State of Iowa

1992

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1992 REGULAR SESSION

And The

1992 FIRST AND SECOND EXTRAORDINARY SESSIONS

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-SIXTH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE THIRTEENTH DAY OF JANUARY AND ENDED ON THE FOURTH DAY OF MAY, A.D. 1992

FIRST EXTRAORDINARY SESSION BEGUN ON THE TWENTIETH DAY OF MAY
AND ENDED ON THE TWENTY-SECOND DAY OF MAY, A.D. 1992

SECOND EXTRAORDINARY SESSION HELD ON THE TWENTY-FIFTH DAY OF JUNE, A.D. 1992

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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 Loanne M. Dodge, 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 1992 Regular Session and the 1992 First and Second Extraordinary Sessions 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 1993 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1993 Iowa Code.

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, 1992, 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.

Orders for legal publications should be addressed to the Iowa State Printing Division, Grimes Building, Des Moines, Iowa 50319. Telephone 515-281-8796

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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 Zeigler, 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
Steven F. Miller, Deputy Treasurer	Polk
Lawrence D. Thornton, Deputy Treasurer	Polk
Stefanie G. Neff, Assistant 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, Deputy Attorney General	Lucas
John Perkins, Deputy Attorney General	Polk
Roxann Ryan, Deputy Attorney General	Howard

GENERAL ASSEMBLY

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Borlaug, Allen Waucoma	Farm Owner, Insurance Agent	15th—Cerro Gordo, *Chickasaw*, Floyd, Howard, Mitchell	74(1st)
Boswell, Leonard L. Davis City	Farmer, Small Businessman	46th—Adair, Adams, Cass, Clarke, *Decatur*, Ringgold, Taylor, Union	71, 72, 72X, 72XX, 73, 74(1st)
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Dieleman, Wm. W. (Bill) Sully	Publisher-Weekly Newspaper	35th—*Jasper*, Marion, Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Doyle, Donald V. Sioux City	Lawyer	2nd—Ida, Monona, *Woodbury*	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
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Fraise, Eugene S. Fort Madison	Farmer/ Legislator	31st—Des Moines, *Lee*, Van Buren	71(2nd), 72, 72X, 72XX, 73, 74(1st)
Fuhrman, Linn Aurelia	Farmer	5th—*Buena Vista*, Calhoun, Pocahontas, Sac, Webster	72, 72X, 72XX, 73, 74(1st)
Gettings, Donald E. Ottumwa	Retired—Deere & Co.	33rd—Appanoose, Davis, *Wapello*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Gronstal, Michael E. Council Bluffs		50th—*Pottawattamie*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Hagerla, Mark R. West Burlington	Grocer	30th—*Des Moines*, Henry	73, 74(1st)
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Hedge, H. Kay Fremont	Farmer	32nd—Jefferson, Keokuk, *Mahaska*, Wapello	73, 74(1st)
Hester, Jack W. Honey Creek	Retired Farmer/ Legislator	49th—Cass, Harrison, *Pottawattamie*, Shelby	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Horn, Wally E. ..... Cedar Rapids	Teacher/ ..... Education	25th—*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Husak, Emil J. ..... Toledo	Farmer	38th—Benton, ... Black Hawk, Marshall, *Tama*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Hutchins, Bill ..... Audubon	Self-employed ..... Small Businessman	48th—*Audubon*, Carroll, ... Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Jensen, John W..... Plainfield	Farmer	11th—Black Hawk, ... *Bremer*, Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Kersten, James B. ..... Fort Dodge	Financial ..... Investment Officer, First American State Bank	7th—Hamilton, *Webster* ...	74(1st)
Kibbie, John P. (Jack) