lieu of actual and necessary travel expense reimbursement provided in this section. A peace officer, other than a state officer or employee, as defined in section 801.4 who is required to use a private vehicle in the performance of official duties shall receive reimbursement for mileage expense at the rate specified in this section.

Sec. 605. Section 99F.10, subsection 4, Code 1991, is amended to read as follows:

4. In determining the license fees and state admission fees to be charged as provided under section 99F.4 and this section, the commission shall use the amount appropriated to the commission plus the cost of auditing excursion gambling boat activities as the basis for determining the amount of revenue to be raised from the license fees and admission fees.

Sec. 606. Section 106.78, subsections 1 and 5, Code 1991, are amended to read as follows:

1. a. 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.

b. In addition to the fee required under paragraph "a", and sections 106.82 and 106.84, a surcharge of five dollars shall be required.

5. The funds collected under ~~this section~~ subsection 1, paragraph "a" 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. Of each surcharge collected as required under subsection 1, paragraph "b", the county recorder shall remit five dollars to the office of treasurer of state for deposit in the general fund of the state.

Sec. 607. NEW SECTION. 321.52A CERTIFICATE OF TITLE SURCHARGE.

In addition to the fee required for the issuance of a certificate of title under section 321.20, 321.23, 321.42, 321.46, 321.47, 321.48, 321.50, or 321.52, a surcharge of five dollars shall be required. Of each surcharge collected under those sections, the county treasurer shall remit five dollars to the office of treasurer of state for deposit in the general fund of the state.

Sec. 608. Section 321.152, subsections 1 and 2, Code 1991, are amended to read as follows:

1. ~~Two point six~~ Four and one-quarter percent of the total collection for each annual or semi-annual vehicle registration and each duplicate registration card or plate issued.

2. ~~Twenty percent of all fees~~ Two dollars and fifty cents from each fee collected for certificates of title.

Sec. 609. Section 425A.2, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Actively engaged in farming" means the designated person is personally involved in the production of crops and livestock on the eligible tract on a regular, continuous, and substantial basis. However, a lessor, whether under a cash or a crop share lease, is not actively engaged in farming on the area of the tract covered by the lease. This provision applies to both written and oral leases.

Sec. 610. Section 425A.2, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Eligible tract" or "eligible tract of agricultural land" means an area of agricultural land which meets all of the following:

a. Is comprised of all of the contiguous tracts under identical legal ownership that are located within the same county.

b. In the aggregate more than half the acres of the contiguous tract is devoted to the production of crops or livestock by a designated person who is actively engaged in farming.

c. For purposes of paragraph "b", if some or all of the contiguous tract is being farmed under a lease arrangement, the activities of the lessor do not constitute being actively engaged in farming on the areas of the tract covered by the lease. If the lessee is a designated person who is actively engaged in farming, the acres under lease may be considered in determining whether more than half the acres of the contiguous tract are devoted to the production of crops or livestock.

Sec. 611. Section 425A.2, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 6. "Designated person" means one of the following:

a. If the owner is an individual, the designated person includes the owner of the tract or a person related to the owner as spouse, parent, grandparent, child, grandchild, stepchild, and their spouses.

b. If the owner is a partnership, a partner, or the partner's spouse.

c. If the owner is a family farm corporation, a family member who is a shareholder of the family farm corporation or the shareholder's spouse.

d. If the owner is an authorized farm corporation, a shareholder who owns at least fifty-one percent of the stock of the authorized farm corporation or the shareholder's spouse.

Sec. 612. Section 425A.3, subsection 2, Code 1991, is amended by striking the subsection and inserting the following:

2. An eligible tract of agricultural land qualifies for the credit computed under subsection 1 if the tract is owned by an owner as defined in section 425A.2 and a designated person is actively engaged in farming during the fiscal year preceding the fiscal year in which the auditor computes the amount of the credit under section 425A.5 for which the tract would be eligible. Notwithstanding the foregoing sentence, the "actively engaged in farming" requirement is satisfied if the designated person is in general control of the tract under a federal program pertaining to agricultural land.

Sec. 613. Section 425A.3, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. The county board of supervisors shall determine the eligibility of each tract for which an application is received.

Sec. 614. Section 425A.4, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. To apply for the credit, the person shall each year between July 1 and October 15 deliver to the county assessor a verified statement and designation of the tracts of agricultural land for which the credit is claimed. The assessor shall return the statement and designation on or before November 15 of each year to the county board of supervisors with a recommendation for allowance or disallowance.

Sec. 615. Section 425A.4, subsection 2, Code 1991, is amended to read as follows:

2. The county board of supervisors in each county shall examine all claims delivered to county assessors, and shall either allow or disallow the claims, and if disallowed shall send notice of disallowance by ~~certified~~ regular mail to the claimant at the claimant's last known address. The claimant may appeal the decision of the board to the district court in which the tract for which the credit is claimed is situated by giving written notice of the appeal to the county ~~assessor~~ board of supervisors within twenty days from the date of the mailing of the notice of the ~~decision of the board of supervisors.~~

Sec. 616. Section 425A.5, Code 1991, is amended to read as follows:

425A.5 COMPUTATION BY AUDITOR — APPEAL.

The family farm tax credit allowed each year shall be computed as follows: On or before ~~June~~ March 1, the county auditor shall list by school districts all tracts of agricultural land which are entitled to credit, the taxable value for the previous year, the budget from each school district for the previous year, and the tax rate determined for the general fund of the school district in the manner prescribed in section 444.3 for the previous year, and if the tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural land entitled to credit in the school district, and on or before ~~June~~ March 1, certify the total amount of credit and the total number of acres entitled to the credit to the department of revenue and finance.

Sec. 617. Section 425A.6, Code 1991, is amended to read as follows:

425A.6 WARRANTS DRAWN BY DIRECTOR.

After receiving from the county auditors the certifications provided for in section 425A.5, and during the following fiscal year, the director of revenue and finance shall draw warrants on the family farm tax credit fund created in section 425A.1, payable to the county treasurers in the amount certified by the county auditors of the respective counties and mail the warrants to the county auditors on ~~August 15~~ June 1 of each year taking into consideration the relative budget and cash position of the state resources. However, if the family farm tax credit fund is insufficient to pay in full the total of the amounts certified to the director of revenue and finance, the director shall prorate the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before ~~August~~ June 1.

Sec. 618. Section 554.9401, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Of each fee collected by the county recorder under sections 570A.4, 554.9403, 554.9405, and 554.9406, the county recorder shall remit five dollars, if filed on a standard form or six dollars otherwise, to the office of the treasurer of state for deposit in the general fund of the state.

Sec. 619. Section 554.9403, subsection 5, paragraphs a and b, Code 1991, are amended to read as follows:

a. ~~Five~~ Ten dollars for an original financing statement if the statement is in the standard form prescribed by the secretary of state, and otherwise ~~six~~ twelve dollars.

b. ~~Five~~ Ten dollars for a continuation statement if the statement is in the standard form prescribed by the secretary of state, and otherwise ~~six~~ twelve dollars.

Sec. 620. Section 554.9404, subsection 3, Code 1991, is amended to read as follows:

3. There shall be ~~no~~ a ten-dollar fee for filing a termination statement.

Sec. 621. Section 554.9405, subsections 1 and 2, Code 1991, are amended to read as follows:

1. A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 554.9403, subsection 4. The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the secretary of state shall be ~~five~~ ten dollars, or if such statement otherwise conforms to the requirements of this section, ~~six~~ twelve dollars.

2. A secured party may assign of record all or a part of the rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. The filing officer shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to section 554.9103, subsection 5, the filing officer shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, the filing officer shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the secretary of state shall be five ten dollars, or if such statement otherwise conforms to the requirements of this section, ~~six~~ twelve dollars. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (section 554.9402, subsection 6), may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this chapter.

For financing statements covering fixture filings, changes in the filings, and termination of the filings, an additional fee shall be charged for recording in an amount specified in section 331.604.

Sec. 622. Section 554.9406, Code 1991, is amended to read as follows:

554.9406 RELEASE OF COLLATERAL — DUTIES OF FILING OFFICER — FEES.

A secured party of record may by a signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with section 554.9405, subsection 2, including payment of the required fee. Upon presentation of such a statement of release the filing officer shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the secretary of state shall be five ten dollars, or if such statement otherwise conforms to the requirements of this section, ~~six~~ twelve dollars.

Sec. 623. Section 556.2, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend, excluding any charges that may lawfully be withheld, unless the owner has, within five three years:

Sec. 624. Section 556.2, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made in this state, and any interest or dividends, excluding any charges that may lawfully be withheld, unless the owner has within five three years:

Sec. 625. Section 556.2, subsections 4, 5, and 6, Code 1991, are amended to read as follows:

4. Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that, with the exception of traveler's checks, has been outstanding for more than five three years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen years from the date of its issuance, unless the owner has within five three years, or within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerned, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association. The memorandum shall be dated and may have been prepared by the banking or financial organization or business association, in which case it shall be signed by an officer of the banking or financial organization, or a member of the business association, or it may have been prepared by the owner.

5. Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than five three years from the date on which the lease or rental period expired.

6. A banking organization or financial organization shall send to the owner of each account, to which none of the actions specified in paragraphs "a" through "d" of subsection 1 or "a" through "d" of subsection 2 have occurred during the preceding five three calendar years, a notice by certified mail stating in substance the following:

"According to our records, we have had no contact with you regarding (describe account) for more than five three years. Under Iowa law, if there is a period of five three years without contact, we may be required to transfer this account to the custody of the treasurer of state of Iowa as unclaimed property. You may prevent this by taking some action, such as a deposit or withdrawal, which indicates your interest in this account or by signing this form and returning it to us.

I desire to keep the above account open and active.

.....
Your signature"

The notice required under this section shall be mailed within thirty days of the lapse of the five-year three-year period in which there is no activity. The cost of the certified mail of the notice required in this section may be deducted from the account by the banking or financial organization.

Sec. 626. Section 556.3, subsection 2, Code 1991, is amended to read as follows:

2. "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than five three years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based and shall be presumed abandoned and to be unclaimed funds as defined in this section if unclaimed and unpaid for more than two years thereafter, unless the person appearing entitled thereto has within the two-year period assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan or corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

Sec. 627. Section 556.4, Code 1991, is amended to read as follows:

556.4 DEPOSITS AND REFUNDS HELD BY UTILITIES.

The following funds held or owing by any utility are presumed abandoned:

1. Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled to the deposit for more than ~~two years~~ one year after the termination of the services for which the deposit or advance payment was made.

2. Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest on the refund, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled to the refund for more than ~~two years~~ one year after the date it became payable in accordance with the final determination or order providing for the refund.

Sec. 628. Section 556.5, subsection 6, Code 1991, is amended to read as follows:

6. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within ~~five~~ three years after the date prescribed for payment or delivery, is presumed abandoned.

Sec. 629. Section 556.7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within ~~five~~ three years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary which shall have been dated and may have been prepared by the fiduciary or by the owner:

Sec. 630. Section 570A.4, subsection 4, Code 1991, is amended to read as follows:

4. The secretary of state shall note the filing of a lien statement under this section in the manner provided by chapter 554, the uniform commercial code, and shall charge a ~~five dollar~~ filing fee if the statement is the standard form prescribed by the secretary of state, and otherwise a fee of ~~six dollars~~ as provided under section 554.9403.

Sec. 631. 1991 Iowa Acts, Senate File 452,* section 10, subsection 3, unnumbered paragraph 1, is amended by striking the paragraph and inserting in lieu thereof the following:

The convention shall provide for staggered terms of office for directors elected pursuant to this Act. Notwithstanding section 173.6, an original director may serve an unlimited number of terms.

****Sec. 632. PARTICIPATION IN STATE HEALTH OR MEDICAL INSURANCE PROGRAMS BY RETIREES BETWEEN THE AGES OF FIFTY-FIVE AND SIXTY-FIVE.**

1. As used in this section, unless the context otherwise requires:

a. "Health or medical insurance program" means a state health or medical group insurance plan for employees of the state.

b. "Member" means a member of the Iowa public employees' retirement system, who at the date of termination of employment is receiving full health or medical insurance benefits under the state's programs and is not receiving disability payments under the state employees' disability insurance program.

*Chapter 248 herein

**Item veto; see message at end of the Act

2. A member with at least ten years of membership service who retires on or after August 1, 1991, and before August 1, 1993, who applies to receive retirement benefits under this chapter prior to August 1, 1993, who has attained at least the age of fifty-five but is under the age of sixty-five at the time of retirement, and who was a participant in a health or medical insurance program in which the state makes contributions at the time of retirement, may continue to participate in that state health or medical insurance program as authorized by law. However, notwithstanding any other provision of law to the contrary, the state shall continue to pay the employer's portion of the premium under the program for the retiree at the rate paid for full-time state employees until the retiree discontinues participation in the program or attains the age of sixty-five, whichever occurs first. However, in order to have the state continue to pay the employer's portion of the premium, the member must send written notification to the department of personnel at any time from July 1, 1991, through April 1, 1992, of the intent to retire and the anticipated date of retirement.

3. If a member continues participation in a health or medical insurance program and the state pays premiums as authorized in subsection 2, the member is not eligible to accept further employment in which the state or a political subdivision of the state is the employer.

4. A state department shall not be required to delete more than its proportionate share of all general fund positions vacated due to the incentive for retirement established in subsection 2. All positions vacated by a member exercising the rights established in subsection 2 shall be deleted, and the savings, as determined by the department of management, shall revert to the general fund of the state in a manner specified by the department of management, except that the portion of the savings which represents the cost of the employer's portion of a member's premium payable under this section shall not revert but shall be transferred to the department of personnel to defray the costs of implementing this section. However, if an affected department determines that the vacancy may be detrimental to critical services provided to the public, the affected department may, with the approval of the department of management, exchange a position or positions determined by the department of management to be of an equal value, to be deleted. If a position is not available for exchange, the department may, with the approval of the director of the department of management, retain and fill the position.*

Sec. 633. It is the intent of the general assembly, in the event that revenue estimates decline, that the governor consider making selective recommendations to a special session of the general assembly prior to exercising the authority under section 8.31. Further, that a reduction in spending shall not exceed 1 percent for a decline in revenues of \$33,000,000, or 2 percent for a decline in revenues of \$66,000,000.

Sec. 634. It is the intent of the general assembly that beginning with the fiscal year beginning July 1, 1992, the governor shall propose and the general assembly shall pass a budget in which ongoing expenditures do not exceed ongoing revenues.

DIVISION VII
MISCELLANEOUS APPROPRIATIONS

Sec. 701. 1991 Iowa Acts, Senate File 529,** section 102, subsection 1, is amended to read as follows:

1. For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

	\$	993,462
		1,033,462
	FTEs	17.00

Sec. 702. 1991 Iowa Acts, Senate File 529,** section 114, subsection 1, is amended to read as follows:

1. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

*Item veto; see message at end of the Act
**Chapter 268 herein

.....	\$	10,825,147
.....		<u>7,989,147</u>

Sec. 703. 1991 Iowa Acts, Senate File 529,* section 116, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,050,932
.....		<u>7,440,932</u>
.....	FTEs	138.55

Approved May 31, 1991, except the items which I hereby disapprove and which are designated as Section 103, subsection 8 in its entirety; Section 103, subsection 10 in its entirety; Section 103, subsection 13 in its entirety; Section 103, subsection 16 in its entirety; Sections 105 and 106 in their entirety; that portion of Section 114, subsection 1 which is herein bracketed in ink and initialed by me; Section 114, subsections 6, 7, and 8 in their entirety; that portion of Section 114, subsection 14 which is herein bracketed in ink and initialed by me; Section 120, subsection 2 in its entirety; Section 125, subsection 4 in its entirety; that portion of Section 129, subsection 3 which is herein bracketed in ink and initialed by me; Section 130, subsection 4 in its entirety; Section 132, subsection 1, paragraph c in its entirety; that portion of Section 132, subsection 1, paragraph h which is herein bracketed in ink and initialed by me; Section 132, subsections 2 and 3 in their entirety; section 137 in its entirety; Section 206 in its entirety; Section 210, subsection 1, paragraph a, unnumbered and unlettered subparagraphs 1 and 2 in their entirety; Section 212, subsection 1 in its entirety; those portions of Section 212, subsection 2 which are herein bracketed in ink and initialed by me; Section 213, in its entirety; Section 214, subsection 2, unnumbered and unlettered paragraph 2 in its entirety; Section 214, subsection 9 in its entirety; Section 229 in its entirety; Section 231 in its entirety; Section 234 in its entirety; Sections 250, 251, 252, and 253 in their entirety; Section 255 in its entirety; Section 303, subsection 2 in its entirety; Sections 411 and 412 in their entirety; Sections 416, 417, 418, and 419 in their entirety; Section 423 in its entirety; Section 505 in its entirety; Section 507, subsections 9 and 10 in their entirety; Section 507, subsections 12 and 13 in their entirety; Section 507, subsections 15, 16, 17, and 18 in their entirety; Sections 514, 515, and 516 in their entirety; Section 525 in its entirety; Section 601 in its entirety; and Section 632 in its entirety. 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 House File 479, an Act relating to appropriations for state departments, agencies, programs, funds, including the department of human services, education programs and agencies, the department of economic development, justice-related programs and agencies, and INTERNET, and adjusting the school foundation aid program, adjusting certain standing appropriations, increasing the cigarette and tobacco products tax, providing for certain fees, decreasing the time period for declaring certain funds unclaimed, making relating statutory changes, and providing for effective and applicability dates.

This Act appropriates funds for a significant share of the entire state budget. I have several significant concerns with this bill, and have tried to address them to the extent of my authority. Spending reductions achieved by my action on this Act total \$16.8 million.

I am disappointed that the General Assembly failed to come to grips with the magnitude of the financial circumstances we face. In addition to appropriating moneys for a salary increase

*Chapter 268 herein

which the state of Iowa cannot afford, the General Assembly has deliberately underfunded several human services entitlements and has provided funding for new programs which is not available. If enacted in its current form, House File 479 would result in at least \$12 million in known future supplemental appropriations. Where possible, the language that creates these deficits has been disapproved, thus in some cases freezing the amounts for reversion to the general fund and in others preventing future supplementals. These savings amount to \$6.1 million.

Furthermore, this Act does not provide sufficient funding to adequately fund some standing appropriations. Most standing unlimited appropriations exist because they are legal obligations of the state that occur in amounts that are not predictable.

The state is still liable for the expense unless the statutory requirements which create those expenses are changed. Therefore, the amount "saved" through this budget practice may not materialize. I have disapproved these items where appropriate and necessary to return them to the status of standing unlimited appropriations.

The total amount spent in this Act and its companion, Senate File 529, far exceeds the resources available for fiscal year 1992. Given the revised revenue estimates for fiscal years 1991 and 1992, an adjustment which the General Assembly was forewarned of prior to adjournment, it will be necessary to employ an across-the-board cut to balance the budget in fiscal year 1992. Because of the certainty of an across-the-board cut, I have also disapproved several provisions in order to assure that funding for education will not be reduced disproportionately.

House File 479 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 103, subsection 8, in its entirety. This provision would provide medical assistance coverage for adult pancreas and liver transplants. Similar language which was included in Senate File 532 was disapproved earlier this year. As stated in the message to Senate File 532, the safety, effectiveness and reasonableness of adult liver transplants is clearly established and recognized by Medicare while pancreas transplants are still considered investigational. House Joint Resolution 10 provides for the payment of adult liver transplants, therefore, the effect of this item veto is to only disallow coverage of adult pancreas transplants.

I am unable to approve the item designated as Section 103, subsection 10, in its entirety. This provision would appropriate \$28,000 to fund the Prevention of Disabilities Council established in Senate File 342. This funding would duplicate the appropriation contained in Senate File 342 which I have already approved.

I am unable to approve the item designated as Section 103, subsection 13, in its entirety. Copayments were recommended and approved beginning in fiscal year 1991 to apply to all mandatory provider groups under the Medicaid program. This provision would eliminate copayments for services from all mandatory provider groups except physicians. Requiring copayments for services provides an incentive to Medicaid recipients not to overuse services. The copayment requirement should not be limited to physicians.

I am unable to approve the item designated as Section 103, subsection 16, in its entirety. This section would provide \$25,000 to study the efficacy of providing nurse midwife services to Medicaid recipients. Federal law currently requires payment for certified nurse midwife services under the Medicaid program, therefore, the state's limited resources should not be used to study a service that is already being provided.

I am unable to approve the items designated as Sections 105 and 106, in their entirety. These provisions would create new programs to provide health insurance continuation assistance and other support services for persons with HIV and AIDS at a total cost of \$120,000. While there

is merit in both of these programs, state funds are not available to start new programs at this time. I have directed the Department of Public Health to consider including both programs in its next grant application for federal HIV/AIDS funding. This would add to the medical and support services available to persons with HIV/AIDS through the Medicaid and community based waiver program.

I am unable to approve the designated portion of Section 114, subsection 1. This provision would require the department to establish thirty additional enhanced residential treatment beds for children in foster care. The estimated cost for this proposal may exceed \$1 million, which would create further deficits in the foster care program.

I am unable to approve the item designated as Section 114, subsection 6, in its entirety. This provision would authorize the expansion of services available under Medicaid for day treatment services provided by psychiatric medical institutions for children. I cannot support adding new services to the Medicaid program, particularly when no additional dollars were provided to fund them.

I am unable to approve the items designated as Section 114, subsections 7 and 8, in their entirety. These provisions would require the Department of Human Services to develop a therapeutic foster care pilot program at a total cost of nearly \$515,000 including evaluation. Again, this is a new program which the state simply cannot afford at this time.

I am unable to approve the designated portion of Section 114, subsection 14. This provision would apportion to providers any excess federal dollars received as a result of changes in the group foster care maintenance and service definitions. This provision would be difficult to implement since the federal funds received would not be known until late in the year or possibly next year. In any event, should a surplus occur, the funding that remains should revert and be subject to the regular appropriation process.

I am unable to approve the item designated as Section 120, subsection 2, in its entirety. This provision would transfer \$40,000 from the Veterans Home appropriation to the Veterans Affairs Division of Public Defense to computerize Veterans Affairs records. Given the fiscal constraints at this time, spending for this purpose cannot be approved.

I am unable to approve the item designated as Section 125, subsection 4, in its entirety. This provision directs the Department of Human Services to adopt rules providing for reimbursement of supervised apartment living and cooperative housing arrangements under state supplementary assistance effective July 1, 1992. While the language in this provision suggests that the supplemental per diem would be available only in situations involving certain populations of persons receiving state supplementary services, it would have to be extended to all supplemental security income eligible persons receiving services in those facilities. Estimates of providing supplemental payments to all who would be eligible are as high as \$11.7 million, far beyond the state's ability to fund.

I am unable to approve the designated portion of Section 129, subsection 3. This provision authorizes the Department of Human Services to hire additional field staff regardless of the budget impact. The department should fill field staff positions as the need arises and in accordance with the process that applies to all agencies of state government. I cannot approve provisions which would cause the department to exceed its authorized spending level.

I am unable to approve the item designated as Section 130, subsection 4, in its entirety. This provision would authorize the Developmental Disabilities Council to spend \$30,000 of state funds on a computerized information and referral project. This program has been funded with federal dollars in the past. Given the current fiscal constraints, spending for this purpose cannot be approved.

I am unable to approve the item designated as Section 132, subsection 1, paragraph c, in its entirety. This section would provide a differential per diem for new short-term services provided by psychiatric medical institutions for children at up to 120 percent of the current level of reimbursement. The estimated cost of providing this higher level of payment is approximately \$286,000 for which no appropriation is provided.

I am unable to approve the designated portion of Section 132, subsection 1, paragraph h. This provision would allow the rate of reimbursement to nursing facilities to range up to the 74th percentile if funds are available. Since the availability of "excess" funds to increase the reimbursement rate cannot be determined until the end of the fiscal year, any adjustment would be more appropriately handled in the budget for next year.

I am unable to approve the items designated as Section 132, subsections 2 and 3, in their entirety. These provisions would provide a two percent increase for state supplementary assistance providers. The estimated cost of providing this increase is \$2,900,000, for which no appropriation was provided.

I am unable to approve the item designated as Section 137, in its entirety. This provision would rescind a rule requiring the Department of Human Services to reimburse vendors directly for the cost of providing transportation to nursing residents who utilize their services to obtain medical care. These costs can be and are included by most nursing facilities in their costs which are submitted to the department and which are used to determine their reimbursement from the state.

I am unable to approve the item designated as Section 206, in its entirety. This provision would reduce the educational excellence program by \$6,118,962. This program is the most important initiative for improving the quality of education in Iowa and it would be a mistake to significantly reduce the level of funding to it.

I am unable to approve the item designated as Section 210, subsection 1, paragraph a, unnumbered and unlettered subparagraph 1. This provision would prohibit the Board of Regents from seeking reimbursement from the institutions to finance critical leadership activities by the board.

I am unable to approve the item designated as Section 210, subsection 1, paragraph a, unnumbered and unlettered subparagraph 2. This provision would require the Board of Regents to permit KUNI to broadcast in the Central Iowa area. This proposal should be submitted to the Board of Regents for consideration and the board should determine whether the proposal is appropriate for the entire public radio network in the state.

I am unable to approve the item designated as Section 212, subsection 1, in its entirety, and the designated portions of Section 212, subsection 2, which contain salary policy for professional and scientific staff and faculty under the Board of Regents. The language requires payment of the arbitrator's award to the United Faculty at the University of Northern Iowa, while providing a lesser salary increase to faculty at the University of Iowa and Iowa State University. I am unable to approve these provisions for the same reasons indicated in the veto message for Senate File 548. By disapproving these provisions, the Regents will revert \$10.6 million to the general fund of the state at the end of fiscal year 1992.

I am unable to approve the item designated as Section 213, in its entirety. This provision requires the Board of Regents to borrow funds to finance energy conservation projects which have an average payback period of six years. The Board of Regents should not be required to bond for these projects when they have other options available for this purpose.

I am unable to approve the item designated as Section 214, subsection 2, unnumbered and unlettered paragraph 2, in its entirety. This provision would appropriate \$10,000 to the State Historical Society to operate and maintain Plum Grove. Plum Grove is a property of the Department of Natural Resources. While I support a transfer of this responsibility to the Department of Cultural Affairs, given the state's fiscal condition, I cannot approve this appropriation.

I am unable to approve the item designated as Section 214, subsection 9, in its entirety. This provision appropriates \$30,000 to the Danish Heritage Museum. The museum has received \$99,000 in the past four years from the Historic Resource Development Program and state cultural grants. Both of these funding sources will be available to the museum in fiscal year 1992.

I am unable to approve the item designated as Section 229, in its entirety. This provision requires the Iowa College Student Aid Commission to reduce the amount of subvention paid for the Osteopathic Subvention Program. The amount of the reduction would be twice as much as provided under current law when the Osteopathic School does not meet a specified level of resident enrollment. This creates an unfair, double penalty.

I am unable to approve the items designated as Sections 231 and 601, in their entirety. These provisions would allow the State Treasurer to invest up to forty percent of the Loan Reserve Fund of the Iowa College Student Aid Commission in tax exempt investments issued by an agency of the state for the construction or improvement of state facilities and would allow the Department of General Services to establish fee schedules for the use of those facilities. The State Treasurer already has full authority to make prudent investments of the Loan Reserve Funds. With the recent collapse of the nation's largest student loan guarantor, the financial community has become extremely sensitive about the solvency of loan reserve funds.

I am unable to approve the item designated as Section 234, in its entirety. This provision would require the Board of Regents to develop and adopt a policy to govern the sale of WOI-TV. Governance of Iowa State University should properly remain with the State Board of Regents and should not be prescribed by the legislature.

I am unable to approve the items designated as Sections 250, 251 and 252, in their entirety. These sections require that \$500,000 of Phase III, Educational Excellence moneys, be used for supplemental pay plans in districts which provide for additional work assignments relating to college bound student support programs for minority students. Plans for the expenditure of Phase III are developed by a committee appointed by the board of directors of a school district. The committee is encouraged to develop plans which include performance-based and supplemental pay plans. These provisions would circumvent the locally controlled plan development process by identifying a specific Phase III activity.

I am unable to approve the item designated as Section 253, in its entirety. This provision would allow Cultural Grant funds to carryover through August of the following fiscal year. This is in conflict with a provision which I have already approved in House File 639 which allows the funds to carryover for a full fiscal year.

I am unable to approve the item designated as Section 255, in its entirety. This provision specifies the duties of a Patent Librarian. Neither the funds nor the position were included in the State Library's budget, therefore, a delineation of the duties of a patent librarian is unnecessary.

I am unable to approve the item designated as Section 303, subsection 2, in its entirety. This provision would provide funding to community colleges for apprenticeship programs. I support the establishment of apprenticeship programs and would encourage trade associations to sponsor such programs. Given the current financial condition of the state, I cannot approve new funding for this purpose.

I am unable to approve the items designated as Sections 411, 416, 417, 418 and 419, in their entirety. These provisions would create a new Farm Assistance Fund and establish new \$60 fees to file and record various documents relating to agricultural land. The fees would be placed in a fund separate from the general fund and earmarked to support the program. This practice is inconsistent with our goal to move toward GAAP (generally accepted accounting principles) and imposes excessive new fees on the recording of certain agricultural documents.

I am unable to approve the item designated as Section 412, in its entirety. This provision would reverse action taken earlier in the session which transferred odometer fraud receipts into the general fund. The effect would be to undo the progress that has recently been made in reducing the number of special funds.

I am unable to approve the item designated as Section 423, in its entirety. This provision would limit the authority of the Department of Corrections to determine the use of new beds planned for the women's facility at Mitchellville. The Department of Corrections should retain the flexibility to decide whether the new beds may be used for male or female offenders.

I am unable to approve the items designated as Sections 505, 514, 515 and 516, in their entirety. These sections change the current standing appropriations for the mental health commission of inquiry and non-resident mentally ill transfer and commitment to regular appropriations. While I support a review of all standing unlimited appropriations and eliminating them whenever possible, if a fixed amount is appropriated, it must be sufficient to cover the costs of the program. The appropriations provided are seriously underfunded based on the current year's expenditures for the programs.

I am unable to approve the designated portions of Section 507, which would convert a number of other standing unlimited appropriations to fixed appropriations. Section 507, subsection 9, provides funds for court costs incurred by or on behalf of the state; Section 507, subsection 10, provides funds for emergency repairs or in the event of natural disaster relief for state citizens; Section 507, subsection 12, provides funds for cost of habeas corpus proceedings; Section 507, subsection 13, provides funds for payment of claims and awards against the state; Section 507, subsection 15, provides funds for compensation of officers and enlisted men in the National Guard called up when there is a disaster declared by the Governor; Section 507, subsection 16, provides funds for worker's compensation claims due to employees of the state. Again, I support the elimination of standing unlimited appropriations wherever possible, however, in all of these instances, the costs to the state cannot be controlled nor can they be fully anticipated. For example, it is impossible to anticipate the number of times The Iowa National Guard will be called up for disasters or emergencies. We cannot be limited in our ability to call on the Guard to provide assistance.

I am unable to approve the item designated as Section 507, subsection 17, in its entirety. This provision would eliminate the funding in fiscal year 1992 for the Telecommunications Network. This project is an important investment in the education system of Iowa that will pay dividends in economic development for years to come. This is a commitment that has already been made; a contract has been signed and federal funds secured. Only \$3 million of the \$5 million standing appropriation will be expended in fiscal year 1992.

I am unable to approve the item designated as Section 507, subsection 18, in its entirety. This provision would reduce by one-half of one percent the state aid appropriated to Iowa schools under the school foundation program. While future action may be necessary to reduce state spending, including spending for state aid to Iowa schools, education remains a top priority. I am unable to approve a reduction in basic school budgets at this time.

I am unable to approve the item designated as Section 525, in its entirety. This language would shift the cost of extraditing prisoners who have escaped across state lines from a specific appropriation to the Governor's office operating budget. These expenses are uncontrollable and cannot be anticipated, therefore, they should remain in a separate appropriation.

I am unable to approve the item designated as Section 632, in its entirety. This language provides for the continuation of health insurance benefits as an incentive for early retirement. Individuals between ages 55 and 65 who retire over the next two years would continue to receive health insurance benefits until age 65.

While I support the concept of early retirement as a voluntary means of reducing the work-force, this program is extremely costly and without clear result. There would be savings associated with the positions vacated through early retirement; however, many of these retirements would have occurred in any case. The state would then be paying for benefits unnecessarily. Moreover, with health care costs escalating so rapidly, the future cost of this program is unknown but potentially extreme. The program would continue to drain state resources for twelve years in the future. This is a risk the state cannot assume at this time.

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 House File 479 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, Governor

CHAPTER 268

**APPROPRIATIONS TO STATE DEPARTMENTS AND AGENCIES
AND RELATED PROVISIONS
S.F. 529**

AN ACT relating to and making appropriations to state departments, agencies, funds, and certain other entities, making related statutory changes, and providing effective dates.

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

**DIVISION I
ADMINISTRATION**

Sec. 101. There is appropriated from the general fund of the state to the office of the secretary of state for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,123,450
.....	FTEs	50.00

Sec. 102. There is appropriated from the general fund of the state to the offices of the governor and the lieutenant governor for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

.....	\$	993,462
.....	FTEs	17.00

2. For the governor's expenses and the lieutenant governor's expenses connected with office:

.....	\$	2,850
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3. For salaries, support, maintenance, and miscellaneous purposes for the governor's quarters at Terrace Hill, and for not more than the following full-time equivalent positions:

.....	\$	94,493
.....	FTEs	3.00

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 and actual expenses of committee, council, or task force members as specified pursuant to section 7E.6. However, a member shall not receive a per diem if the member is receiving a salary as a full-time public employee, but members shall be reimbursed for actual and necessary expenses.

As a condition, limitation, and qualification of this appropriation, the ad hoc committees, councils, and task forces appointed by the governor shall be subject to chapters 21 and 22 and the members shall be so informed:

.....	\$	1,900
5. For salaries, support, maintenance, and miscellaneous purposes for the office of administrative rules coordinator, and for not more than the following full-time equivalent positions:		
.....	\$	96,900
.....	FTEs	2.00
6. For payment of Iowa's membership in the national governors' conference:		
.....	\$	80,985

Sec. 103. There is appropriated from the general fund of the state to the office of the governor's drug enforcement and abuse prevention coordinator for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	159,596
.....	FTEs	8.00

2. For the Iowa substance abuse clearinghouse in Cedar Rapids for staff, materials, and operating expenses:

.....	\$	38,000
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As a condition, limitation, and qualification of this appropriation, the drug enforcement and abuse prevention coordinator shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used for the costs of the clearinghouse.

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, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	791,614
.....	FTEs	28.00

Sec. 105. There is appropriated from the general fund of the state to the executive council for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	41,855
.....	FTEs	1.12

Sec. 106. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

.....	\$	75,848
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2. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... \$ 17,545

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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 587,133

..... FTEs 18.00

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 169,305

..... FTEs 19.00

3. MATERIALS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 86,583

..... FTEs 3.30

4. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 3,793,295

..... FTEs 150.00

5. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 482,134

..... FTEs 22.00

6. RECORDS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 407,208

..... FTEs 13.00

7. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 6,861,332

..... FTEs 158.00

It is the intent of the general assembly that \$269,829 be used for increased capacity of the mainframe services which will improve the availability, response time, and improve the workload.

8. The department of general services shall not change the appropriations for the purposes designated in subsections 1 through 7 from the amounts appropriated under those subsections 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.

9. Savings achieved in providing telecommunications services shall be used by the department of general services to increase efficiencies in the provision of those services. The department of general services shall report semiannually to the chairpersons and the ranking members of the joint administration appropriations subcommittee and to the legislative fiscal

bureau. The reports shall include a listing of the projects and efficiencies undertaken, the cost of each project, and the benefits, including the projected savings on an annual basis and for the life of the efficiency improvement.

10. The division administrators within the department of general services shall cooperate with the legislative fiscal bureau to develop definitions of goals and performance measures for the divisions and programs selected by the administration appropriations subcommittees or by the legislative fiscal bureau. Data for these measures shall be collected and provided to the legislative fiscal bureau in a timely manner. The department of general services shall also cooperate with the department of management and provide performance data in a timely manner. The department of management shall regularly provide copies of its performance report to the legislative fiscal bureau.

Sec. 108. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:
..... \$ 1,480

2. UTILITY COSTS

For payment of utility costs:
..... \$ 1,816,740

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 100 percent payback within a 24-month period. The department of general services shall report quarterly to the chairpersons and ranking members of the administration appropriations subcommittee, and to the legislative fiscal bureau, concerning the savings generated as a result of implementation of these projects.

Notwithstanding section 18.12, subsection 11, any excess funds appropriated for utility costs in this subsection shall not be deposited in the general fund of the state on June 30, 1992, and these funds are to be used for implementation of energy conservation projects having a payback of 100 percent within a 2-year to 6-year period. The department of general services shall report semiannually to the chairpersons and ranking members of the joint administration appropriations subcommittee and to the legislative fiscal bureau. The reports shall include a listing of the projects undertaken, the cost of each project, and the projected savings on an annual basis and for the life of the project.

3. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16:
..... \$ 544,000

4. FIRE SAFETY

For payment of costs incurred in providing for additional fire safety measures:
..... \$ 67,000

The moneys appropriated by this subsection may be used for, but are not limited to, the provision of alarm warning systems and additional means of egress. Moneys provided under this subsection shall not be used to defray the costs of deferred maintenance or for any purpose other than improving fire safety.

Sec. 109. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 952,840
..... FTEs 30.00

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, 1991, and ending June 30, 1992, which are legally payable from this fund.

3. From the centralized purchasing permanent revolving fund established by section 18.9 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	580,507
.....	FTEs	15.00

4. The remainder of the centralized purchasing permanent 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, 1991, and ending June 30, 1992, which are legally payable from this fund.

5. From the vehicle dispatcher revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	595,786
.....	FTEs	17.00

6. The remainder of the vehicle dispatcher revolving fund is appropriated for the purchase of gasoline, gasohol, 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, 1991, and ending June 30, 1992, which are legally payable from this fund.

7. The vehicle dispatcher shall report, not later than January 2, 1992, to the chairpersons and the ranking members of the joint administration appropriations subcommittee and to the legislative fiscal bureau regarding the efficiencies of the vehicle fleet and the changes in the efficiencies. The report shall include the cost per mile, fuel efficiencies, maintenance costs, useful life, the costs of extending the useful life, and other measures which the vehicle dispatcher or the legislative fiscal bureau finds appropriate. The information shall be reported for each general type of vehicle. The overhead costs shall also be reported with the total costs of the vehicle dispatcher operations.

8. The department of general services shall report semiannually in January and July, the results of the project testing the potential for burning an 85 percent ethanol mixture in the state's test vehicles. The report shall include, but is not limited to, purchase costs, maintenance costs, average mileage, vehicle life, problems encountered, and likely benefits.

9. The department of general services shall develop, in consultation with the legislative fiscal bureau, a methodology for directly billing state agencies for the services provided and for recovering depreciation costs. The department shall collect information showing what the billings would be for each state agency if the methodology were implemented and report the findings to the joint administration appropriations subcommittee and to the legislative fiscal bureau by December 1, 1991. The department shall inform all state agencies that will be affected by this methodology as to the potential costs if the methodology is implemented for the fiscal year beginning July 1, 1992.

Sec. 110. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, office services, data-word processing, and insurance cost management, and for not more than the following full-time equivalent positions:

.....	\$	1,161,871
.....	FTEs	29.65

2. FIELD OPERATIONS

For salaries for the personnel services, employment law/labor relations, and development, and for not more than the following full-time equivalent positions:

.....	\$	1,328,624
.....	FTEs	44.60

3. PROGRAM MANAGEMENT

a. For salaries for employment and compensation and benefits, and for not more than the following full-time equivalent positions:

.....	\$	1,101,552
.....	FTEs	34.00

b. For salaries for the administration of the workers' compensation fund and for not more than the following full-time equivalent positions:

.....	\$	140,787
.....	FTEs	4.00

Any funds received by the department for workers' compensation purposes other than the funds appropriated in paragraph "b" shall be used only for the payment of workers' compensation claims.

The funds for support, maintenance, and miscellaneous purposes for personnel assigned to field operations under subsection 2 and program management under subsection 3 are payable from the appropriation made in subsection 1.

As a condition, limitation, and qualification of this appropriation, the department of personnel shall report quarterly to the chairpersons and ranking members of the joint administration appropriations subcommittee concerning the number of vacancies in existing full-time equivalent positions and the average time taken to fill the vacancies. The reports shall include quarterly and annual averages organized according to state agency and general occupational category as established by the federal equal employment opportunity commission. All departments and agencies of the state shall cooperate with the department in the preparation of the reports.

Sec. 111. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

.....	\$	32,829
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Sec. 112. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

.....	\$	330,667
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Sec. 113. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

.....	\$	3,003,421
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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.

2. For design, development, and implementation of the data information system:

.....	\$	783,000
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Notwithstanding section 8.33, funds appropriated in this subsection that remain unencumbered or unobligated on June 30, 1992, shall not revert to the Iowa public employees' retirement system fund but shall be available for expenditure in subsequent years to complete the data information system.

The department of personnel shall report on or before January 1, 1992, and each 6 months thereafter until the data information system is fully implemented to the chairpersons and ranking members of the joint administration appropriations subcommittee and to the legislative fiscal bureau, on the progress made in implementing the data information system. The report shall include, but is not limited to, moneys spent and encumbered, progress made relative to the scheduled implementation, and benefits or anticipated benefits of the system.

The department of personnel shall report to the chairpersons and ranking members of the joint administration appropriations subcommittee and to the legislative fiscal bureau the results and effectiveness of the wellness program pilot project developed and tested by the department of personnel in conjunction with the state department of transportation. The department of personnel shall submit the reports in June and December of each year of the project's existence and shall submit a final report upon completion of the project.

The department of personnel shall report to the chairpersons and ranking members of the joint administration appropriations subcommittee and to the legislative fiscal bureau the results and effectiveness of the pilot project regarding the automation of hiring procedures. The department of personnel shall submit progress reports in June and December during the period of existence of the project, and shall submit a final report upon completion of the project.

The department of personnel shall submit, annually, a report to the chairpersons and ranking members of the joint administration appropriations subcommittee and to the legislative fiscal bureau regarding the results of the state's top achievement recognition program. The reports submitted shall include, but are not limited to, identification of the recipients, a description of the meritorious achievements, and the awards conferred.

Sec. 114. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsections 1 through 6:

.....	FTEs	677.60
1. AUDIT AND COMPLIANCE		
For salaries, support, maintenance, and miscellaneous purposes:	\$	10,825,147
2. FINANCIAL MANAGEMENT		
For salaries, support, maintenance, and miscellaneous purposes:	\$	6,750,450
3. INFORMATION AND MANAGEMENT SYSTEMS		
For salaries, support, maintenance, and miscellaneous purposes:	\$	2,006,656
4. LOCAL GOVERNMENT SERVICES		
For salaries, support, maintenance, and miscellaneous purposes:	\$	1,383,566
5. TECHNICAL SERVICES		
For salaries, support, maintenance, and miscellaneous purposes:	\$	2,172,978
6. ADMINISTRATION		
For salaries, support, maintenance, and miscellaneous purposes:	\$	1,033,213
7. INSURANCE PREMIUMS		
For payments of medical, dental, and life insurance premiums as required in section 79.23:	\$	350,000

8. SECURITY DEPOSITS

For payments of refunds on security deposits as required in section 422.52:
..... \$ 500,000

9. The department of revenue and finance shall not change the appropriations for the purposes designated in subsections 1 through 8 from the amounts appropriated in those subsections 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.

The director shall report annually to the legislative fiscal committee, the legislative fiscal bureau, and the chairpersons and ranking members of the joint administration appropriations subcommittee concerning the effectiveness of the tax audits and investigations conducted, the moneys expended, the tax obligations established, and taxes collected as a result of the tax collection and enforcement efforts of the department.

The department of revenue and finance shall report quarterly to the legislative fiscal bureau concerning progress in the implementation of generally accepted accounting principles, including determination of reporting entities, fund classifications, modification of the Iowa financial accounting system, progress on preparing a comprehensive annual financial report, and the most current estimate of the general fund balance based on current generally accepted accounting principles.

10. As a condition, limitation, and qualification of the appropriations made in this section, the department of revenue and finance, utilizing the resources available through the governor's planning council for developmental disabilities and the commission of persons with disabilities, shall study and determine the process by which persons with disabilities will deduct expenses they pay for personal assistance services that enable them to be employed. For purposes of this subsection, "disability" means a severe, disabling condition that persists indefinitely, and causes problems in language, learning, mobility, or capacity for self-sufficiency. The department shall file a report of its study with the governor and the general assembly by January 15, 1992.

Sec. 115. There is appropriated from the motor vehicle fuel tax fund created by section 324.77 to the department of revenue and finance for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the provisions of chapter 324 and the motor vehicle use tax program:
..... \$ 1,049,076

Sec. 116. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... \$ 7,050,932
..... FTEs 138.55

Sec. 117. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... \$ 1,574,880
..... FTEs 30.00

Sec. 118. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:
 \$ 55,000

The department of management shall report to the chairpersons and ranking members of the senate and house committees on appropriations, the chairpersons and ranking members of the joint administration appropriations subcommittee, the legislative fiscal committee, and the legislative fiscal bureau, the number of furloughs and the number of layoffs that occur in each state agency, the savings associated with those furloughs and layoffs, the effect of the furloughs and layoffs on services provided by the state agency, and other relevant information. The department shall provide a year-end report summarizing the information for fiscal year 1991 on or before September 1, 1991. The department shall continue this reporting for fiscal year 1992. A report on the first 5 months of the fiscal year is due by January 2, 1992, and a year-end report is due by September 1, 1992.

Sec. 119. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:
 \$ 69,600

2. LAW ENFORCEMENT TRAINING REIMBURSEMENTS

For reimbursements to local law enforcement agencies for the training of officers who resign pursuant to section 384.15, subsection 7:
 \$ 116,850

Sec. 120. There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 220,340
 FTEs 3.15

Sec. 121. Notwithstanding section 8.55, the moneys in the Iowa economic emergency fund are transferred to the general fund of the state if necessary to avoid a deficit in the general fund of the state and to defray expenses at the conclusion of the fiscal year beginning July 1, 1991, and ending June 30, 1992.

**Sec. 122. NEW SECTION. 7.15A APPOINTMENTS.*

The governor, when appointing a person to fill a full-time position for a division, department, board, commission, or council of the state shall provide all necessary information regarding the appointive position to the department of personnel.

The department of personnel shall give public notice of recruitment for the position, and the position shall remain open for at least fifteen calendar days following the date of public notice.

*Recruitment for the position may be limited to a specific geographic area or to persons with specific background qualifications, or both. Recruitment announcements shall specify the title, salary range, method for making application, closing date for receiving applications, and any specific availability or background requirements. Recruitment announcements shall be posted in conspicuous locations throughout the relevant state agency and in the offices of the division of job service of the department of employment services. Recruitment announcements shall also be sent to newspapers, radio stations, educational institutions, professional and vocational associations, and other recruitment sources as funds allow.**

Sec. 123. Section 12.8, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Investment income may be used to maintain compensating balances, and pay transaction costs for investments made by the treasurer of state, and pay administrative and related overhead costs incurred by the treasurer of state in the management of money. The treasurer of

*Item veto; see message at end of the Act

state shall coordinate with the affected departments to determine how compensating balances, ~~or~~ transaction costs, or money management and related costs will be established. All charges against a retirement system must be documented and notification of the charges shall be made to the appropriate administration of the retirement system affected.

Sec. 124. USE OF RECOVERED ADMINISTRATIVE FUNDS. The funds collected as administrative and related overhead costs under section 12.8 for the fiscal year beginning July 1, 1991, shall be credited to the general fund of the state. The treasurer of state shall report to the chairpersons and ranking members of the joint administration appropriations subcommittee, to the legislative fiscal committee, and to the legislative fiscal bureau, as to the amounts collected. It is the intent of the general assembly that commencing with the fiscal year beginning July 1, 1992, the administrative and related overhead costs recovered shall become part of the budget of the office of treasurer of state.

Sec. 125. WORLD FOOD PRIZE. There is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the continued funding of Iowa's participation in the funding of the world food prize:
..... \$ 250,000

It is the intent of the general assembly that this appropriation of public funds will result in a commitment for additional funding for the world food prize from private sources.

The treasurer of state shall only provide the funds appropriated in this section to the world food prize foundation if sufficient private funds are raised to maintain the world food prize foundation in Iowa and the foundation is structured to include representation that reflects environmental concerns and sustainable agriculture.

Sec. 126. SPECIAL OLYMPICS FUND. There is appropriated from the general fund of the state to the Iowa special olympics fund for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa special olympics fund:
..... \$ 5,000

1. An Iowa special olympics fund is established in the office of the treasurer of state, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year.

2. The moneys in the Iowa special olympics fund shall be expended at the request of the honorary chairperson of the Iowa special olympics.

Sec. 127. Section 421.17, Code 1991, is amended by adding the following new subsection: NEW SUBSECTION. 32. INDIRECT COST ALLOCATION.

a. To develop and administer an indirect cost allocation system for state agencies. The system shall be based upon standard cost accounting methodologies and shall be used to allocate both direct and indirect costs of state agencies or state agency functions in providing centralized services to other state agencies. A cost that is allocated to a state agency pursuant to this system shall be billed to the state agency and the cost is payable to the general fund of the state. The source of payment for the billed cost shall be any revenue source except for the general fund of the state. If a state agency is authorized by law to bill and recover direct expenses, the state agency shall recover indirect costs in the same manner.

b. For the purposes of this subsection, "state agency" means a board, commission, department, including the department of revenue and finance, or other administrative office, institution, bureau, or unit of the state of Iowa. The term "state agency" does not include the general assembly, the governor, the courts, or any political subdivision of the state, or its offices and units.

DIVISION II
AGRICULTURE AND NATURAL RESOURCES
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 201. 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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE DIVISION

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

Table with 2 columns: Description and Amount. Rows include: 1,085,919; 56,367; 101,183; 56,367.

e. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

Table with 2 columns: Description and FTEs. Row: 38.20

f. As a condition, limitation, and qualification of the appropriation under paragraph "a", \$35,000 shall be allocated to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

g. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", \$140,000 and 5.00 FTEs shall be allocated to the statistics bureau to provide county-by-county information on land in farms, production by crop, acres by crop, and county prices by crop. This information shall be made available to the department of revenue and finance for use in the productivity formula for valuing and equalizing agricultural land.

2. FARM COMMODITY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

Table with 2 columns: Description and Amount. Rows include: 911,000; 21.0

b. As a condition, limitation, and qualification of the appropriation under paragraph "a", \$65,000 and 4.00 FTEs shall be used to support an office of renewable fuels which shall be established within the department. The purpose of the office is to support research and promotion of ethanol and other renewable fuels. These positions shall also be used to perform in-state promotion of Iowa grown crops.

c. As a condition, limitation, and qualification of the appropriation under paragraph "a", \$500 shall be allocated from the appropriation for reimbursement of a poultry association conducting a statewide poultry show. The poultry association shall submit a claim for reimbursement to the department which details their annual income and includes a statement of expenditures incurred for the statewide show.

3. FARMERS' MARKET COUPON PROGRAM

For salaries, support, maintenance, and miscellaneous purposes, to be used by the department to continue and expand the farmers' market coupon program by providing federal special supplemental food program recipients with coupons redeemable at farmers' markets, and for not more than the following full-time equivalent positions:

Table with 2 columns: Description and Amount. Rows include: 198,333; 1.0

4. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

Table with 2 columns: Description and Amount. Rows include: 3,879,715; 148.20

b. To the regulatory division to cover the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... \$ 645,901

5. LABORATORY DIVISION

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

..... \$ 727,274

As a condition, limitation, and qualification of the appropriation under this paragraph "a", \$20,000 shall be used for the purposes of conducting a statewide gypsy moth detection survey.

Also as a condition, limitation, and qualification of the appropriation under this paragraph "a", \$200,000 shall be allocated from the appropriation to Iowa state university for purposes of training commercial pesticide applicators.

b. To the laboratory division for the operations of the commercial feed programs:

..... \$ 691,675

c. To the laboratory division for the operations of the pesticide programs:

..... \$ 1,140,208

d. To the laboratory division for the operations of the fertilizer programs:

..... \$ 785,397

e. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 84.0

The amount of full-time equivalent positions allocated under this paragraph may be exceeded, if all of the following conditions are satisfied:

(1) Additional funding other than from the state general fund is available during the fiscal year beginning July 1, 1991, and ending June 30, 1992.

(2) The legislative council is notified of the additional funding and the number of full-time equivalent positions to be increased.

(3) The department of management approves the increase in full-time equivalent positions recommended by the legislative council.

6. SOIL CONSERVATION DIVISION

a. For salaries, support, maintenance, assistance to soil conservation districts, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 5,132,428

..... FTEs 175.52

b. To provide financial incentives for soil conservation practices in accordance with paragraph "c":

..... \$ 6,439,972

c. As a condition, limitation, and qualification of the appropriation under paragraph "b", the following requirements apply to the funds appropriated by paragraph "b":

(1) Not more than 5 percent may be allocated for cost sharing to abate complaints filed under section 467A.47 and 467A.48.

(2) 10 percent shall be allocated for financial incentives not exceeding 50 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 107.33A.

(3) The soil conservation district commissioners may allocate financial incentives not exceeding 60 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 50 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 30 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.

d. As a condition, limitation, and qualification of the appropriation under paragraph "b", \$250,000 shall be used for a stream degradation pilot project in western Iowa. However, only those counties which have levied the maximum rate of levy for rural county services under section 331.423, subsection 2, shall be eligible to participate in the pilot project.

e. The provisions of section 8.33 shall not apply to the funds appropriated by paragraph "b". Unencumbered or unobligated funds remaining on June 30, 1995, from funds appropriated under paragraph "b" for the fiscal year beginning July 1, 1991, shall revert to the general fund on September 30, 1995.

Sec. 202. 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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

To fund lamb and wool management education projects approved by the department at community colleges selected as project sites as provided in section 99E.32, subsection 3, paragraph "m":

..... \$ 200,000

Sec. 203. 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, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... \$ 400,000

**Sec. 204. 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, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For transfer to the department of plant pathology at Iowa state university of science and technology for purposes related to researching the multiflora rose virus in order to control or eradicate the multiflora rose:

..... \$ 25,000*

Sec. 205. There is appropriated from the funds available under section 99D.13 to the regulatory division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... \$ 174,090

INTERSTATE COMPACT ON AGRICULTURAL GRAIN MARKETING

Sec. 206. There is appropriated from the general fund of the state to the interstate agricultural grain marketing commission for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For carrying out duties of the commission as provided in Article IV of the interstate compact on agricultural grain marketing as provided in chapter 183:

..... \$ 60,000

*Item veto; see message at end of the Act

DEPARTMENT OF NATURAL RESOURCES

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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. OFFICE OF DIRECTOR

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	55,893
.....	FTEs	4.95

2. COORDINATION AND INFORMATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	725,672
.....	FTEs	33.95

3. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,588,181
.....	FTEs	118.15

4. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,377,899
.....	FTEs	216.52

As a condition, limitation, and qualification of the appropriation under this subsection, the department of natural resources shall construct a safety fence on the dam at Beeds lake in Franklin county.

5. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,617,265
.....	FTEs	59.71

6. ENERGY AND GEOLOGICAL RESOURCES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,323,941
.....	FTEs	59.62

7. ENVIRONMENTAL PROTECTION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,973,992
.....	FTEs	158.75

8. FISH AND WILDLIFE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	0
.....	FTEs	335.24

9. WASTE MANAGEMENT AUTHORITY

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	0
.....	FTEs	18.75

10. For reimbursement to federal agencies for cooperative contracts:

.....	\$	185,983
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11. 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, and for not more than the following full-time equivalent positions:

.....	\$	254,000
.....	FTEs	18.68

*12. For programs administered by the energy and geological resources division traditionally supported from the energy research and development fund:

.....	\$	216,000*
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Sec. 208. There is appropriated from the state fish and game protection fund to the division of fish and wildlife of the department of natural resources for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For administrative support:

.....	\$	2,663,106
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2. For the law enforcement bureau of the fish and wildlife division for salaries, support, maintenance, equipment, and miscellaneous purposes:

.....	\$	5,154,669
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3. For the fisheries bureau of the fish and wildlife division for salaries, support, maintenance, equipment, and miscellaneous purposes:

.....	\$	4,773,909
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4. For the wildlife bureau of the fish and wildlife division for salaries, support, maintenance, equipment, and miscellaneous purposes:

.....	\$	5,181,922
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5. For division management of the fish and wildlife division, for salaries, support, maintenance, equipment, and miscellaneous purposes:

.....	\$	184,848
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6. As a condition, limitation, and qualification of the appropriations under this section, if reductions in expenditures are determined to be necessary to avoid a budget deficit in the fish and game protection fund, the department shall take all actions necessary to avoid using license receipts or other income for capitals and acquisitions, unless the Code specifically designates the use or the receipts are required to match federal funds. The department shall not reduce personnel until all other actions necessitated by the expenditure reduction are exhausted.

Sec. 209. There is appropriated from the marine fuel tax receipts deposited in the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the parks and preserves division for maintenance and development of boating facilities and access to public waters:

.....	\$	450,000
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2. For deposit in the state fish and game protection fund for maintenance of boating access on lands managed by the fish and wildlife division:

.....	\$	150,000
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3. To fund capitals traditionally funded from marine fuel tax receipts for the purposes specified in section 324.79:

.....	\$	2,620,568
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Notwithstanding section 8.33, the unencumbered or unobligated balances of the amounts appropriated for purposes of this subsection for the fiscal year beginning July 1, 1991, shall revert on September 30, 1993.

4. a. To fund expenditures traditionally funded from marine fuel tax revenues, but not considered as capitals or operations:

.....	\$	750,000
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*Item veto; see message at end of the Act

b. As a condition, limitation, and qualification of the appropriation under paragraph "a", \$250,000 shall be appropriated from the fund to support natural lake preservation. The department shall award the amount to a city as defined in section 362.2 on a matching basis with the department contributing one dollar for each two dollars dedicated by the city, or the city acting in conjunction with a county, for natural lake preservation, if the money is dedicated on or after March 1, 1990. However, the city, or the city and county, must have dedicated at least \$500,000 of local funds in order to qualify for the award. The city must also be located in a county having a population of less than twelve thousand.

Sec. 210. There is transferred on July 1, 1991, from the fees deposited under section 321G.7 to the fish and game protection fund for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:
 \$ 100,000

Sec. 211. There is transferred on July 1, 1991, from the fees deposited under section 106.52 to the fish and game protection fund for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of maintaining boating access on lands managed by the fish and wildlife division of the department of natural resources:
 \$ 950,000

Sec. 212. There is transferred on April 1, 1992, from the fees deposited under section 321G.7 to the fish and game protection fund for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:
 \$ 100,000

Sec. 213. There is transferred on April 1, 1992, from the fees deposited under section 106.52 to the fish and game protection fund for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of administrating and enforcing navigation laws and water safety by the department of natural resources:
 \$ 950,000

Sec. 214. The department of agriculture and land stewardship and the department of natural resources, in cooperation as necessary with the department of management and the department of personnel, shall provide a list to the legislative fiscal bureau, on a quarterly basis, of all permanent positions added to or deleted from the departments' table of organization in the previous fiscal quarter. This list shall include at least the position number, salary range, projected funding source or sources of each position, and the reason for the addition or deletion. The legislative fiscal bureau may use this information to assist in the establishment of the full-time equivalent position limits contained in the appropriation bill for the departments.

Sec. 215. TRAVEL EXPENSES.

1. As a condition, limitation, and qualification of the funds appropriated in section 201 of this division, the department of agriculture and land stewardship shall not spend more than \$39,200 for expenses related to out-of-state travel, unless notification is provided to the chairpersons and ranking members of the agriculture and natural resources appropriations subcommittee of the committees on appropriations in the senate and house of representatives.

2. As a condition, limitation, and qualification of the funds appropriated in sections 207 and 208 of this division, the department of natural resources shall not spend more than \$145,000 for expenses related to out-of-state travel, unless notification is provided to the chairpersons and ranking members of the agriculture and natural resources appropriations subcommittee of the committees on appropriations in the senate and house of representatives.

Sec. 216. Notwithstanding section 17A.2, subsection 7, paragraph "g", the department of natural resources shall by rule establish prices of plant material grown at the state forest nurseries to cover all expenses related to the growing of the plants.

The department shall develop programs to encourage the wise management and preservation of existing woodlands and shall continue 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. 217. The laboratory division of the department of agriculture and land stewardship, the university of Iowa, and Iowa state university of science and technology shall cooperate together in developing a plan for sharing laboratory resources, eliminating duplication of efforts, and reducing the expenditures of moneys from the general fund of the state.

Sec. 218. Moneys granted pursuant to the council of great lakes governors regional biomass energy program shall be awarded to the department of agriculture and land stewardship to the extent permitted by federal law and policies adopted by the council of great lakes governors.

Sec. 219. The department of revenue and finance in cooperation with the department of agriculture and land stewardship and the department of natural resources shall track receipts to the general fund which have traditionally been deposited into the following funds:

1. The fertilizer fund created in section 200.9.
2. The pesticide fund created in section 206.12.
3. The dairy trade practices trust fund pursuant to section 192A.30.
4. The milk fund created in section 192.47.
5. The commercial feed trust fund created in section 198.9.
6. The marine fuel tax fund created in section 324.79.
7. The energy research and development fund created in section 93.14.

The departments designated in this section shall prepare reports detailing revenue from receipts traditionally deposited into each of the funds. A report shall be submitted to the legislative fiscal bureau at least once for each 3-month period as designated by the legislative fiscal bureau.

Sec. 220. The general assembly requests that the department of natural resources study to the extent practicable the contribution to groundwater and surface water contamination caused by the application of lawn care chemicals. A report prepared by the department shall be forwarded to the secretary of the senate and chief clerk of the house of representatives as soon as possible.

Sec. 221. The department of natural resources shall provide the legislative fiscal bureau information and financial data by cost center, on at least a monthly basis, relating to the indirect cost accounting procedure, the amount of funding from each funding source for each cost center, and the internal budget system used by the department. The information shall include but is not limited to financial data covering the department's budget by cost center and funding source prior to the start of the fiscal year, and to the department's actual expenditures by cost center and funding source after the accounting system has been closed for that fiscal year.

Sec. 222. During the fiscal year for which funds are appropriated by sections 207 and 208 of this division, 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 or by facilities for storage of grain which are located within the ambient air quality attainment areas for suspended particulates.

Sec. 223. Notwithstanding 1990 Iowa Acts, chapter 1260, section 8, as amended by 1991 Iowa Acts, House File 173,* the environmental protection division of the department of natural resources may fill 157.55 FTEs.

Sec. 224. Section 107.23, Code 1991, is amended to read as follows:

107.23 GENERAL DUTIES.

The ~~commission~~ department shall protect, propagate, increase, and preserve the wild mammals, fish, birds, reptiles, and amphibians of the state and enforce by proper actions and proceedings the laws, rules, and regulations relating to them. The ~~commission~~ department shall collect, classify, and preserve all statistics, data, and information as in its opinion tend to promote the objects of this chapter, conduct research in improved conservation methods, and disseminate information to residents and nonresidents of Iowa in conservation matters.

~~Upon the issuance of such data and information in printed form to private individuals, groups or clubs, the commission shall be entitled to charge therefor the actual cost of printing and publication as determined by the state printer.~~

Sec. 225. NEW SECTION. 107.33A WATERSHED PRIORITY.

The commission shall each year establish a priority list of watersheds which are of highest importance based on soil loss to be used for the allocation of moneys set aside in annual appropriations from the general fund to the department of agriculture and land stewardship for permanent soil conservation practices under chapter 467A on watersheds above publicly owned lakes. Chapter 17A does not apply to this section.

***Sec. 226. Section 109.78, Code 1991, is amended to read as follows:*

109.78 STOCKING PRIVATE WATER.

*No A private water may shall not be stocked by the commission department unless the owner agrees that such waters shall be open to the public for fishing, except that the commission may, after investigation to determine their suitability as to size, depth, living conditions for fish, and management, provide a breeding stock of fish for privately owned farm ponds on request of the owner. The department shall by rule establish fees for producing fish to stock a private water. The fees shall be based on the cost of producing the fish calculated on a per fish basis for each species produced. The fees shall be deposited by the department into the fish and game protection fund as created in section 107.17.***

***Sec. 227. NEW SECTION. 159.9A REPORTS REQUIRED TO BE FILED WITH THE GENERAL ASSEMBLY.*

A report required to be filed with the general assembly by the department or secretary shall be filed according to procedure provided in the provision requiring the report. If the provision is silent regarding a procedure this section shall provide the applicable procedures.

1. The report shall be filed not later than the second Monday in January in the year after the report is required with the following persons:

a. The secretary of the senate and the chief clerk of the house of representatives who shall each receive ten copies.

b. The directors of each of the staffs of the majority and minority parties in the senate and house of representatives who shall each receive two copies.

c. The directors of the legislative service bureau and the legislative fiscal bureau who shall each receive two copies.

*2. On February 1 and August 1 of each year, the department shall deliver to each member of the general assembly a list of titles of reports produced by the department during the previous six months. The department shall provide a copy of available reports upon request to a member of the general assembly or a person serving as partisan or nonpartisan staff to the general assembly.***

Sec. 228. Section 173.14B, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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~~

*Chapter 260 herein

**Item veto; see message at end of the Act

purposes after authorization. However, the board must first submit a list of the purposes ranked by priority and a purpose must be authorized by a constitutional majority of each house of the general assembly and approval approved by the governor. A purpose must be one of the following:

Sec. 229. Section 173.14B, subsection 2, Code 1991, is amended to read as follows:

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 under subsection 1 and this subsection shall not exceed ~~one hundred fifty six million~~ one hundred fifty six 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.

Sec. 230. Section 455A.5, subsection 6, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Adopt, by rule, a schedule of fees for permits, including conditional permits, and a schedule of fees for administration of the permits. The fees shall be collected by the department and used to offset costs incurred in administrating a program for which the issuance of the permit is made or under which enforcement is carried out. In determining the fee schedule, the commission shall consider all of the following:

(1) The reasonable costs associated with reviewing applications, issuing permits, and monitoring compliance with the terms of issued permits.

(2) The relative benefits to the applicant and to the public of a permit review, permit issuance, and monitoring compliance with the terms of the permit.

(3) The typical costs associated with a type of project or activity for which a permit is required. However, a fee shall not exceed the actual costs incurred by the department.

Sec. 231. Section 455A.6, subsection 6, paragraph d, Code 1991, is amended to read as follows:

d. Approve the budget request prepared by the director for the programs authorized by chapters 455B, 455C, 455E, and 455F. The commission shall approve the budget request prepared by the director for programs administered by the energy and geological resources division, the coordination and information division, the administrative services division, and the office of the director, as provided in section 455A.7. The commission may increase, decrease, or strike any item within the department budget request for the specified programs before granting approval.

**Sec. 232. Section 455A.7, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:*

*The following ~~divisions~~ administrative units are created within the department:**

Sec. 233. Section 455A.7, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. i. Waste management authority which has responsibilities provided in chapter 455B, part 9.

NEW PARAGRAPH. j. Office of the director which has responsibilities for administering the department.

Sec. 234. Section 455A.7, subsection 2, Code 1991, is amended by striking the subsection.

Sec. 235. NEW SECTION. 455A.9 FEES — PUBLICATIONS.

The department may establish a schedule of fees for subscriptions to publications produced by the department, including periodicals. However, this subsection does not apply to application forms and materials intended for general distribution which explain departmental programs or duties.

Fees shall be based on the amount required to recover the reasonable costs of producing a publication, including costs relating to preparing, printing, publishing, and distributing the publication.

**Sec. 236. NEW SECTION. 455A.21 REPORTS REQUIRED TO BE FILED WITH THE GENERAL ASSEMBLY.*

A report required to be filed with the general assembly by the department or director shall be filed according to procedures provided in the provision requiring the report. If the provision is silent regarding a procedure this section shall provide the following applicable procedures:

1. The report shall be filed not later than the second Monday in January in the year after the report is required with the following persons:

a. The secretary of the senate and the chief clerk of the house of representatives who shall each receive ten copies.

b. The directors of each of the staffs of the majority and minority parties in the senate and house of representatives who shall each receive two copies.

c. The directors of the legislative service bureau and the legislative fiscal bureau who shall each receive two copies.

*2. On February 1 and August 1 of each year, the department shall deliver to each member of the general assembly a list of titles of reports produced by the department during the previous six months. The department shall provide a copy of available reports upon request to a member of the general assembly or a person serving as partisan or nonpartisan staff to the general assembly.**

Sec. 237. Section 455E.11, subsection 2, paragraph b, subparagraph (3), subparagraph subdivision (b), Code 1991, is amended to read as follows:

(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 seventeen and one-half 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 seventeen and one-half 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 and cisterns. A county receiving a grant for purposes of conducting programs of private, rural water supply testing, and receiving a grant for purposes of conducting programs for properly closing abandoned rural water supply wells and cisterns, may transfer moneys dedicated to support one grant program to support the other grant program. However, in order to make the transfer, the county must have exhausted its grant moneys dedicated to support the program and the county board of supervisors must find good cause justifying the transfer. For purposes of this subparagraph subdivision, "cistern" means an artificial reservoir constructed underground for the purpose of storing rainwater.

Sec. 238. Section 467A.48, subsection 1, paragraph c, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The Except as otherwise provided in this chapter, the amount of cost-sharing funds made available shall not exceed fifty percent of the estimated cost as established by the commissioners of a permanent soil and water conservation practice, or fifty percent of the actual cost, whichever is less, or an amount set by the committee for a temporary soil and water conservation practice, except as otherwise provided by law with respect to land classified as agricultural land under conservation cover.

*Item veto; see message at end of the Act

**Sec. 239. Section 543A.4, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 4. The board shall on July 1 of each fiscal year provide for the transfer of two hundred fifty thousand dollars to the department for use by the warehouse bureau for purposes of paying salaries and expenses of persons employed by the department to conduct examinations of the business operations of grain dealers and warehouse operators, pursuant to chapters 542 and 543. The amount transferred shall be in addition to the payment of costs to the bureau for performing administrative functions necessary for the operation of the board and fund.**

Sec. 240. **EFFECTIVE DATE.** Section 223 of this Act, being deemed of immediate importance, takes effect upon enactment.

**DIVISION III
HEALTH AND HUMAN RIGHTS**

Sec. 301. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 1991 and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	1,031,421
	FTEs	37.00

Sec. 302. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1991 and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	245,106
	FTEs	9.00

2. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	89,887
	FTEs	2.50

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	180,853
	FTEs	4.00

4. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	344,358
	FTEs	4.10

Of the funds appropriated in this subsection, no less than \$130,000 shall be spent for the displaced homemaker program.

Of the funds appropriated in this subsection, no less than \$44,000 shall be spent for domestic violence and sexual assault related grants.

5. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	295,794
	FTEs	10.00

*Item veto; see message at end of the Act

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be dispersed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for the provision of continued and expanded interpretation services.

6. STATUS OF BLACKS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	78,581
.....	FTEs	2.00

7. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	351,806
.....	FTEs	10.00

a. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall coordinate their efforts in carrying out their respective duties relative to juvenile justice.

b. Of the funds appropriated in this subsection, no less than \$36,300 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.

8. COMMUNITY ACTION AGENCIES DIVISION

For the expenses of the community action agencies commission:

.....	\$	3,644
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Sec. 303. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,418,576
.....	FTEs	104.50

Of the funds appropriated under this section, \$18,000 shall be used to fund the continuation of the vending program throughout the state.

Sec. 304. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	429,519
.....	FTEs	32.00

Of the funds appropriated under this subsection, a sufficient amount shall be allocated to fund the representative payee project established within the department of elder affairs.

2. For the administration of area agencies on aging:

.....	\$	165,000
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3. For the long-term care residents' advocate and the care review committees at the local area agency on aging level:

.....	\$	120,000
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As a condition, limitation, and qualification of the funds appropriated by this subsection, a local area agency on aging shall match the funds appropriated with funds from other sources on a \$4 to \$1 basis.

4. For the retired Iowans community employment program:	\$	104,000
5. For existing retired senior volunteer program projects:	\$	73,000
6. For elderly services programs:	\$	1,459,681

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 60 years of age for chore, telephone reassurance, adult day care, respite care, case management for the frail elderly, 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 on aging for provision of the service within the area.

7. For the Alzheimer's disease support program:	\$	75,000
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Sec. 305. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	747,278
	FTEs	57.50

2. HEALTH PLANNING DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	410,852
	FTEs	12.75

The department shall not add any new full-time equivalent positions for administration of the certificate of need program and shall submit a full-time equivalent position needs report to the general assembly by January 1, 1992.

b. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the office of rural health:

	\$	134,536
	FTEs	4.00

(1) Of the funds appropriated in this paragraph, \$34,536 is allocated for the continuation of the office of rural health.

(2) Of the funds appropriated in this paragraph, \$100,000 is allocated to the office of rural health to provide technical assistance to rural areas in the area of health care delivery, including technical assistance in the recruitment of physicians and health care professionals.

c. For the health data clearinghouse of the health data commission:

	\$	300,000
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Funds appropriated under this paragraph shall be used for the collection, verification, updating, and storage of data received pursuant to chapters 145 and 255A, and for the production of mandated reports. Long-term care data shall be collected as additional funding becomes available. The health data commission shall establish a fee schedule, in consultation with its consultant, for the costs of providing data to organizations which request such data. The fee established shall be based upon the marginal cost and a portion of the fixed cost of providing the data.

The health data commission shall submit a report to the general assembly annually by January 15 regarding the feasibility of providing matching funds for state dollars provided. The report shall also include a summary of the previous fiscal year budget including receipts and expenditures of private and public funds generated and a projected budget for the next fiscal year.

3. DISEASE PREVENTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,407,574
.....	FTEs	85.54

(1) Of the funds appropriated under this paragraph, \$75,000 shall be used for chlamydia testing.

(2) Of the funds appropriated in this paragraph, \$15,000 is allocated to support the surveillance and reporting of disabilities suffered by persons engaged in agriculture resulting from diseases or injuries, including identifying the amount and severity of agriculture-related injuries and diseases in the state, identifying causal factors associated with agriculture-related injuries and diseases, and evaluating the effectiveness of intervention programs designed to reduce injuries and diseases. The department shall cooperate with the department of agriculture and land stewardship, Iowa state university of science and technology, and the college of medicine at the state university of Iowa in accomplishing these duties.

(3) The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated under this paragraph.

b. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	975,473
.....	FTEs	5.00

It is the intent of the general assembly that the moneys appropriated under this paragraph shall be used for the training of emergency medical services (EMS) personnel at the state, county, and local levels.

If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to hepatitis testing and immunization in accordance with the latest available medical technology to determine if infection with hepatitis has occurred. The person shall be entitled to reimbursement from the emergency provider fund only if the reimbursement is not available through any employer or third-party payor.

4. PROFESSIONAL LICENSURE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	597,785
.....	FTEs	14.50

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	214,931
.....	FTEs	4.00

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	926,539
.....	FTEs	19.00

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	754,058
.....	FTEs	17.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	588,855
.....	FTEs	12.00

9. Professional licensure division 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.

10. SUBSTANCE ABUSE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	497,225
.....	FTEs	20.00

b. For program grants:

.....	\$	8,472,000
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c. For the provision of aftercare services for persons completing substance abuse treatment:

.....	\$	200,000
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11. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,347,820
.....	FTEs	91.97

(1) The department shall allocate from the funds appropriated under this paragraph at least \$578,969 for the birth defects and genetics counseling program and of these funds, \$282,969 shall be allocated for regional genetic counseling services contracted from the state university of Iowa hospitals and clinics under the control of the state board of regents.

(2) Of the funds appropriated under this paragraph, \$77,000 shall be used for a lead abatement program.

(3) Of the funds appropriated under this subparagraph \$754,500 shall be used for the chronic renal disease program. The types of assistance to eligible recipients under the program may include hospital and medical expenses, home dialysis supplies, insurance premiums, travel expenses, prescription and nonprescription drugs, and lodging expenses for persons in training. The program expenditures shall not exceed these allocations. If projected expenditures will exceed the allocations, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the allocations.

(4) Of the funds appropriated in this paragraph, the following amounts shall be allocated to the state 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:

(a) Mobile and regional child health specialty clinics:

.....	\$	321,993
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The regional clinic located in Sioux City shall maintain a social worker component to assist the families of children participating in the clinic program.

(b) Muscular dystrophy and related genetic disease programs:

.....	\$	119,497
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(c) Statewide perinatal program:

.....	\$	64,044
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(5) 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.

(6) Of the funds allocated to the mobile and regional child health specialty clinics under subparagraph (4), subparagraph subdivision (a), \$97,092 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.

(7) The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds for each program.

(8) Of the funds appropriated under this paragraph, \$1,322,400 shall be used for maternal and child health services.

(9) 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.

(10) The department shall track the appropriation made under this paragraph in accordance with both program performance-based budgeting and zero-based budgeting methods and shall develop budget projections for the fiscal year ending June 30, 1993, based upon both of these methods.

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":

..... \$ 10,000

c. For grants to local boards of health for the public health nursing program:

..... \$ 2,596,249

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 60 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 the 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 \$50,000 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 the fiscal year. If the unallocated pool is less than \$50,000, 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 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 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: \$ 8,875,159

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 15 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 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 windowpanes, 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 60 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. 15 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: 60 percent according to the number of elderly persons living in the county; 20 percent according to the number of persons below the poverty level living in the county; and 20 percent according to the number of substantiated cases of child abuse in the county during the 3 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 homemaker-home health aide services to elderly and low-income persons and children and adults

in need of protective services in the jurisdiction. An agency requesting service or financial information about a current subcontractor shall provide similar information concerning its own homemaker-home health aide or chore services program to the current subcontractor. The proposal may provide that a maximum of 15 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 non-profit 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 70 percent or more of the workers' paid time and that not more than 35 percent of the total cost of the service be included 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 the 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 the 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 the 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 10 months' expenditures for each county in May of the fiscal year, to determine if any counties possess 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 the fiscal 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:

..... \$ 605,000

Appropriations made in this paragraph shall be provided by a formula to well-elderly clinics located in counties which provide funding on a matching basis for the well-elderly clinics.

f. For the physician care for children program:

..... \$ 425,000

The physician services shall be subject to managed care and selective contracting provisions and shall be used to provide treatment of the children in a physician's office and shall include coverage of diagnostic procedures and prescription drugs required for the treatment. Services provided under this paragraph shall be reimbursed according to Title XIX reimbursement rates.

g. For primary and preventive health care for children:

..... \$ 135,000

Funds appropriated under this paragraph shall be for the public purpose of providing a renewable grant, following a request for proposals, to a statewide charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which was organized prior to April 1, 1989, and has as one of its purposes the sponsorship or support for programs designed to improve the quality, awareness, and availability of health care for the young, to serve as the funding mechanism for the provision of primary health care and preventive services to children in the state who are uninsured and who are not eligible under any public plan of health insurance, provided all of the following conditions are met:

(1) The organization shall provide a match in advance of each state dollar provided as follows:

(a) In the fiscal period beginning July 1, 1989, and ending June 30, 1991, \$2.

(b) In the fiscal year beginning July 1, 1991, \$3.

(2) The organization coordinates services with new or existing public programs and services provided by or funded by appropriate state agencies in an effort to avoid inappropriate duplication of services and ensure access to care to the extent as is reasonably possible. The organization shall work with the Iowa department of public health, family and community health division, to ensure duplication is minimized.

(3) The organization's governing board includes in its membership representatives from the executive and legislative branches of state government.

(4) Grant funds are available as needed to provide services and shall not be used for administrative costs of the department or the grantee.

(5) Notwithstanding section 8.33, funds appropriated in this section which are unencumbered or unobligated on June 30, 1992, shall not revert to the general fund but shall remain available to the department for the provision of maternal and child health services.

Sec. 306. Section 135.11A, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The professional licensure division and the licensing boards may expend additional funds, if those additional expenditures are directly the cause of actual examination and exceed funds budgeted for examinations. Before the division or a licensing board 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 division or board and the division or board does not have other funds from which examination expenses can be paid. Upon approval of the department of management the division or 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.

Sec. 307. Section 135.103, Code 1991, is amended to read as follows:

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 subsequent 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. 308. 1990 Iowa Acts, chapter 1166, section 2, is repealed.

Sec. 309. EFFECTIVE DATE. Section 308 of this Act takes effect June 30, 1991.

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, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,600,787
.....	FTEs	120.78

The auditor of state may expend additional moneys and retain additional full-time equivalent positions as is reasonable and necessary to perform audits, such as audits for local governments, if all of the following conditions are satisfied:

1. The amount expended is proportional to the costs that are reimbursable from the entity being audited, including but not limited to expenses reimbursable pursuant to section 11.5A, 11.5B, 11.20, or 11.21.
2. The auditor of state submits a request to the department of management to expend a specific additional amount in connection with specified reimbursable audits.
3. The department of management approves the additional spending from any unappropriated funds in the state treasury upon a finding that all or substantially all of the amount requested and approved will be reimbursable from the entity being audited.
4. The department of management notifies the legislative fiscal bureau of any additional moneys approved.
5. The department of management notifies the legislative fiscal committee of any additional moneys approved prior to the expenditure.
6. Upon payment or reimbursement by the entity, the auditor of state shall credit the payments to the state treasury for deposit in the general fund.

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, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	273,000
.....	FTEs	6.75

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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,574,205
.....	FTEs	95.00

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

Of the amount appropriated under this subsection, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: \$174,166 for 5.00 FTEs to enforce the Iowa minimum wage law, \$30,000 for 1.00 FTE for asbestos contractor certification, and \$35,000 for 1.00 FTE for construction contractor registration.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,116,185
.....	FTEs	45.50

As a condition, limitation, and qualification of the funds appropriated by this subsection, \$45,396, or so much thereof as is necessary, shall be expended for 1.00 FTE, which shall be a word processor III position, to expedite the administrative hearing process for workers' compensation cases, and to assist in reducing the contested case backlog. The division shall submit a written report to the legislative fiscal bureau on a quarterly basis concerning the status of the workers' compensation contested case backlog.

As a further condition, limitation, and qualification of the funds appropriated in this subsection, the division of industrial services shall not reduce the number of scheduled prehearings and hearings of contested cases or eliminate the venue of such prehearings and hearings, as established by the division for the period beginning January 1, 1991, and ending January 20, 1992. The division shall also establish a substantially similar schedule for such prehearings and hearings for the period beginning January 20, 1992, and ending June 30, 1992. The division shall report to the legislative fiscal bureau concerning any modification of the established schedule, or any changes which the division determines are necessary in establishing the schedule for the period beginning January 20, 1992, and ending June 30, 1992.

The division shall continue charging a \$65 filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim. However, the fee can be taxed as a cost and paid by the losing party, except in cases where it would impose an undue hardship or be unjust under the circumstances.

The department of employment services, the department of personnel, and the department of management shall work together to ensure that as nearly as possible all full-time equivalent positions authorized and funded for the department of employment services will be utilized during the fiscal year beginning July 1, 1991, and ending June 30, 1992, and future fiscal years, to ensure that the backlog of cases in that department will be reduced as rapidly as possible.

Sec. 404.

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, 1991, 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, 1991, and ending June 30, 1992, 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, 1991, and ending June 30, 1992, including moneys which are available to the division of job service under subsection 1, only in accordance with the following restrictions:

*Item veto; see message at end of the Act

The division shall expend up to \$550,000 for the following: \$50,000, or so much thereof as is necessary, for the removal of 2 chillers and 1 underground storage tank, and \$100,000, or so much thereof as is necessary, for asbestos removal or encapsulation at the job service site located at 1000 East Grand, Des Moines, Iowa, and \$400,000, or so much thereof as is necessary, for the support of the labor survey, economic development teams to assist in conducting "labor availability surveys".

As a condition, limitation, and qualification of the authorization of expenditure of funds pursuant to this section, the division shall develop a plan to require the assistance of cities and counties using the "labor availability surveys" regarding the funding for completing the surveys. The division shall report to the legislative fiscal bureau concerning the progress in developing this plan.

Sec. 405. There is appropriated from the administrative contribution surcharge fund of the state to the department of employment services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, for the purposes designated:

DIVISION OF JOB SERVICE

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,916,050
.....	FTEs	171.80

As a condition, limitation, and qualification of this appropriation, the department of employment services shall provide services throughout the fiscal year beginning July 1, 1991, and ending June 30, 1992, in all communities in which job service offices are operating on July 1, 1991. However, this provision shall not prevent the consolidation of multiple offices within the same city or the colocation of job service offices with another public agency.

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, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. FINANCE AND SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	578,220
.....	FTEs	25.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	650,406
.....	FTEs	21.00

Of the amount appropriated in this subsection, \$78,708, or so much thereof as is necessary, shall be expended for 2.00 FTEs for conducting required bingo audits.

3. APPEALS AND FAIR HEARINGS DIVISION

In addition to funds appropriated in section 408 of this division from the road use tax fund, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	376,861
.....	FTEs	16.00

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	456,304
.....	FTEs	39.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,612,239
.....	FTEs	117.00

Of the amount appropriated in this subsection, \$110,438, or so much thereof as is necessary, shall be expended for 7.00 FTEs to regulate nursing facilities as required by the federal Nursing Home Reform Act.

A nursing home regulation review task force is established for the purpose of reviewing rules and recommendations to implement federal requirements for nursing home reform and to make recommendations on whether the department of inspections and appeals is in need of increased funding and staffing levels for implementing appropriate nursing home reform. The task force is to be organized and convened by the department of inspections and appeals. The membership of the task force is to consist of the following:

1. One member representing the department of inspections and appeals to be appointed by the director of that department.
2. One member representing the department of human services to be appointed by the director of that department.
3. One member representing the nursing home ombudsman within the department of elder affairs to be appointed by the director of that department.
4. One member representing the Iowa health care association.
5. One member representing the Iowa association of homes for the aging.
6. One member representing the Iowa hospital association.
7. One member representing the Iowa council of health care centers.
8. Legislative members to be appointed by the legislative council. Legislative members shall include members from the senate and the house of representatives who serve on the regulation appropriations subcommittee and the standing committees on human resources.

The task force shall meet as necessary and shall report the conclusions and recommendations of the task force to the general assembly by September 1, 1991.

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	913,786
.....	FTEs	26.50

If Senate File 465* becomes law, the inspections division is appropriated from the general fund of the state an additional sum of \$40,000, or so much thereof as is necessary, and is authorized 1.00 additional FTE.

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	46,527
.....	FTEs	16.80

The employment appeal board shall be reimbursed by the labor services division of the department of employment services for all costs associated with hearings conducted under chapter 91C, related to contractor registration. The board is authorized to expend, in addition to the amount appropriated under this subsection, such amounts as are directly billable to the labor services division under this subsection and to retain such additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

8. FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	265,910
.....	FTEs	5.50

*Not enacted

The department of human services and the foster care review board shall enter into a contract providing that the foster care review board shall conduct foster care review services at the current level of operation. The department and the board shall structure such contract in a manner approved by the federal government for the purpose of submitting an application to the appropriate federal agency to obtain any available federal funding for such contract. Funding received as a result of submitting such application shall be used to replace state funds which then shall immediately revert to the general fund of the state. The department and the board shall submit a written report to the legislative fiscal bureau no later than February 1, 1992, indicating the progress of obtaining federal funding and terms of any contract entered into by the department and the board.

9. 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.

Sec. 407.

1. There is appropriated from the general fund of the state to the office of the state public defender for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, for the purposes designated:

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,384,142
.....	FTEs	145.30

Of the amount appropriated under this subsection, \$2,069,100, or so much thereof as is necessary, shall be expended for 52.00 FTEs for expansion and establishment of new public defender offices in the first, second, third, fifth, and sixth judicial districts and for expansion of the appellate defender.

b. For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

.....	\$	9,401,002
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2. The office of the state public defender shall submit written reports to the legislative fiscal bureau indicating the status of the activities of the office as a result of its expansion. The first report shall be submitted no later than August 1, 1991, and shall provide information concerning the activities of the office during fiscal year 1991. An additional report shall be submitted no later than February 1, 1992, and shall provide information concerning the activities of the office during the period beginning July 1, 1991, and ending December 31, 1991.

3. The judicial department shall provide, within thirty days after the end of each calendar quarter, a written report concerning adult and juvenile indigent defense, to the state public defender's office and the department of inspections and appeals, including the amount of restitution collected for attorney fees as follows:

a. By county.

b. By case type in the following categories:

(1) Juvenile cases involving delinquency actions, child in need of assistance actions, or termination of parental rights actions.

(2) Adult cases involving misdemeanor or felony prosecutions.

Sec. 408. Section 13B.1, subsection 1, Code 1991, is amended to read as follows:

1. "Appointed attorney" means an attorney appointed by the court and compensated by the state to represent an indigent defendant.

Sec. 409. NEW SECTION. 13B.2A INDIGENT DEFENSE ADVISORY COMMISSION ESTABLISHED.

An indigent defense advisory commission is established within the department to advise and make recommendations to the state public defender regarding the establishment and implementation of cost-effective methods to provide indigent defense. The advisory commission shall consist of nine members: four members to be appointed by the governor, subject

to senate confirmation, including two members from nominees made by the Iowa state bar association, and two members from nominees made by the Iowa judges association; two members appointed by the governor, subject to senate confirmation; one member to be appointed by the governor, subject to senate confirmation, from nominees made by the Iowa county attorney's association; and two members one from each chamber of the general assembly to be appointed by the legislative council with no more than one of the members from any one political party. Each member shall serve a three-year term, with initial terms to be staggered. The members should represent a balance of attorneys and nonattorneys.

The members of the commission are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of the duties of the commission. Each member of the commission may also be eligible to receive compensation as provided in section 7E.6.

Sec. 410. NEW SECTION. 13B.2B DUTIES AND POWERS OF THE INDIGENT DEFENSE ADVISORY COMMISSION.

The advisory commission shall advise the state public defender regarding all of the following:

1. Recommendations for quality, cost-effective methods for delivery of indigent defense services.
2. Recommendations for the budget to be developed by the state public defender for all indigent defense costs.
3. Recommendations for client indigency criteria to be applied statewide.
4. Recommendations related to mechanisms for enhancing restitution and recoupment efforts and for monitoring recoupment efforts.
5. Recommendations regarding other methods to contain indigent defense costs.
6. Recommendations regarding proposed administrative rules regarding the operations of the state public defender.
7. The advisory commission shall also make recommendations to the supreme court regarding fee guidelines for court-appointed counsel.

The advisory commission shall also file a written report with the governor and the general assembly on January 1 of each year regarding the recommendations and activities of the commission for the preceding fiscal year.

Sec. 411. Section 13B.4, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

13B.4 DUTIES AND POWERS OF STATE PUBLIC DEFENDER.

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

2. The state public defender shall file with the court in each county served by a public defender a designation of which local public defender office shall receive notice of appointment of cases. Except as otherwise provided, in each county in which the state public defender files such designation, the state public defender or its designee shall be appointed by the court to all cases, whether criminal or juvenile in nature. Such appointment shall not be made if the state public defender notifies the court that the local public defender will not provide legal representation in cases involving offenses as identified in the notification by the state public defender.

3. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigent persons where there is no local public defender available to provide such services.

4. The state public defender is authorized to review any claim made for payment of indigent defense costs and to request a hearing before the court granting a claim within thirty days of receipt of such claim if the state public defender believes the claim to be excessive.

5. The state public defender is authorized to contract with county attorneys to provide collection services related to court-ordered indigent defense restitution of court-appointed attorney fees or the expense of a public defender.

6. The state public defender shall adopt rules pursuant to chapter 17A, as necessary, to administer this chapter.

Sec. 412. Section 13B.8, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Before establishing or abolishing a local public defender office, the state public defender shall provide a written report detailing the reasons for the action to be taken to the ~~justice systems regulation appropriations subcommittee~~, the chairperson, vice chairperson, and ranking member of the senate committee on judiciary and ~~committee on appropriations~~, and the chairperson, vice chairperson, and ranking member of the house of representatives committee on judiciary and law enforcement and ~~committee on appropriations~~. The report shall contain a statement of the estimated fiscal impact of the action taken. Any action taken in establishing or abolishing a local public defender office shall only take effect upon the approval of the general assembly. If the state public defender proposes to abolish a local public defender office prior to the beginning of any regular session of the general assembly and the general assembly takes no action regarding that proposal during the first ninety days of the first regular session occurring after the proposal is made, the office shall be abolished.

Sec. 413. Section 13B.9, Code 1991, is amended to read as follows:

13B.9 POWERS AND DUTIES OF LOCAL PUBLIC DEFENDERS.

1. The local public defender shall do all of the following:

a. Represent without fee an indigent person who is under arrest or charged with a crime if the indigent person requests ~~it representation~~ or the court orders ~~it representation~~. The local public defender shall counsel and defend an indigent defendant at every stage of the criminal proceedings and prosecute before or after conviction any appeals or other remedies which the local public defender considers to be in the interest of justice unless ~~the court appoints other counsel is appointed to the case~~.

b. Represent an indigent party, without fee and upon an order of the court, in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232 in ~~a county served by a public defender~~. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 in ~~a county served by a public defender~~ and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless ~~the court appoints other counsel is appointed to the case~~. The state public defender shall be reimbursed by the counties for services rendered by employees of the local public defenders' offices under this subsection, pursuant to section 232.141.

c. Make an initial determination of indigence as required under section 815.9 prior to the initial arraignment or other initial court appearance.

d. Make an annual report to the state public defender. The report shall include all cases handled by the local public defender during the preceding calendar year.

2. An appointed attorney under this section is not liable to a person represented by the attorney pursuant to this chapter for damages as a result of a conviction unless the court determines in a postconviction appeal that the person's conviction resulted from ineffective assistance of counsel.

3. The local public defender may appoint the number of assistant public defenders, clerks, investigators, stenographers, and other employees as approved by the state public defender. An assistant local public defender must be an attorney licensed to practice before the Iowa supreme court. Appointments shall be made in the manner prescribed by the state public defender.

4. The local public defender shall handle every case to which the local public defender is appointed if the local public defender can reasonably handle the case.

5. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. The court may appoint a contract attorney or a private noncontracting attorney, who has agreed to take the case, considering the experience of the attorney and the difficulty of the case.

Sec. 414. There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	526,837
.....	FTEs	11.00

Sec. 415. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	678,489
.....	FTEs	13.00

The public employment relations board shall submit a written report to the legislative fiscal bureau no later than February 1, 1992, which evaluates and includes any recommendations of the board concerning the videotaping of court proceedings in lieu of using court reporters whenever possible to record the proceedings. This evaluation shall include information concerning the implementation of this concept in other states.

Sec. 416. There is appropriated from the general fund of the state to the professional licensing and regulation division of the department of commerce, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	853,541
.....	FTEs	11.00

Sec. 417. There is appropriated from the general fund of the state to the administrative services division of the department of commerce for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,470,846
.....	FTEs	41.50

The administrative services division shall assess each division to which administrative services are provided by the administrative services division an amount pursuant to a cost allocation plan established by the administrative services division. The plan shall be established by July 1, 1991, and shall, to the extent practicable, be based on the proportion of the administrative services division's time allocated to each division to which administrative services are provided. All divisions in the department of commerce shall abide by the cost allocation plan. Each division shall include in any charges assessed by the division to persons regulated, or include in revenues generated in a manner other than assessments to persons regulated, an amount sufficient to cover the costs of administration as assessed to the division by the administrative services division.

The administrative services division shall eliminate the position of deputy director.

Sec. 418. Notwithstanding section 123.53, there is appropriated from the general fund of the state to the alcoholic beverages division of the department of commerce for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,456,728
.....	FTEs	85.86

Sec. 419. There is appropriated from the general fund of the state to the banking division of the department of commerce for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,832,042
.....	FTEs	108.50

The banking division shall provide technical assistance and staffing assistance to the director of the department of commerce, as necessary, to assist the director in the director's capacity as superintendent of savings and loan associations as provided in Senate File 494,* if enacted by the 1991 Session of the Seventy-fourth General Assembly.

The banking division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for bank examinations and directly result from examinations of banks and savings and loan associations. 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 banks and savings and loan associations being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2.

Sec. 420. There is appropriated from the general fund of the state to the credit union division of the department of commerce for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	954,946
.....	FTEs	20.00

Sec. 421. There is appropriated from the general fund of the state to the insurance division of the department of commerce for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,398,671
.....	FTEs	92.33

***Sec. 422. Notwithstanding 1991 Iowa Acts, House File 173, which requires the transfer of all funds in the revolving fund to the general fund, there is appropriated from moneys in*

*Chapter 92 herein

**Item veto; see message at end of the Act

the insurance division revolving fund on June 30, 1991, in excess of \$260,000, an amount up to a maximum of \$238,389, to the division of industrial services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount or so much thereof as is necessary, to be used for the purposes designated:

.....	\$	238,389
.....	FTEs	4.00

Of the amount appropriated in this section, \$188,414, or so much thereof as is necessary, shall be expended for 2 chief deputies and 1 word processor III, and \$49,975, or so much thereof as is necessary, shall be expended for 1 insurance program specialist to reduce the backlog of workers' compensation contested cases.

If the amount remaining in the insurance revolving fund subject to appropriation pursuant to this section is insufficient to fund the appropriation, the division of insurance shall impose an administrative fee payable by workers' compensation insurers and workers' compensation self-insurers pursuant to sections 507D.3 and 507D.4, sufficient to fund the remaining balance of the appropriation under this section.*

Sec. 423. There is appropriated from the general fund of the state to the utilities division of the department of commerce for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,843,961
.....	FTEs	93.50

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: \$25,300 for additional rent for hearing and conference rooms in the Lucas building and \$316,377 for 6.00 FTEs for additional energy efficiency responsibilities established by 1990 Iowa Acts, chapter 1252.

Sec. 424. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,806,593
.....	FTEs	33.36

Sec. 425. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals, for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration and enforcement of the excursion boat gambling laws:

.....	\$	511,125
.....	FTEs	10.50

Sec. 426. Section 96.7, subsection 9, Code 1991, is amended by striking the subsection.

Sec. 427. Section 99D.15, subsection 3, paragraph c, Code 1991, is amended to read as follows:

c. If the rate of tax imposed under paragraph "a" is five percent or four percent, a ~~track~~ licensee shall set aside for retiring the any debt of the ~~racetrack facilities or licensee~~, for capital improvement to the ~~racetrack facilities of the licensee~~, for funding of possible future operating losses, or for charitable giving, the following amount:

*Item veto: see message at end of the Act

(1) If the rate of tax paid by the ~~track~~ licensee is five percent, one percent of the gross sum wagered in the racing season shall be set aside.

(2) If the rate of tax paid by the ~~track~~ licensee is four percent, two percent of the gross sum wagered in the racing season shall be set aside.

Sec. 428. Section 137A.12, Code 1991, is amended to read as follows:

137A.12 REGULAR INSPECTIONS.

The department shall provide for the inspection of each food establishment in the state in accordance with the standards of the retail food store sanitation code. The inspector may enter the food establishment at any reasonable hour to make the inspection. The management shall afford free access to every part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete inspection. However, food establishments which score ninety or greater shall be inspected biennially.

This section does not apply to retail food establishments which sell only prepackaged non-hazardous items.

Sec. 429. Section 137B.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. 10-201 shall be amended so that food services establishments are inspected annually, except that food service establishments with scores of ninety or greater shall be inspected biennially.

Sec. 430. Section 137C.11, Code 1991, is amended to read as follows:

137C.11 ANNUAL INSPECTIONS.

The regulatory authority shall inspect each hotel in the state at least once ~~each calendar year~~ biennially. The inspector may enter the hotel at any reasonable hour to make the inspection. The management shall afford free access to every part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete inspection.

Sec. 431. Section 157.11, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Commencing January 1, 1977, a beauty salon shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department shall perform a sanitary inspection of each beauty salon ~~annually~~ biennially and may perform a sanitary inspection of a beauty salon prior to the issuance of a license. An inspection of a beauty salon shall also be conducted upon receipt of a complaint by the department.

Sec. 432. Section 158.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A barbershop shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department shall perform a sanitary inspection of each barbershop ~~annually~~ biennially and may perform a sanitary inspection of a barbershop prior to the issuance of a license. An inspection of a barbershop shall also be conducted upon receipt of a complaint by the department.

Sec. 433. Section 455C.1, subsection 5, Code 1991, 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 purposes of this chapter.

Sec. 434. Section 455C.2, subsection 1, Code 1991, 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. 435. Section 455C.16, Code 1991, is amended to read as follows:

455C.16 BEVERAGE CONTAINERS — DISPOSAL AT SANITARY LANDFILL PROHIBITED.

Beginning July 1, 1990, the final disposal of beverage containers by a dealer, distributor, or manufacturer, or person operating a redemption center, in a sanitary landfill, is prohibited, except for beverage containers containing alcoholic liquor as defined in section 123.3, subsection 8.

Sec. 436. Section 815.10, Code 1991, is amended to read as follows:

815.10 APPOINTMENT OF COUNSEL BY COURT.

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, ~~may shall appoint a public defender or any attorney who is admitted to the practice of law in this state the state public defender or the state public defender's designee pursuant to section 13B.4, or an attorney pursuant to section 13B.9 to represent an indigent person at any state stage of the criminal or juvenile proceedings or on appeal of any criminal or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles.~~ An appointment shall not be made unless the person is determined to be indigent under section 815.9.

2. If a court finds that a person desires legal assistance and is not indigent, but refuses to employ an attorney, the court shall appoint a ~~public defender or another attorney to represent the person at public expense. If the state public defender or the state public defender's designee pursuant to section 13B.4, or an attorney other than a public defender is appointed, the fee paid to the attorney pursuant to section 13B.9 to represent the person. The cost of providing legal assistance shall be taxed as a court cost against the person.~~

3. An attorney other than a public defender or a contract attorney who is appointed by the court under ~~subsection 1 or 2~~ this section shall apply to the district court for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with section 815.7.

Sec. 437. NEW SECTION. 815.10A CLAIM FOR COMPENSATION — REQUIREMENTS.

1. The department of inspections and appeals shall require all claims for compensation filed by court-appointed attorneys for indigent defense cases, whether adult or juvenile, to include specific information as required by rules of the department.

2. If the information required in this section is submitted with the claim for compensation, the court may then award reasonable and proper compensation to the attorney. If information required is not submitted with the claim for compensation, the department may reject the claim until such information is submitted.

Sec. 438. The state public defender shall make an initial filing as required in section 13B.4, subsection 2, as amended in this Act, regarding the designation of public defender offices to receive notice of appointment of cases no later than forty days after July 1, 1991.

Sec. 439. Sections 408 through 413, and sections 436 and 438 of this division are repealed effective July 1, 1995, and the Code editor shall return the language in the Code sections amended in this Act to the language appearing in the 1991 Code.

Sec. 440. It is the intent of the general assembly that the state public defender provide for the defense of major felony case defendants by public defenders on a regional basis.

Sec. 441. Sections 408 through 413, and sections 436, 438, and 439 of this division of this Act, being deemed of immediate importance, are effective upon enactment.

Sec. 442. 1989 Iowa Acts, chapter 272, section 42, as amended by 1990 Iowa Acts, chapter 1261, is amended to read as follows:

SEC. 42. Sections 34, 35, and 36 of this Act are effective July 1, ~~1991~~1992.

Sec. 443. Sections 422 and 442 of this division, being deemed of immediate importance, take effect upon enactment.

DIVISION V
TRANSPORTATION
IOWA LAW ENFORCEMENT ACADEMY

Sec. 501. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	\$	987,134
.....	FTEs	29.20

DEPARTMENT OF PUBLIC DEFENSE

Sec. 502. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,405,823
.....	FTEs	196.59

2. DISASTER SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	315,399
.....	FTEs	12.00

3. VETERANS AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	142,340
.....	FTEs	4.16

As a condition, limitation, and qualification of the appropriation in this subsection, up to \$5,000 may be used for the purchase of POW/MIA flags.

4. WAR ORPHANS

For the war orphans educational aid fund established pursuant to chapter 35:

.....	\$	10,185
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DEPARTMENT OF PUBLIC SAFETY

Sec. 503. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions including the medical examiner's office and the criminal justice information system, and the missing person program, and for not more than the following full-time equivalent positions:

.....	\$	2,395,663
.....	FTEs	47.80

As a condition, limitation, and qualification of the appropriation in this subsection, the department shall continue to pursue its 5-year plan to colocate the state medical examiner's office and the department of criminal investigation crime lab. The department of general services shall assist the department of public safety in identifying potential facilities that will adequately meet the department's needs.

As a condition, limitation, and qualification of the appropriation in this subsection, the department of public safety shall continue to collect, classify, and disseminate statistics as provided in section 80.40 and section 236.9 on violations relating to section 729.5 and on incidents involving domestic abuse.

2. For purposes relating to radio communications, and for not more than the following full-time equivalent positions:

.....	\$	3,141,241
.....	FTEs	79.00

3. For the division of criminal investigation and bureau of identification containing the bureaus of identification and liquor law enforcement, for river boat gambling enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	6,954,157
.....	FTEs	149.00

It is the intent of the general assembly that the department of public safety shall only employ additional full-time equivalent positions for riverboat gambling enforcement as authorized by the department of management as needed for enforcement on new riverboats. However, new positions filled shall not exceed 4 per riverboat and the positions shall not be filled more than 120 days before the riverboat is expected to receive passengers.

4. For the division of narcotics:

a. The state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	2,148,790
.....	FTEs	47.00

b. Undercover purchases:

.....	\$	260,250
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5. For the fire marshal's office, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	1,427,474
.....	FTEs	33.00

6. For the capitol security division, and for not more than the following full-time equivalent positions:

.....	\$	1,135,371
.....	FTEs	36.00

7. For salaries, support, maintenance, and miscellaneous purposes of the 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 18 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	286,989
.....	FTEs	5.00
8. For use by the department to provide law enforcement officials for project D.A.R.E. (drug abuse resistance education) within local communities:		
.....	\$	29,544
9. For the continued purchase of the automated fingerprint information system (AFIS):		
.....	\$	514,000

Sec. 504. There is appropriated from the road use tax fund to the division of highway safety and uniformed force of the department of public safety for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	24,458,362
.....	FTEs	456.00

It is the intent of the general assembly, that so much as is necessary of the appropriation in this subsection, shall support federal Highway Safety Act programs.

As a condition, limitation, and qualification of the appropriation in this subsection, the department shall be prohibited from providing an escort or driver for the lieutenant governor.

As a condition, limitation, and qualification of the appropriation in this subsection, the Iowa law enforcement academy shall be allowed to annually select at least 5 automobiles of the department of public safety, division of highway safety and uniformed force, which are being turned in to the state vehicle dispatcher to be disposed of by public auction and the Iowa law enforcement academy shall be allowed to exchange any automobile owned by the academy for each automobile selected if the selected automobile is used in training law enforcement officers at the academy. However, any automobile exchanged by the academy shall be substituted for the selected vehicle of the department of public safety and sold by public auction with the receipts being deposited in the depreciation fund to the credit of the department of public safety, division of highway safety and uniformed force.

An employee of the department of public safety or its successor who retires after the effective date of this section of this Act but prior to June 30, 1992, 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 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.

2. For the purchase of radar units:

.....	\$	294,166
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3. For the purchase of scanners:

.....	\$	105,000
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4. For payments to the department of personnel for expenses incurred in administering workers' compensation on behalf of the division of highway safety and uniformed force:

.....	\$	362,250
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5. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the division of highway safety and uniformed force:

.....	\$	77,350
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*6. For site acquisition of a new patrol post in the Fort Dodge area:

.....	\$	50,000*
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*Item veto; see message at end of the Act

Sec. 505. There is appropriated from use tax receipts collected under chapter 423 prior to deposit in the road use tax fund, to the following named departments for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

- 1. To the department of public safety for the costs associated with the automated fingerprint information system local remote terminals:

	\$	373,108
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- *2. To the department of public defense for design of armories at Boone, Fairfield, and Mount Pleasant:

	\$	38,000*
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- 3. To the department of public defense for construction of armories at Corning, Council Bluffs, and Oskaloosa:

	\$	1,757,000
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STATE DEPARTMENT OF TRANSPORTATION

Sec. 506. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, for the purposes designated:

- 1. For the payment of costs associated with the production of motor vehicle licenses, as defined in section 321.1, subsection 77:

	\$	570,000
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- 2. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
 - a. Administrative services:

	\$	3,749,551
	FTEs	47.50
 - b. General counsel:

	\$	177,240
	FTEs	1.00
 - c. Planning and research:

	\$	371,101
	FTEs	9.00
 - d. Aeronautics and public transit:

	\$	246,334
	FTEs	5.00
 - e. Motor vehicles:

	\$	19,253,443
	FTEs	542.00
 - f. Rail and water:

	\$	692,300
	FTEs	15.00
- 3. For 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:

	\$	39,000
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- 4. Unemployment compensation:

	\$	12,250
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- 5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:

	\$	75,000
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- 6. For the paving of the scale lots at LeMars and Ainsworth:

	\$	120,000
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The provisions of section 8.33 do not apply to the funds appropriated by this subsection, but remain available for expenditure for the purposes designated until June 30,

*Item veto; see message at end of the Act

1994. Unencumbered or unobligated funds remaining on June 30, 1994, from funds appropriated by this subsection for the fiscal year beginning July 1, 1991, shall revert to the fund from which appropriated on August 30, 1994.

Sec. 507. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. Administrative services:

.....	\$	22,903,953
.....	FTEs	293.00

b. General counsel:

.....	\$	1,088,760
.....	FTEs	7.00

c. Planning and research:

.....	\$	7,050,899
.....	FTEs	169.00

d. Aeronautics and public transit:

.....	\$	246,334
.....	FTEs	5.00

It is the intent of the general assembly that any state agency or individual using an airplane from the state aircraft pool shall be billed in an amount sufficient to cover operation and aircraft maintenance expense, including engine overhaul.

e. Highways:

.....	\$	139,750,000
.....	FTEs	2,951.00

As a condition, limitation, and qualification of the appropriation in this paragraph, the department shall conduct a pilot project for contracting with counties for winter maintenance on state primary highways. The department shall continue this project for a duration that is sufficient to determine the feasibility of performing permanent contractual maintenance with counties. Participating counties shall meet minimum criteria relating to highway maintenance functions, as determined by the department. The department shall submit an annual report to the general assembly outlining the progress of the pilot project.

f. Motor vehicles:

.....	\$	781,745
.....	FTEs	22.00

g. Rail and water:

.....	\$	296,700
.....	FTEs	7.00

2. For deposit in the state department of transportation's highway materials and equipment revolving fund established by section 307.47 for funding the increased replacement cost of vehicles:

.....	\$	3,000,000
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Moneys appropriated for the inventory and equipment replacement revolving fund shall only be transferred from the primary road fund to meet actual expenditure needs.

As a condition, limitation, and qualification of this appropriation, no more than \$2,782,509 from the highway materials and equipment revolving fund, plus an allocation for salary adjustment, may be expended for salaries and benefits for not more than 92.00 FTEs.

3. For 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:

.....	\$	741,000
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4. Unemployment compensation:

.....	\$	232,750
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5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:

..... \$ 1,425,000

6. For costs associated with fuel tank replacement and cleanup:

..... \$ 1,000,000

As a condition, limitation, and qualification of this appropriation, the department shall develop a comprehensive plan to determine the need for petroleum underground storage tanks operated by the department. The plan shall be submitted to the general assembly by January 15, 1992.

7. For conducting tests at department field facilities to determine the extent of asbestos contamination:

..... \$ 40,000

8. For the removal of asbestos from facilities at the department central complex:

..... \$ 650,000

9. For replacement of obsolete field facilities in the cities of Davenport, Rock Valley, Algona, and Pocahontas:

..... \$ 2,810,000

10. For grading and resurfacing the east parking lot at the Ames complex:

..... \$ 200,000

11. For electrical system improvements at the Ames complex:

..... \$ 230,000

12. For central air conditioning in the south wing offices (old lab) of the Ames complex:

..... \$ 300,000

13. For the purchase of land adjacent to the department's maintenance facility site in Hamlin:

..... \$ 15,000

The provisions of section 8.33 do not apply to the funds appropriated by subsection 9, but remain available for expenditure for the purposes designated until June 30, 1995. Unencumbered or unobligated funds remaining on June 30, 1995, from funds appropriated by subsection 9, for the fiscal year beginning July 1, 1991, shall revert to the fund from which appropriated on August 30, 1995.

The provisions of section 8.33 do not apply to the funds appropriated by subsections 10 through 12, but remain available for expenditure for the purposes designated until June 30, 1994. Unencumbered or unobligated funds remaining on June 30, 1994, from funds appropriated by subsections 10 through 12 for the fiscal year beginning July 1, 1991, shall revert to the fund from which appropriated on August 30, 1994.

Sec. 508. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For providing assistance for the restoration, conservation, improvement, and construction of railroad main lines, branch lines, switching yards, and sidings as required in section 327H.18; for use by the railway finance authority as provided in chapter 307B; and for airport engineering studies and improvement projects as provided in chapter 328:

..... \$ 5,230,546

From the appropriation in this subsection, up to the following amounts shall be used for the following airport improvement projects:

a. For runway extension in Belle Plaine:

..... \$ 112,500

b. For ramp extension and runway drainage in Decorah:

..... \$ 103,000

c. For ramp reconstruction in Fort Dodge:

..... \$ 97,000

d. For land acquisition for a new runway in Greenfield:

..... \$ 182,000

e. For land and grading for runway extension in Harlan:	\$	86,000
f. For runway and taxiway lighting system upgrade in Iowa Falls:	\$	49,000
g. For land and grading for a new runway in Washington:	\$	190,000
h. For ramp reconstruction in Webster City:	\$	73,000
*2. For essential air service airports:	\$	500,000

As a condition, limitation, and qualification of the appropriation in this subsection, \$500,000 shall be granted by the department to essential air service airports to be used for the following purposes:

- a. Grants for interstate and intrastate air travel, in an amount up to \$100,000. Moneys granted under this paragraph must be matched with an equivalent amount of local moneys.
- b. Grants in an amount up to \$10,000 for marketing of essential air service airports to facilitate air travel. Moneys granted under this paragraph must be matched with an equivalent amount of local moneys.
- c. Grants for the air service development program for the commercial air service airports identified in the state aviation plan.*

3. For aeronautics and public transit, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

\$	429,932
FTEs	9.00

It is the intent of the general assembly that the moneys deposited in the general fund and the interest earned from the deposit of those moneys, that would have been deposited into the following funds but for the provisions of 1991 Iowa Acts, House File 173,** division XII, shall only be used for the purposes for which the moneys were to be collected prior to the enactment of 1991 Iowa Acts, House File 173, division XII:

- a. Railroad assistance fund established under section 327H.18.
- b. Special railroad facility fund established under section 307B:23.
- c. State aviation fund established under section 328.36.
- d. Public transit assistance fund established under section 601J.6.

Sec. 509. Section 101.28, Code 1991, is amended to read as follows:

101.28 FEES FOR CERTIFICATION INSPECTIONS OF UNDERGROUND STORAGE TANKS.

The state fire marshal, the state fire marshal's designee, or a local fire marshal, authorized to conduct underground storage tank certification inspections under section 455G.11, subsection 6, shall charge the person requesting a certification inspection a fee to recover the costs of authorized training, inspection, and inspection program administration subject to rules adopted by the state fire marshal. The fees generated by inspections conducted by the state fire marshal or an employee of the state fire marshal's office shall be deposited into the general fund of the state.

Sec. 510. Section 307.12, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 14. Prepare and submit a report to the general assembly on or before January 15 of each fiscal year describing the prior fiscal year's highway construction program, actual expenditures of the program, and contractual obligations of the program.

Sec. 511. Section 307.45, unnumbered paragraph 4, Code 1991, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

However, an assessment in excess of sixty thousand dollars in effect on or after December 1, 1990, is not valid unless it is provided for or contained within a capital appropriation by the general assembly.

*Item veto; see message at end of the Act
 **Chapter 260 herein

Sec. 512. Section 312.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 21. The treasurer of state, before making the allotments provided for in this section shall credit annually from the road use tax fund to the state department of transportation the sum of six hundred fifty thousand dollars for the purpose of providing county treasurers with data processing equipment and support for vehicle registration and titling. Notwithstanding section 8.33, unobligated funds credited under this subsection remaining on June 30 of the fiscal year shall not revert but shall remain available for expenditure for purposes of this subsection in subsequent fiscal years.

Sec. 513. Section 312.2, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 22. The treasurer of state, before making the allotments provided for in this section shall, for the fiscal year beginning July 1, 1991, credit from the revenues otherwise to be credited to the road use tax fund under section 423.24, subsection 1, paragraph "c", the sum of seven hundred fifty thousand dollars to the state department of transportation to be used for providing assistance for the restoration, conservation, improvement, and construction of railroad main lines, branch lines, switching yards, and sidings as required in section 327H.18, for use by the railway finance authority as provided in chapter 307B, for airport engineering studies and improvement projects as provided for in chapter 328, and for essential air service airports. However, the amount transferred shall not be used unless authorized by the transportation commission. All unexpended funds from this appropriation shall revert to the road use tax fund. To authorize any such use, the commission must find that one or more of the following conditions exist as sole and sufficient justification for use of this appropriation:

a. The funds may be used to match federal funds that cannot otherwise be matched due to lack of available state matching moneys, when such federal funds are or may be made available to the state. Notwithstanding the provisions of section 8.33, all funds obligated for match of federal funds shall remain available until expended or no longer needed for matching purposes, at which time they shall be reverted in accordance with the provisions of this section.

b. Unforeseen emergencies or circumstances arise, after the transportation commission has adopted an annual program of projects, that would require the elimination of an approved project, provided that such projects would otherwise be eligible for expenditure.

Sec. 514. Section 313.2A, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Metropolitan area bypasses consistent with metropolitan or regional area plans established through cooperation by the department and local officials.

Sec. 515. Section 313.2A, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 4. NETWORK DEVELOPMENT. In establishing priorities for improvement projects, the department shall take into consideration the following additional criteria: urban area bypasses that improve urban or regional accessibility or improve corridor travel; projects consistent with regional or metropolitan transportation plans established through cooperation by the department and local officials; and the willingness of local officials to provide financial or other assistance for the development of projects.

Sec. 516. Section 314.21, subsection 3, paragraph b, subparagraph (1), Code 1991, is amended to read as follows:

(1) For the fiscal period beginning July 1, 1989, and ending June 30, 1991 1993, fifty thousand dollars in each fiscal year to the university of northern Iowa to maintain the position of the state roadside specialist and to continue its integrated roadside vegetation management pilot program providing research, education, training, and technical assistance.

Sec. 517. The department of public safety shall notify the legislative fiscal bureau, department of management, the chairpersons, vice chairpersons, and ranking members of the joint transportation and safety appropriation subcommittee, on any request for, approval of, or notification of award of federal funds or of any loss of federal funds. The notification shall include

the name of the funding grant, planned expenditures, and estimated amount which will be received. The department shall also prepare a report at the end of each fiscal year detailing the amount received, amount expended, and carryover balance on all nonappropriated receipts, including federal funds, received during that fiscal year.

Sec. 518. As a condition, limitation, and qualification of the appropriations made in this division, the state department of transportation shall develop a proposal, including necessary appropriation recommendations, for an air cargo service and development study program. The recommendations shall be reported to the general assembly by January 15, 1992. The department shall consult with local officials, airport authorities, representatives of business and industry, representatives of air cargo service providers, and the state department of economic development in developing these recommendations.

Sec. 519. Section 100.34, Code 1991, is repealed.

DIVISION VI
STATE BUDGETING, CAPITAL PROJECTS,
AND LEASE-PURCHASE AGREEMENTS

Sec. 601. Section 2.47A, subsection 1, paragraph d, Code 1991, is amended to read as follows:
d. Receive ~~quarterly~~ semiannual status reports for all ongoing capital projects of state agencies, pursuant to section 18.12, subsection 15.

Sec. 602. Section 8.6, subsection 13, Code 1991, is amended to read as follows:

13. CAPITAL PROJECT BUDGETING REQUESTS. To compile annually, ~~no later than October 1~~, all capital project budgeting requests of all state agencies, as defined in section 8.3A, and to consolidate the requests, with individual state agency priorities noted, into a report for submission to the legislative capital projects committee not later than ~~October~~ November 1, ~~with any~~. Any additional information regarding the capital project budgeting requests or priorities ~~to shall be compiled and submitted in the same manner no later than November 1 report.~~

Sec. 603. Section 8.6, subsection 14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

To prepare annually, in cooperation with the department of general services, a five-year capital project priority plan for all state agencies, as defined in section 8.3A, to be submitted no later than ~~July~~ November 1, ~~beginning in the year 1990~~, to the legislative capital projects committee. The plan shall include but is not limited to the following:

**Sec. 604. Section 8.29, unnumbered paragraph 4, Code 1991, is amended to read as follows:*

*The state board of regents, with the approval of the director of the department of management and the director of the legislative fiscal bureau, shall establish a uniform budgeting and accounting system for the institutions of higher education under its control, and shall require each of the institutions of higher education to begin operating under the uniform system not later than June 30, 1976 1991.**

**Sec. 605. Section 8.35A, subsection 2, Code 1991, is amended to read as follows:*

*2. Commencing September 1, the director shall provide weekly budget tapes in the form and level of detail requested by the legislative fiscal bureau reflecting finalized agency budget requests for the following fiscal year as submitted to the governor. The director shall transmit all agency requests in final form to the legislative fiscal bureau by November 15. ~~Final~~ The final budget records information required under sections 8.22 and 8.28 containing the governor's recommendation and final agency requests shall be transmitted to the legislative fiscal bureau by January 1 ~~or no later than the date the governor's budget document is delivered to the printer~~. The governor's recommendation included on this record shall be considered confidential by the legislative fiscal bureau until it is made public by the governor. The legislative fiscal bureau shall use this data in the preparation of information for the legislative appropriation process.**

*Item veto; see message at end of the Act

Sec. 606. **NEW SECTION. 8.46 LEASE-PURCHASE — REPORTING.**

For the purposes of this section, unless the context otherwise requires, "state agency" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

1. Before entering into a contract involving a lease-purchase arrangement in which any part or the total amount of the contract is at least fifty thousand dollars, a state agency shall notify the legislative fiscal committee of the legislative council regarding the contract. The notification is required regardless of the source of payment for the lease-purchase arrangement. The notification shall include all of the following information:

- a. A description of the object of the lease-purchase arrangement.
- b. The cost of the contract.
- c. The terms of the contract.
- d. The total cost of the contract, including principal and interest costs.
- e. An identification of the means and source of payment of the contract.
- f. An analysis of consequences of delaying or abandoning the commencement of the contract.

2. The legislative fiscal committee shall report to the legislative council concerning the notifications it receives pursuant to this section.

3. A state agency shall report quarterly to the legislative fiscal committee concerning its contracts involving a lease-purchase arrangement. The format of the report shall be determined by the legislative fiscal bureau in consultation with the department of management. The report shall include all of the following information:

- a. A description of the objects of a lease-purchase arrangement under contract.
- b. The total costs of the contracts.
- c. Total principal and interest cost in each fiscal year of each contract.
- d. An identification of the means and source of payment for each contract.

Sec. 607. Section 18.12, subsection 10, unnumbered paragraph 1, paragraphs b, d, and e, and unnumbered paragraphs 2 and 3, Code 1991, are amended to read as follows:

On behalf of the department, enter into lease-purchase contracts for real or personal property, wherever located within the state, to be used for buildings, facilities, and structures, or for additions or improvements to existing buildings, facilities, and structures, to carry out the provisions of this ~~chapter~~ section or for the proper use and benefit of the state and its state agencies on the following terms and conditions:

b. The lease-purchase contract may provide for ultimate ownership of the property by the state. Title to all property acquired in this manner shall be taken and held in the name of the state. The state shall be the lessee or contracting party under all lease-purchase contracts entered into pursuant to this ~~chapter~~ section. The lease-purchase contract may contain provisions similar to provisions customarily found in lease-purchase contracts between private persons, including, but not limited to, provisions prohibiting the acquisition or use by the lessee of competing property or property in substitution for the lease-purchased property, obligating the lessee to pay costs of operation, maintenance, insurance, and taxes relating to the property, and permitting the lessor to retain a security interest in the property lease-purchased, until title passes to the state, which may be assigned or pledged by the lessor. The director may contract for additional security or liquidity for a lease-purchase contract and may enter into agreements for letters of credit, lines of credit, insurance, or other forms of security with respect to rental and other payments due under a lease-purchase contract. Fees for the costs of additional security or liquidity are a cost of entering into the lease-purchase contract and may be paid from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available. The lease-purchase contract may include the costs of entering into the lease-purchase contract as a cost of the lease-purchased property. The provision of a lease-purchase contract which provides that a portion of the periodic rental payment be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 does not apply to lease-purchase contracts entered into pursuant to this ~~chapter~~ section. Rental and other costs due

under lease-purchase contracts entered into pursuant to this ~~chapter section~~ shall be payable from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available.

d. The director shall not enter into lease-purchase contracts pursuant to this ~~chapter section~~ without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be lease-purchased. However, the director shall not enter into a lease-purchase contract for real or personal property which is to be constructed for use as a prison or prison-related facility without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be lease-purchased and with the construction in accordance with space needs as established by an independent study of space needs authorized by the general assembly.

e. A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the director pursuant to this ~~chapter section~~ is exempt from section 18.6, subsections 1 and 9, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the director under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

This subsection provides an alternative and independent method for carrying out projects under this chapter and for entering into lease-purchase contracts in connection ~~therewith with~~ the projects, without reference to any other statute, and is not an amendment of or subject to the provision of any other law. No publication of any notice, whether under section 23.12 or otherwise, and no other or further proceedings with respect to the lease-purchase contracts is referred to in this section are required except as set forth in this ~~chapter section~~, any provisions of other statutes of the state to the contrary notwithstanding.

For purposes of this subsection and subsection 12, "state agency" means a board, commission, bureau, division, office, department, or branch of state government.

Sec. 608. Section 18.12, subsection 15, Code 1991, is amended to read as follows:

15. Prepare ~~quarterly~~ semiannual status reports for all ongoing capital projects of all state agencies, as defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

Sec. 609. Section 262A.3, Code 1991, is amended to read as follows:

262A.3 ~~TEN-YEAR FIVE-YEAR~~ PROGRAM AND TWO-YEAR BOND PROPOSAL SUBMITTED EACH YEAR.

The board shall prepare and submit to the general assembly for approval or rejection a proposed ~~ten-year five-year~~ building program for each institution, including an estimate of the maximum amount of bonds which the board expects to issue under the provisions of this chapter during each year of the ensuing biennium. ~~Such~~ The program and estimate shall be submitted ~~no later than seven days after the passage of this chapter by the general assembly and thereafter~~ no later than seven days after the convening of each regular annual session of the general assembly. The building program shall contain a list of the buildings and facilities which the board deems necessary to further the educational objectives of the institutions. This list shall be revised annually, but no project shall be eliminated from the list when bonds have previously been issued by the board to pay the cost ~~thereof of the project~~. Each ~~such~~ list shall contain an estimate of the cost of each of the buildings and facilities referred to ~~therein~~ in the list. If the general assembly rejects or fails to approve any proposed ~~ten-year five-year~~ building program, ~~such~~ this action or inaction shall not affect the status or legality of any project previously or subsequently authorized by the general assembly as provided in section 262A.4.

Sec. 610. NEW SECTION. 455A.9 STATE FISH AND GAME PROTECTION FUND – CAPITAL PROJECTS AND CONTINGENCIES.

Funds remaining in the state fish and game protection fund during a fiscal year which are not specifically appropriated by the general assembly are appropriated and may be used for

capital projects and contingencies under the jurisdiction of the fish and wildlife division arising during the fiscal year. 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 section, a necessity of additional operating funds may be construed as a contingency. Before any of the funds authorized to be expended by this section are allocated for contingencies, it shall be determined by the executive council that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests of the state. If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

Approved June 7, 1991, except the items which I hereby disapprove and which are designated as Section 122 in its entirety; Section 201, subsection 6, paragraph d, in its entirety; Section 204 in its entirety; Section 207, subsection 12, in its entirety; Section 218 in its entirety; Sections 226 and 227 in their entirety; Section 232 in its entirety; Section 234 in its entirety; Section 236 in its entirety; Section 239 in its entirety; Section 403, subsection 2, unnumbered and unlettered paragraph 2 in its entirety; Section 422 in its entirety; Section 504, subsection 1, unnumbered and unlettered paragraph 2 in its entirety; Section 504, subsection 6 in its entirety; Section 505, subsection 2 in its entirety; Section 508, subsection 2 in its entirety; and Sections 604 and 605 in their entirety. 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 529, an Act relating to and making appropriations to state departments, agencies, funds, and certain other entities, making related statutory changes, and providing effective dates.

In order to assure a balanced budget in fiscal year 1992, it is necessary to item veto excessive spending wherever possible and employ an across-the-board cut in spending. My actions on this bill move us closer to a balanced budget in fiscal year 1992 by reducing spending by a total of \$1.3 million.

Senate File 529 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 122, in its entirety. This provision would require the Governor to use the Department of Personnel recruitment process when making an appointment to a full-time position in a division, department, board, commission, or council of the state. The current appointment process includes adequate oversight. In most cases, the qualifications of appointees to fill full-time positions are specified in the Code and the selection made by the Governor must be confirmed by a two-thirds vote of the Iowa Senate. An appointee's service is limited to a term of years and all must be reappointed and reconfirmed to continue in their positions.

I am unable to approve the item designated as Section 201, subsection 6, paragraph d, in its entirety. This provision would appropriate \$250,000 for a stream degradation pilot project. Given the state's fiscal condition, funding for this new program cannot be approved. By disapproving this item, the Department of Agriculture will revert this \$250,000 at the end of the fiscal year 1992.

I am unable to approve the item designated as Section 204, in its entirety. This provision would appropriate \$25,000 to research the multiflora rose virus. Sufficient funding currently exists within the Regents' budget to continue this research at Iowa State University, therefore, this additional funding is unnecessary.

I am unable to approve the item designated as Section 207, subsection 12, in its entirety. This provision would appropriate \$216,000 for programs supported from the Energy Research and Development Fund and administered by the Energy and Geological Resources Division of the Department of Natural Resources. Funding is available for this program through a standing appropriation and from other sources. Given the state's fiscal condition, this additional funding cannot be approved.

I am unable to approve the item designated as Section 218, in its entirety. This provision would transfer funds granted under the Council of Great Lakes Governors Regional Bio Mass Energy Program from the Department of Natural Resources to the Department of Agriculture and Land Stewardship. This grant is appropriately placed in the Energy Bureau of the Department of Natural Resources and should not be transferred.

I am unable to approve the item designated as Section 226, in its entirety. This provision requires the Department of Natural Resources to charge a fee, based upon production costs, for stocking fish in private ponds. The current program was designed to increase fishing opportunities all over the state and has been quite successful. Over 600 pond acres are stocked with fish each year through this program which is funded with the revenues received from fishing license sales. This provision would discourage owners of private ponds from stocking ponds and making them available for fishing to the public.

I am unable to approve the items designated as Sections 227 and 236, in their entirety. These provisions specify procedures for reports filed by the Departments of Natural Resources and Agriculture and Land Stewardship with the General Assembly if a procedure regarding a specific report is not otherwise provided. The procedure would require the automatic distribution of multiple reports to legislative staff who have not indicated an interest in receiving them. This requirement would result in unnecessary costs to the department and waste of state government resources.

I am unable to approve the item designated as Section 232, in its entirety. This provision would change the word "divisions" to "administrative units" in the Department of Natural Resources. The reference to subunits of departments as "divisions" was established during reorganization in 1986 to apply across state government. This change is unnecessary and would result in costly changes to Iowa statutes and rules to conform the provisions where the word "divisions" is used.

I am unable to approve the item designated as Section 234, in its entirety. This item would eliminate the deputy director position in the Department of Natural Resources. This department is one of the largest and most complex in state government, and the director should retain the flexibility to employ a deputy director and to delegate responsibilities as needed.

I am unable to approve the item designated as Section 239, in its entirety. This provision amends the Code to transfer \$250,000 annually from the Grain Indemnity Fund to the Regulatory Division of the Department of Agriculture and Land Stewardship to supplement the general fund appropriation for grain dealer/warehouse inspections. The Grain Indemnity Fund was created to cover qualified losses of depositors and sellers of grain. It should not be used to pay for inspection activities.

I am unable to approve the item designated as Section 403, subsection 2, unnumbered and unlettered paragraph 2, in its entirety. This provision would appropriate \$45,396 to fund an additional word processor III position in the Division of Industrial Services. Given the current fiscal condition, I cannot approve funding for this purpose. By disapproving this item, the Department of Employment Services will revert this \$45,396 at the end of the fiscal year 1992.

I am unable to approve the item designated as Section 422, in its entirety. This provision would appropriate up to \$238,389 from the balance remaining in the Insurance Revolving Fund at the end of the fiscal year 1991 to the Department of Employment Services. Given the state's current fiscal condition, funding for this purpose cannot be approved. Any balance remaining in the fund should be transferred to the general fund at the end of this fiscal year.

I am unable to approve the item designated as Section 504, subsection 1, unnumbered and unlettered paragraph 2, in its entirety. This provision would prohibit the Department of Public Safety from providing security services to the Lieutenant Governor of Iowa. With the changed nature of the position and expanded duties, it is appropriate to provide security to the holder of the office, therefore, I cannot approve this provision.

I am unable to approve the item designated as Section 504, subsection 6, in its entirety. This provision would appropriate \$50,000 from the Road Use Tax Funds for land acquisition for a new state patrol post. With the state's present fiscal condition, we should not commit the state to expensive capital projects.

I am unable to approve the item designated as Section 505, subsection 2, in its entirety. This provision would appropriate \$38,000 from use tax receipts to design three new armories. I have approved the construction of armories at Corning, Council Bluffs and Oskaloosa in order to avoid the loss of \$6 million in federal funds. However, it is inappropriate to plan for additional armories out of the road use tax fund.

I am unable to approve Section 508, subsection 2, in its entirety. This provision appropriates \$500,000 for air service programs. This amount of funding would result in a significant expansion in spending for this purpose. Given the state's fiscal condition, it cannot be approved. By disapproving this item, the Department of Transportation will revert this \$500,000 at the end of fiscal year 1992.

I am unable to approve the item designated as Section 604, in its entirety. This section would require the Board of Regents to obtain the approval of the Director of the Legislative Fiscal Bureau to implement a uniform budget and accounting systems, and provides for a June 30, 1991 deadline. Approval of budgeting and accounting system used by the Board of Regents should remain with the executive branch.

I am unable to approve the item designated as Section 605, in its entirety. This section would require the Governor's final budget recommendations to be transmitted to the Legislative Fiscal Bureau no later than January 1, rather than the date the budget document is sent to the printer. Over the past several years, the Governor's budget has been transmitted to the legislature well before the February 1 statutory deadline. A further acceleration is unnecessary and would impair the decision-making process in the executive branch.

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 529 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 269

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 541

AN ACT appropriating federal funds made available from federal block grants and other federal 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 and providing effective dates.

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

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 for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 8,633,000

Funds appropriated by this subsection 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 subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$38,103 shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

2. Ten percent of the remaining funds, as allowed pursuant to Pub. L. No. 97-35, Title IX, subtitle A, and which are 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 with priority being given to dual diagnosis. Of this amount, 10 percent shall be used to provide services and programs for severely emotionally disturbed children and adolescents, and 55 percent shall be used to develop and provide community mental health services and programs not available on October 1, 1988. New services developed between October 1, 1984, and October 1, 1988, with alcohol, drug abuse, and mental health services block grant funds may be treated as new services. Of the amount transferred to the division under this subsection, an amount not exceeding 5 percent shall be used by the department of human services for administrative expenses.

3. An amount not exceeding 5 percent of the funds in excess of \$2,839,000 appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses. Of the moneys designated for administrative expenses under this subsection, no more than \$20,000 shall be used for the development of a substance abuse treatment provider reporting system, or on any other treatment evaluation process for the period during which the system is being developed.

4. Ten percent of the 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, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the Iowa department of public health:

- a. Drug abuse treatment programs

38.89%

Of the amount appropriated under this paragraph, at least \$1,501,940 shall be used for intravenous drug abusers unless a waiver is granted from the federal government.

- b. Alcohol abuse treatment programs 38.89%
- c. Alcohol and drug abuse prevention programs 22.22%

As a condition, limitation, and qualification of the appropriation in subsection 1, and the allocations in subsection 5, paragraphs "a" and "b", priority shall be given to maintaining existing services, reducing the treatment waiting lists, providing aftercare services, and providing early intervention in the treatment of infants affected by cocaine.

As a condition, limitation, and qualification of the appropriation in subsection 1, and the allocations in subsection 5, paragraph "c", priority shall be given to maintaining existing services and funding additional prevention services.

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 for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 6,364,530

The funds appropriated by this subsection 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 subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$67,374 shall be used for audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. An amount not exceeding \$150,000 of the funds appropriated in subsection 1 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.

3. 63 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, \$222,585 shall be set aside for the statewide perinatal care program.

37 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 specialty clinics.

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, 1991, 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 subsection 3.

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 federal 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 for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 1,064,250

Funds appropriated by this subsection 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 subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$7,124 shall be used for audits.

2. An amount not exceeding \$94,670 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, 7 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 used by the department for risk reduction services, health incentive programs, chronic disease services, emergency medical services, monitoring of the fluoridation program and start-up fluoridation grants, and acquired immune deficiency syndrome. The moneys used by the department concerning acquired immune deficiency syndrome shall not be used for the funding of indirect costs. Of the funds used by the department under this subsection, an amount not exceeding \$90,000 shall be used for the monitoring of the fluoridation program and for start-up fluoridation grants to public water systems, and at least \$50,000 shall be used to provide chlamydia testing.

Sec. 4. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 5,172,000

Funds appropriated by this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under Pub. L. No. 100-690 which provides for the drug control and system improvement grant program. The drug enforcement and abuse coordinator 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. An amount not exceeding five percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse coordinator 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.

Sec. 5. 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 for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 3,883,788

Funds appropriated by this subsection 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 subsection 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 96 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 4 percent of the funds appropriated in subsection 1 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 for the costs of the audits.

Sec. 6. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 24,000,000

Funds appropriated by this subsection 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 of which a minimum of 4 percent shall be set aside with one-half the actual amount set aside to be expended for a grant program for the homeless for the construction, rehabilitation, or expansion of group home shelter for the homeless and with the other one-half to be expended for a home ownership program to help lower income and very low income families achieve single family home ownership. However, after January 1, 1992, the department may allocate the set-aside money between the programs based on the number of applications received. If the allocation for the current federal fiscal year is not fully obligated, the excess shall be allocated to the general competitive program for the following federal fiscal year. The department of economic development shall expend 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 \$1,160,000 for the federal fiscal year beginning October 1, 1991, 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 \$580,000 for the federal fiscal year beginning October 1, 1991, of funds appropriated in subsection 1 and a matching contribution from the state equal to \$580,000 from the appropriation of state funds for the community development block grant and state appropriations for related activities of the department of economic development. 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.

Sec. 7. 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, 1991, and ending June 30, 1992, the following amount:

..... \$ 4,974,573

Funds appropriated in this subsection are the funds anticipated to be received from the federal government under Pub. L. No. 100-297, Hawkins-Stafford Act, chapter 2. The department 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. 20 percent of the funds appropriated in subsection 1, not to exceed \$994,914 shall be used by the department for targeted assistance to meet the educational needs of students at risk, programs for the acquisition of instructional and educational materials, for innovative programs to carry out schoolwide improvements, for programs of training and professional development, for programs to enhance personal excellence of students, and for other innovative projects. However, not more than 25 percent of the amount available for state programs shall be used by the department for state administrative expenses.

3. 80 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. 100-297. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments:

a. 80 percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. 20 percent shall be allocated to those local educational agencies enrolling the greatest percent of disadvantaged children.

4. Funds appropriated in this section 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.

Sec. 8. 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 for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 26,330,353

The funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year 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 subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding \$2,633,035 or 10 percent of the funds appropriated in subsection 1, whichever is less, may be used for administrative expenses for the low-income home energy assistance program. Not more than \$290,000 shall be used for administrative expenses of the division of community action agencies of the department of human rights. Not more than \$263,303 shall be used for administrative expenses for the affordable heating program. From the total funds set aside by this subsection for administrative expenses for the low-income home energy assistance program, 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 of state shall bill the division of community action agencies for the costs of the audits.

3. Of the remaining funds appropriated under subsection 1, \$3,500,000 shall be used to fund the affordable heating program.

4. Of the remaining funds appropriated under subsection 1, not more than \$1,000,000 shall be used for assessment and resolution of energy problems.

5. After deducting the funds allocated in subsections 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated to help eligible households, as defined in accordance with the federal Omnibus Budget Reconciliation Act of 1981, 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 10 percent of the funds appropriated in subsection 1, to carry forward into the federal fiscal year beginning October 1, 1992, an amount which is

at least 15 percent of the initial amount appropriated in subsection 1 shall be used for low-income residential weatherization or other related home repairs for low-income households. Of this amount, an amount not exceeding 10 percent may be used for administrative expenses.

6. 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.

Sec. 9. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 31,853,745

Funds appropriated by this subsection are the funds 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 \$1,837,961 of the funds appropriated in subsection 1 shall be used by the department of human services for general administration. 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.

3. In addition to the allocation for general administration in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated in the following amounts to supplement appropriations for the federal fiscal year beginning October 1, 1991, for the following programs within the department of human services:

- a. Field operations: \$ 12,582,229
- b. Home-based services: \$ 146,527
- c. Foster care: \$ 4,666,574
- d. Child care assistance: \$ 1,360,155
- e. Local administrative costs and other local services: \$ 11,132,884
- f. Volunteers: \$ 127,415

Sec. 10. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each state 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.

Sec. 11. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS. Upon receipt of the minimum formula grant from the federal alcohol, drug abuse, and mental health administration to provide mental health services for the homeless, the division of mental health, mental retardation, and developmental disabilities of the department of human services shall assure that a project which receives funds under the formula grant from either the federal or local match share of 25 percent in order to provide outreach services to persons who are chronically mentally ill and homeless or who are subject to a significant probability of becoming homeless shall do all of the following:

1. Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.
2. Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.
3. Provide appropriate training to persons who provide services to persons targeted by the grant.
4. Provide case management to homeless persons.
5. Provide supportive and supervisory services to certain homeless persons living in residential settings which are not otherwise supported.
6. Projects may expend funds for housing services including minor renovation, expansion and repair of housing, security deposits, planning of housing, technical assistance in applying for housing, improving the coordination of housing services, the costs associated with matching eligible homeless individuals with appropriate housing, and one-time rental payments to prevent eviction.

Sec. 12. JOBS CHILD CARE ENTITLEMENT BLOCK GRANT. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 3,226,408

Funds appropriated by this section are the funds anticipated to be received from the federal government under Pub. L. No. 101-508, section 5081, which provides for the jobs child care entitlement 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.

Sec. 13. CHILD CARE AND DEVELOPMENT BLOCK GRANT. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1991, and ending September 30, 1992, the following amount:

..... \$ 7,523,000

Funds appropriated by this subsection are the funds anticipated to be received from the federal government under Pub. L. No. 100-508, section 5082, which provides for the child care and development 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.

Sec. 14. JOBS CHILD CARE ENTITLEMENT BLOCK GRANT. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1990, and ending September 20, 1991, the following amount:

..... \$ 3,226,408

Funds appropriated by this section are the funds anticipated to be received from the federal government under Pub L. No. 101-508, section 5081, which provides for the jobs child care entitlement 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.

Sec. 15. CHILD CARE AND DEVELOPMENT BLOCK GRANT. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1990, and ending September 30, 1991, the following amount:

..... \$ 7,523,000

Funds appropriated by this section are the funds anticipated to be received from the federal government under Pub. L. No. 101-508, section 5082, which provides for the child care and development block grant. The department shall expend the funds appropriated by this section as provided in this federal law making the funds available and in conformance with chapter 17A.

CHILD CARE FOR CHILDREN IN FAMILY FOSTER CARE. It is the intent of the general assembly that of the funds received from the federal child care and development block grant or the federal at-risk child care program, based on identified need, at least \$1,341,000 shall be used during the fiscal year beginning July 1, 1991, and ending June 30, 1992, for care provided to children in family foster care. This funding shall be used to supplement and not to supplant existing state funding provided for this purpose.

Sec. 16. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 7 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 senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, and the director of the legislative fiscal bureau 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. 17. 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, 7, and 9 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 8 of this Act, at least 10 percent and not more than 15 percent of the excess shall be allocated to the low-income residential weatherization program.

3. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 5 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 18. 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, 1991, 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 1991 federal fiscal year as modified by the 1991 Session of the Seventy-fourth Iowa General Assembly for the state fiscal year beginning July 1, 1991, compared to the total federal funds received in the 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 beginning October 1, 1990, but had anticipated applying for funds during the federal fiscal year beginning October 1, 1991, 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 1991 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 standing committees on appropriations, the appropriate chairpersons and ranking members of the subcommittees of those committees, and the legislative fiscal director 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 1991 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 1991 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 1991 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.

It is the intent of the general assembly that the department of education work with local head start program agencies and the department of human services, as necessary, to assist the agencies in obtaining federal funding available under the federal Head Start Act, § 640, as codified in 42 U.S.C. § 9835, including provision of funds appropriated to the departments of education and human services which remain unexpended.

Sec. 19. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement sections 14 and 15 of this Act. Rules adopted pursuant to section 14 of this Act shall become effective upon filing.

Sec. 20. APPLICATIONS FOR FEDERAL AND NONSTATE FUNDS. It is the intent of the general assembly that all agencies of the state shall be encouraged to apply for available federal and other nonstate funds if those federal or nonstate funds will assist the agencies in fulfilling their constitutional or statutory duties and responsibilities.

Sec. 21. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 22. DEPARTMENT OF JUSTICE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of justice for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 23. OFFICE OF AUDITOR OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the office of auditor of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 24. DEPARTMENT FOR THE BLIND. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department for the blind for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 25. CAMPAIGN FINANCE DISCLOSURE COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the campaign finance disclosure commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 26. IOWA STATE CIVIL RIGHTS COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the Iowa state civil rights commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 27. COLLEGE AID COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the college aid commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 28. DEPARTMENT OF COMMERCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of commerce for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 29. DEPARTMENT OF CORRECTIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of corrections for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 30. DEPARTMENT OF CULTURAL AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of cultural affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 31. DEPARTMENT OF EDUCATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of education for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 32. DEPARTMENT OF ELDER AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of elder affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 33. DEPARTMENT OF EMPLOYMENT SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of employment services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 34. EXECUTIVE COUNCIL. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the executive council for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 35. DEPARTMENT OF GENERAL SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of general services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 36. OFFICE OF THE GOVERNOR. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the office of the governor for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 37. OFFICE OF THE LIEUTENANT GOVERNOR. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the office of the lieutenant governor for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 38. DEPARTMENT OF HUMAN RIGHTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of human rights for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 39. DEPARTMENT OF INSPECTIONS AND APPEALS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of inspections and appeals for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 40. JUDICIAL DEPARTMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the judicial department for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 41. IOWA LAW ENFORCEMENT ACADEMY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the Iowa law enforcement academy for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 42. DEPARTMENT OF MANAGEMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of management for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 43. DEPARTMENT OF NATURAL RESOURCES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of natural resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 44. BOARD OF PAROLE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the board of parole for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 45. DEPARTMENT OF PERSONNEL. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of personnel for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 46. DEPARTMENT OF PUBLIC DEFENSE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of public defense for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 47. PUBLIC EMPLOYMENT RELATIONS BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the public employment relations board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 48. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the state board of regents for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 49. DEPARTMENT OF REVENUE AND FINANCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 50. OFFICE OF SECRETARY OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the office of secretary of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 51. IOWA STATE FAIR AUTHORITY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the Iowa state fair authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 52. OFFICE OF FEDERAL-STATE RELATIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year

beginning July 1, 1991, and ending June 30, 1992, are appropriated to the office of federal-state relations for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 53. STATE DEPARTMENT OF TRANSPORTATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the state department of transportation for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 54. OFFICE OF TREASURER OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 55. DEPARTMENT OF PUBLIC SAFETY. There is appropriated from federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, to the department of public safety, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For communications, grant number 11000:	\$	5,000
2. For the fire marshal, grant number 14000:	\$	12,000
3. For the purposes of the national Highway Safety Act funds, grant number 20600:	\$	1,870,000
4. For the highway patrol, grant number 20600:	\$	477,666

If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the department of public safety prior to March 15 of the fiscal year beginning July 1, 1991, and ending June 30, 1992, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 56. IOWA DEPARTMENT OF PUBLIC HEALTH. There is appropriated from federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, to the Iowa department of public health, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For health planning, grant number 10557:	\$	33,885
2. For health planning, grant number 13118:	\$	17,604
3. For health planning, grant number 13130:	\$	80,257
4. For central administration, grant number 10557:	\$	186,082
5. For central administration, grant number 13000:	\$	20,991
6. For central administration, grant number 13101:	\$	2,802

7. For central administration, grant number 13118:	\$	99,746
8. For central administration, grant number 13136:	\$	28,207
9. For central administration, grant number 13161:	\$	2,342
10. For central administration, grant number 13217:	\$	13,549
11. For central administration, grant number 13226:	\$	233,072
12. For central administration, grant number 13268:	\$	28,560
13. For central administration, grant number 13283:	\$	71,900
14. For central administration, grant number 13977:	\$	46,978
15. For central administration, grant number 13987:	\$	9,856
16. For central administration, grant number 13991:	\$	87,777
17. For central administration, grant number 13992:	\$	32,755
18. For central administration, grant number 13994:	\$	207,802
19. For central administration, grant number 66032:	\$	24,089
20. For central administration, grant number 66600:	\$	40,120
21. For central administration, grant number 66702:	\$	13,313
22. For central administration, grant number 87001:	\$	3,715
23. For central administration, grant number 90001:	\$	53,057
24. For disease prevention, grant number 13000:	\$	53,057
25. For disease prevention, grant number 13103:	\$	15,320
26. For disease prevention, grant number 13118:	\$	885,756
27. For disease prevention, grant number 13136:	\$	104,162
28. For disease prevention, grant number 13146:	\$	44,000
29. For disease prevention, grant number 13161:	\$	24,873
30. For disease prevention, grant number 13268:	\$	150,739
31. For disease prevention, grant number 13977:	\$	285,105
32. For disease prevention, grant number 13987:	\$	42,194

33. For disease prevention, grant number 13991:	\$	374,528
34. For disease prevention, grant number 14000:	\$	2,000
35. For disease prevention, grant number 66032:	\$	149,362
36. For disease prevention, grant number 66702:	\$	272,388
37. For disease prevention, grant number 87001:	\$	23,178
38. For disease prevention, grant number 90001:	\$	209,618
39. For substance abuse, grant number 13279:	\$	44,227
40. For substance abuse, grant number 13992:	\$	245,861
41. For substance abuse, grant number 84186:	\$	27,249
42. For substance abuse program grants, grant number 13992:	\$	7,548,751
43. For substance abuse program grants, grant number 84186:	\$	592,258
44. For family and community health, grant number 10557:	\$	17,243,640
45. For family and community health, grant number 13217:	\$	464,690
46. For family and community health, grant number 13283:	\$	327,045
47. For family and community health, grant number 13991:	\$	552,013
48. For family and community health, grant number 13994:	\$	6,351,130

If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the Iowa department of public health prior to March 15 of the fiscal year beginning July 1, 1991, and ending June 30, 1992, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 57. DEPARTMENT OF HUMAN SERVICES. There is appropriated from federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, to the department of human services, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For general administration, grant number 10551:	\$	3,310,791
2. For general administration, grant number 13630:	\$	190,820
3. For general administration, grant number 13658:	\$	552,369
4. For general administration, grant number 13667:	\$	1,844,592

5. For general administration, grant number 13714:	\$	3,780,067
6. For general administration, grant number 13748:	\$	958,994
7. For general administration, grant number 13780:	\$	1,766,903
8. For general administration, grant number 13787:	\$	72,686
9. For general administration, grant number 13790:	\$	89,092
10. For child abuse projects, grant number 13669:	\$	348,000
11. For alcohol, drug abuse, and mental health block grants, grant number 13992:	\$	500,000
12. For IV-E independent living grants, grant number 13658:	\$	289,264
13. For temporary and emergency food assistance programs, grant number 10565:	\$	452,500
14. For commodity supplemental feeding and elderly feeding programs, grant number 10565:	\$	363,720
15. For mental health/mental retardation federal grants, grant number 13244:	\$	13,680
16. For mental health/mental retardation federal grants, grant number 13293:	\$	51,250
17. For mental health services for the homeless, grant number 13244:	\$	306,637
18. For the Title XVIII/XIX Medicare/Medicaid Clearinghouse, grant number 13773:	\$	321,985
19. For field operations, grant number 10551:	\$	7,474,250
20. For field operations, grant number 13658:	\$	2,347,622
21. For field operations, grant number 13667:	\$	12,630,088
22. For field operations, grant number 13714:	\$	5,008,656
23. For field operations, grant number 13780:	\$	4,897,559
24. For field operations, grant number 13787:	\$	2,794,522
25. For child support recoveries, grant number 13783:	\$	9,288,667
26. For local administrative costs, grant number 10551:	\$	1,079,044
27. For local administrative costs, grant number 13658:	\$	163,905
28. For local administrative costs, grant number 13667:	\$	1,170,281
29. For local administrative costs, grant number 13714:	\$	628,304
30. For local administrative costs, grant number 13780:	\$	606,109

31. For local administrative costs, grant number 13787:	\$	21,342
32. For the Iowa refugee service center, grant number 13787:	\$	2,793,000
33. For refugee resettlement, grant number 13787:	\$	196,000
34. For the Clarinda RSVP program, grant number 72002:	\$	13,400
35. For Glenwood hospital-school, grant number 72001:	\$	204,275
36. For Glenwood hospital-school, grant number 72002:	\$	11,950
37. For aid to dependent children, grant number 13780:	\$	86,847,121
38. For aid to dependent children, grant number 13787:	\$	62,000
39. For emergency assistance, grant number 13808:	\$	500,000
40. For PROMISE jobs, grant number 13780:	\$	8,033,517
41. For medical assistance, grant number 13714:	\$	508,452,590
42. For enhanced MH/MR/DD services, grant number 13714:	\$	8,142,112
43. For enhanced MH/MR/DD services, grant number 13814:	\$	5,000
44. For medical contracts, grant number 13714:	\$	9,854,684
45. For medical contracts, grant number 13814:	\$	15,000
46. For volunteers, grant number 13667:	\$	127,900
47. For transitional child care, grant number 13780:	\$	573,987
48. For child care services, grant number 13667:	\$	1,365,329
49. For child care services, grant number 13673:	\$	53,077
50. For child care services, grant number 13674:	\$	3,303,000
51. For child care services, grant number 13675:	\$	7,523,000
52. For social services block grant supplemental, grant number 13667:	\$	10,004,948
53. For foster care, grant number 13645:	\$	2,900,000
54. For foster care, grant number 13658:	\$	4,690,501
55. For foster care, grant number 13667:	\$	4,684,324
56. For home-based services, grant number 13659:	\$	1,250,000

57. For home-based services, grant number 13667:	\$	147,084
.....		
58. For developmental disabilities grants, grant number 13630:	\$	500,000
.....		

If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the department of human services prior to March 15 of the fiscal year beginning July 1, 1991, and ending June 30, 1992, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 58. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1991, and ending June 30, 1992, to the department of economic development, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For the procurement office, grant number 12600:	\$	67,000
.....		
2. For the Job Training Partnership Act, grant number 17250:	\$	31,210,000
.....		
3. For the state occupational information council, grant number 17000:	\$	419,000
.....		
4. For rental rehabilitation, grant number 14228:	\$	75,945
.....		

If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the department of economic development prior to March 15 of the fiscal year beginning July 1, 1991, and ending June 30, 1992, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 59. NOTIFICATION OF RECEIPT OF FEDERAL AND OTHER NONSTATE FUNDS. All agencies of this state enumerated in this Act shall report to the department of management and the legislative fiscal bureau the receipt of federal and other nonstate grants, receipts, and funds for the fiscal year beginning July 1, 1990, and ending June 30, 1991, and the anticipated receipt of federal and other nonstate grants, receipts, and funds for the fiscal year beginning July 1, 1991, and ending June 30, 1992. The notification shall be made no later than November 15, 1991, and shall include the names of the grantor and the grant or the source of the funds, the estimated amount of the funds, and the planned expenditures and use of the funds. The format of the notification shall be specified by the legislative fiscal bureau.

Sec. 60. Sections 14, 15, and 19 of this Act, being deemed of immediate importance, are effective upon enactment.

Approved June 7, 1991

CHAPTER 270

**APPROPRIATIONS FOR ENERGY CONSERVATION
AND ENVIRONMENTAL PROTECTION**

S.F. 542

AN ACT relating to and making appropriations from the energy conservation trust for weatherization purposes.

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

Section 1. There is appropriated from those funds designated within the energy conservation trust created in section 93.11, to the energy and geological resources division of the department of natural resources for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, for disbursement under section 93.11 to the following agencies for the purposes designated:

1. To the department of natural resources for the following purposes:

a. For the energy-related elements of the state groundwater protection program from the Stripper well fund:

..... \$ 2,360,000

b. For the state energy conservation program and for the energy extension service program, from the Exxon fund:

..... \$ 238,200

2. To the department of agriculture and land stewardship for the continuation of not less than 5 model farm demonstration project areas, in geographically distinct portions of the state. The projects shall be located in southeast, south-central, southwest, northwest, and north-central portions of the state. The projects shall be designed to enhance the profitability and decrease the environmental impacts of row crop production, and to develop on-farm demonstration and education programs involving farms concentrated in a project area, such as the Big Spring demonstration project does in northeast Iowa. An advisory group shall assist the soil conservation division of the department of agriculture and land stewardship in the project design and implementation, with representation consisting of the energy and geological resources division of the department of natural resources and the cooperative extension service.

From the Exxon fund:

..... \$ 600,000

3. 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, which target the highest energy users, and including administrative costs, to be expended first from the available balance of the Warner/Imperial fund, and the office of hearings and appeals second-stage settlement fund, with the balance from the Exxon fund for a total appropriation not to exceed:

..... \$ 3,000,000

Sec. 2. There is appropriated an amount up to 5 percent, but not to exceed \$300,000, of the allowable petroleum overcharge money appropriated in this Act for the fiscal year beginning July 1, 1991, and ending June 30, 1992, to be used for administration of the petroleum overcharge programs.

Sec. 3. 1986 Iowa Acts, chapter 1249, section 4, unnumbered paragraph 1, as amended by 1987 Iowa Acts, chapter 230, section 8; 1988 Iowa Acts, chapter 1281, section 6; 1989 Iowa Acts, chapter 312, section 6; and 1990 Iowa Acts, chapter 1265, section 3, is amended to read as follows:

There is appropriated from the funds available in the energy conservation trust, established in section 93.11, for the fiscal period beginning July 1, 1986, and ending June 30, 1991 1992, to 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. 4. **CONDITIONAL APPROPRIATION.** If Senate File 508* is enacted by the Seventy-fourth General Assembly, 1991 Session, and following the initial appropriation of \$150,000 to the department of natural resources from the energy research and development fund, the remaining moneys shall be used and are appropriated for the purposes designated pursuant to section 601K.102.

Sec. 5. Section 403A.11, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. All dwellings which are part of housing projects and which are proposed to be rented to low-income families or the elderly through the programs of the United States department of housing and urban development shall have ceiling insulation having an R value of 38 in the attic, floor insulation having an R value of 20, or perimeter wall insulation having an R value of 10 beneath all habitable heated areas or over unheated spaces. In addition, basement walls shall have insulation with an R value of 6 to their full height, with insulation in the box sill having an R value of 20. As used in this section, "R value" means resistance to heat flow.

NEW UNNUMBERED PARAGRAPH. The insulation requirements of this section are effective for all dwellings, the construction of which begins on or after July 1, 1991. For dwellings existing or under construction prior to July 1, 1991, the dwelling must comply with the insulation requirements of this section by June 30, 1996.

Sec. 6. Section 601K.102, subsection 2, paragraph b, Code 1991, is amended to read as follows:
b. Moneys credited to the fund under section ~~556.18~~ 93.11.

Sec. 7. **CONDITIONAL EFFECTIVE DATE.** Sections 4 and 6 of this Act are effective only if Senate File 508* is enacted by the Seventy-fourth General Assembly, 1991 Session.

Approved June 7, 1991

CHAPTER 271

APPROPRIATIONS FROM LOTTERY FUND

S.F. 549

AN ACT relating to appropriations from the lottery fund.

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

Section 1. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, prior to any such transfer there is appropriated from the lottery fund to the following named entities, agencies, and funds for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

****1. The waste volume reduction and recycling fund:**

..... \$ 700,000

Moneys appropriated in this subsection shall be used as follows:

a. *One-half of the moneys shall be used for the purposes specified pursuant to section 455D.15, subsection 2. The moneys shall be allocated to each county on the basis of population. The county allocation shall be distributed quarterly by the department to each county. The county shall immediately distribute the funds to the cities based upon the proportion of the city's respective population to the total county population, and the county shall retain the portion of the funds based upon the proportion of the unincorporated area of the county to the total*

*Chapter 253 herein

**Item veto; see message at end of the Act

population of the county. The funds shall be used by the county and the cities for the implementation of the comprehensive plan elements required pursuant to section 455B.306 and relative to chapter 455D.

b. One-half of the moneys shall be used for the purposes specified pursuant to section 455D.15, subsection 3. Preference shall be given by the department of natural resources in providing grants that assist in the reduction of waste at its source.

2. The agricultural management account of the groundwater protection fund as provided in section 455E.11, subsection 2, paragraph "b", to be used for plugging abandoned wells and cisterns:

..... \$ 100,000

3. The groundwater protection fund created in section 455E.11 to provide grants to counties for rural water testing under section 455B.172, subsection 5:

..... \$ 100,000

4. The Iowa state university of science and technology for allocation to the Iowa state university water resource research institute for the purposes and under the conditions specified in section 99E.32, subsection 4, paragraph "e":

..... \$ 50,000

5. The environmental protection division of the department of natural resources to be used for the assessment and evaluation of surface water streams and rivers:

..... \$ 100,000

6. The soil conservation division of the department of agriculture and land stewardship to provide state soil and water conservation cost-sharing funds pursuant to sections 467A.42 through 467A.75:

..... \$ 200,000

7. The water protection fund created in section 467F.4, to be used for filter strips and waterways projects. The governing body of each soil and water conservation district shall identify those critical areas within the district where permanent grass and buffer zones would mitigate the effects of concentrated runoff on surface water quality. The governing body shall notify the landowners of those critical areas and provide the landowners with recommendations to establish these permanent grass and buffer zones, including any erosion control structures that may be appropriate, to mitigate the effects of concentrated runoff on surface water quality. In providing this notification and these recommendations, the governing body shall also inform the landowners that the establishment of these zones along with any erosion control structures may be eligible for financial assistance under the incentive programs within the water protection fund pursuant to section 467F.4 and may also qualify for cost-sharing funds pursuant to section 467A.48:

..... \$ 150,000

8. The soil conservation division of the department of agriculture and land stewardship for reforestation programs:

..... \$ 150,000

9. The Iowa energy center to be used for transportation studies and projects which enhance energy efficiency and self-sufficiency:

..... \$ 200,000

10. The department of agriculture and land stewardship, for on-farm alternative fuels demonstration projects:

..... \$ 100,000

11. The Iowa energy center to be used for competitive grants, for comprehensive, in-depth, community-wide projects to reduce energy consumption and enhance energy self-sufficiency. Cities, clusters of cities, and counties are eligible to apply for grants. Applications may be limited to building efficiency or vehicle efficiency or may contain both and shall contain a component for ongoing education concerning the goals of the plan and how to achieve those goals. The moneys under this subsection shall be allocated equally for building efficiency

and vehicle efficiency. However, if the moneys allocated to either category are not used or dedicated by April 1 of the fiscal year, the moneys may be reallocated to the other category:

..... \$ 200,000

12. To the department of natural resources for the administration of energy efficiency programs and projects:

..... \$ 150,000

13. a. To the renewable fuel fund established pursuant to Senate File 545, if enacted by the Seventy-fourth General Assembly, 1991 Session, to be used as provided in Senate File 545:

..... \$ 300,000

b. If Senate File 545 is not enacted and the renewable fuel fund is not established the \$300,000 that will not be appropriated under paragraph "a" shall be appropriated to the department of agriculture and land stewardship to be allocated as follows:

- (1) Up to forty percent may be dedicated to support promotion and advertising of ethanol fuel.
- (2) Up to thirty percent may be dedicated to support research at the university of Iowa.
- (3) Up to thirty percent may be dedicated to support research at Iowa state university of science and technology.

(4) The remaining balance shall be used by the department to support other projects or programs developed by the department for promoting ethanol fuel.*

14. To the Iowa resources enhancement and protection fund: \$ 2,500,000

15. The agency or entity to which moneys are appropriated or which oversee a fund to which moneys are appropriated under this section may use some of those moneys for administrative costs relating to the use of those moneys, including additional full-time equivalent positions. The acquisition of additional full-time equivalent positions authorized under this subsection are not subject to any freeze, set by the governor, or the limit, set by the general assembly, on the number of full-time equivalent positions that such agency or entity may have. The agency or entity that adds additional full-time equivalent positions shall report the fact and the purpose at the end of the applicable quarter to the fiscal committee of the legislative council.

Sec. 2. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, the requirement under section 99E.20, subsection 2, for the commissioner to certify and transfer a portion of the lottery fund to the CLEAN fund, nor the appropriations and allocations in section 99E.34, all lottery revenues received during the fiscal year beginning July 1, 1991, and ending June 30, 1992, after deductions for expenses as provided in section 99E.10, subsection 1, and as appropriated under section 1 of this Act, shall not be transferred to and deposited into the CLEAN fund but shall be used to reimburse the general fund of the state for each dollar spent, up to the following amounts, as a result of the appropriations made for the following purposes:

- 1. Soil conservation cost share as administered by the department of agriculture and land stewardship, up to \$6,439,972.
- 2. Parks and preserves division, of the department of natural resources, up to \$5,377,899.
- 3. Forests and forestry division, of the department of natural resources, up to \$1,617,265.
- 4. Environmental protection division, of the department of natural resources, up to \$1,973,992.
- 5. Agricultural experiment station at Iowa state university of science and technology, up to \$18,165,260.
- 6. Leopold center at Iowa state university of science and technology, up to \$592,224.
- 7. Comparative agriculture research, up to \$3,948,492.

Notwithstanding section 8.33, money in the lottery fund not used for the reimbursement of general fund expenditure for the purposes and in the amounts specified in subsections 1 through 7 shall not revert to the general fund of the state but shall remain in the lottery fund. The appropriations from the general fund of the state for purposes specified in subsections 1 through 7 shall not be reduced or prorated if lottery revenues are insufficient to reimburse the general fund of the state for the appropriations for the purposes of subsections 1 through 7.

*Item veto; see message at end of the Act

Sec. 3. Notwithstanding House File 479,* section 301, subsection 2, paragraph "a", if enacted by the Seventy-fourth General Assembly, 1991 Session, the number of full-time equivalent positions authorized for the department of economic development, business development division, business development operations, is 16.

Approved June 7, 1991, except the items which I hereby disapprove and which are designated as Section 1, subsections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 in their entirety; and Section 1, subsection 15 in its entirety. 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 549, an Act relating to appropriations from the lottery fund. Senate File 549 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated in Section 1, subsections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15, in their entirety. These items appropriate a total of \$2.5 million directly ("off-the-top") from the lottery fund for programs administered by the Department of Natural Resources, the Department of Agriculture and Land Stewardship and Iowa State University.

While I support many of these items, each is either a new program or a program expansion that cannot be approved at this time, given the state's difficult fiscal circumstances.

For the above reason, 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 549 are hereby approved as of this date.

Sincerely,

TERRY E. BRANSTAD, *Governor*

CHAPTER 272

EQUAL RIGHTS AMENDMENT PROPOSED

Second Time Passed S.J.R. 1

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa relating to the equality of rights of men and women under the law.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed.

Section 1 of Article I of the Constitution of the State of Iowa, is amended to read as follows:

RIGHTS OF PERSONS. SECTION 1. All men and women are, by nature, free and equal, and have certain inalienable rights — among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness. Neither the State nor any of its political subdivisions shall, on the basis of gender, deny or restrict the equality of rights under the law.

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Seventy-third General Assembly, 1989 Session, thereafter duly published, and now adopted and agreed to by the Seventy-fourth General Assembly in this joint resolution, shall be submitted to the people of the State of Iowa at the general election in November of the year nineteen hundred ninety-two in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

*Chapter 267 herein

CHAPTER 273

NULLIFICATION OF ADMINISTRATIVE RULE — PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

S.J.R. 9

A JOINT RESOLUTION to nullify an administrative rule of the department of human services relating to reimbursement for psychiatric medical institutions for children, and providing an effective date.

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

Section 1. 441 Iowa administrative code, rule 85.8, subrule 2, paragraph e, subrule 3, paragraph h, and subrule 4, paragraph g, are nullified.

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

Effective May 10, 1991

CHAPTER 274

NULLIFICATION OF ADMINISTRATIVE RULE — LIVER TRANSPLANTS

H.J.R. 10

A JOINT RESOLUTION to nullify an administrative rule of the department of human services relating to a limitation on payment for liver transplants under the medical assistance program and providing an effective date.

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

Section 1. 441 Iowa administrative code, rule 78.1, subrule 20, paragraph a, subparagraph (4), unnumbered paragraph 1, is nullified.

Sec. 2. **EFFECTIVE DATE.** This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Effective May 12, 1991

CHAPTER 275

BOARD OF REGENTS TEN-YEAR BUILDING PROGRAM

H.C.R. 30

A CONCURRENT RESOLUTION relating to the state 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-fourth General Assembly of the State of Iowa, First Session, submitted to the Seventy-fourth 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

revenue bonds which the board expects to issue under chapter 262A for the fiscal period beginning July 1, 1991, and ending June 30, 1993; and

WHEREAS, the projects contained in the capital improvement 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 meet the critical need for deferred maintenance, utility, and equipment projects, 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 to exceed \$20,000,000, the remaining cost of the projects to be financed by appropriations or by federal or other funds lawfully available; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE 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-fourth General Assembly, First Session, and the governor; and

BE IT FURTHER RESOLVED, That during the fiscal period which commences July 1, 1991, and which ends June 30, 1993, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A, unless additional bonding is authorized, is \$20,000,000, all or any part of which may be issued during the fiscal year ending June 30, 1992, and if all of that amount is not issued during that fiscal year, any remaining balance may be issued during the fiscal year ending June 30, 1993, and this plan of financing is approved; and

BE IT FURTHER RESOLVED, That the state board of regents is authorized to undertake and carry out the following fire and environmental safety, deferred maintenance, equipment, and utility projects at the institutions of higher learning under the jurisdiction of the board, and the general assembly authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds in the manner provided in sections 262A.5 and 262A.6 in order to pay all or any part of the cost of carrying out the projects, and the cost of issuance of bonds, at any institution in a total amount not to exceed \$20,000,000:

<u>State University of Iowa</u>	
Fire and environmental safety, deferred maintenance, equipment, and utility projects	
Cost of issuance of bonds	
.....	\$ 8,038,600
<u>Iowa State University of Science and Technology</u>	
Fire and environmental safety, deferred maintenance, equipment, and utility projects	
Cost of issuance of bonds	
.....	\$ 8,058,400
<u>University of Northern Iowa</u>	
Fire and environmental safety, deferred maintenance, equipment, and utility projects	
Cost of issuance of bonds	
.....	\$ 3,903,000
.....	\$ 20,000,000

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 7, 1991

EXHIBIT "A"

130. Procedure under R.C.P. 129. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the original notice upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within thirty days after the service of the request, except that a defendant may serve a response within sixty days after service of the original notice upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. Notwithstanding the provisions of R.C.P. 82 "d," copies of the documents produced shall not be filed with the clerk. The party submitting the request may move for an order under R.C.P. 134 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

EXHIBIT "B"

140. Depositions upon oral examination.

a. When depositions may be taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of ten days after the date for ~~special appearance~~, motion or answer for any defendant, except that leave is not required:

(1) If a defendant has served a notice of taking deposition or otherwise sought discovery, or
(2) If special notice is given as provided in subdivision "b"(2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in R.C.P. 155. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

b. Notice of examination — general requirements — special notice — nonstenographic recording — production of documents and things — deposition of organization.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice:

(A) States that the person to be examined is about to go out of the state and will be unavailable for examination unless the person's deposition is taken before the expiration of the thirty-day period ten days after the date for motion or answer for any defendant, and

(B) Sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and the attorney's signature constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true.

If a party shows that upon being served with notice under this subdivision "b"(2) the party was unable through the exercise of diligence to obtain counsel to represent him or her at the taking of the deposition, the deposition may not be used against that party.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at that party's own expense. Leave of court is not required to record testimony by nonstenographic means if the deposition is also to be recorded stenographically.

(5) The notice to a party deponent may be accompanied by a request made in compliance with R.C.P. 129 and 130 for the production of documents and tangible things at the taking of the deposition. The procedure of R.C.P. 130 shall apply to the request.

c. Failure to attend or to serve subpoena — expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness does not attend because of such failure, and if another party attends in person or by attorney because such other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by the other party and the other party's attorney attending, including reasonable attorney's fees.

d. Depositions by telephone.

Any deposition permitted by these rules may be taken by telephonic means.

A party desiring to take the deposition of any person upon oral examination by telephonic means shall give reasonable notice thereof in writing to every other party to the action. Such notice shall contain all other information required by paragraph "b"(1) herein and shall state that the telephone conference will be arranged and paid for by the initiating party. No part of the expense for telephone service shall be taxed as costs.

The person reporting the testimony shall be in the presence of the witness unless otherwise agreed by all parties.

If any examining party desires to present exhibits to the witness during the deposition, copies shall be sent to the deponent and the parties prior to the taking of the deposition.

Nothing in this rule shall prohibit a party or counsel from being in the presence of the deponent when the deposition is taken.

EXHIBIT "C"

147. Oral examination — notice.

a. Oral depositions may be taken only in this state, or outside it at a place within one hundred miles from the nearest Iowa point. But, on hearing, on notice, of a motion of a party desiring it, the court may order it orally taken at any other specified place, if the issue is sufficiently important and the testimony cannot reasonably be obtained ~~on~~ by written interrogatories or deposition by telephone.

EXHIBIT "D"

215. Voluntary dismissal. A party may, without order of court, dismiss that party's own petition, counterclaim, cross-petition or petition of intervention, at any time ~~before the trial~~

has begun, subject to the provisions of R.C.P. 181.4 up until ten days before the trial is scheduled to begin. Thereafter a party may dismiss an action or that party's claim therein only by consent of the court which may impose such terms or conditions as it deems proper; and it shall require the consent of any other party asserting a counterclaim against the movant, unless that will still remain for an independent adjudication. A dismissal under this rule shall be without prejudice, unless otherwise stated; but if made by any party who has previously dismissed an action against the same defendant, in any court of any state or of the United States, including or based on the same cause, such dismissal shall operate as an adjudication against that party on the merits, unless otherwise ordered by the court, in the interests of justice.

EXHIBIT "E"

270. The action — pending probate. Real or personal property may be partitioned by equitable proceedings. Where the entire interest in real estate is owned by a decedent on whose estate administration or probate is pending, the action cannot be begun until ~~six~~ four months after the second publication of the notice of the appointment of the personal representative, nor at any time while an application for authority to sell such real estate is pending in the probate proceeding.

EXHIBIT "F"

372. Rules by trial courts. Each district court, by action of a majority of its district judges, may from time to time make and amend rules governing its practice and administration not inconsistent with these rules. A copy of all rules in effect July 4, 1961, and any amendments thereafter made by any such court shall be transmitted to the clerk of the supreme court. In all cases not provided for by rule, courts may regulate their practice in any manner not inconsistent with these rules. All such rules or changes shall be subject to prior approval of the supreme court.

CHAPTER 277
JUDGMENT ON DEFAULT

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: MS. DIANE BOLENDER, SECRETARY OF THE LEGISLATIVE COUNCIL OF
THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council concerning an amendment to Iowa Rule of Civil Procedure 232 as shown in the attached Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), this change is to take effect July 1, 1991.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. MCGIVERIN, Chief Justice

Des Moines, Iowa
February 1, 1991

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the eighth day of February, 1991, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Diane Bolender

Secretary of the Legislative Council

EXHIBIT "A"

232. Judgment on default. Judgment upon a default shall be rendered as follows:

a. Where the claim is for a sum certain, or which by computation, can be made certain, the clerk, upon request, shall make such computation as may be necessary, and upon affidavit that the amount is due shall enter judgment for that amount, and costs against the party in default.

b. In all cases the court on motion of the prevailing party, shall order the judgment to which ~~he~~ the prevailing party is entitled, provided notice and opportunity to respond has been given to any party who has appeared, and the clerk shall enter the judgment so ordered. If no judge is holding court in the county, such order may be made by a judge anywhere in the judicial district as provided in R.C.P. 120. The court may, and on demand of any party not in default shall, either hear any evidence or accounting required to warrant the judgment or refer it to a master; or submit it to a jury if proper demand has been made therefor under R.C.P. 177.

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**CONVERSION TABLE OF SENATE AND HOUSE FILES
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48	228	257	103	429	172
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56	98	269	90	436	25
78	61	273	203	441	160
83	215	276	230	444	218
87	16	284	24	445	161
89	4	291	62	452	248
90	2	297	124	453	108
92	21	308	37	454	66
97	131	310	63	455	231
102	185	311	216	470	173
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110	144	314	125	473	126
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112	99	318	194	477	30
114	100	323	146	479	109
115	122	324	251	488	55
116	8	326	52	491	204
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134	101	329	147	494	92
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141	6	336	73	496	219
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173	260	419	70	610	246
182	187	420	129	612	164
197	111	423	180	614	190
198	97	426	58	617	72
199	13	430	181	618	183
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231	7	459	45	625	142
232	240	479	267	626	85
233	235	480	80	627	86
237	188	483	176	634	213
252	127	485	71	639	120
254	56	486	51	644	165
260	11	487	81	649	155
274	42	489	196	651	166
275	67	491	114	655	143
285	241	498	82	656	184
288	57	499	59	657	87
289	236	500	151	661	121
294	14	501	140	662	227
296	138	502	152	668	225
297	128	506	83	679	167
298	175	510	189	683	255
302	242	516	84	687	191
306	43	518	115	688	244
307	27	534	116	689	168
309	31	556	211	690	198
322	28	558	177	691	156
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*Item vetoed

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*Vetoed by Governor

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*1263, §4(1) probably intended

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*310, §6(1) probably intended

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*Not enacted

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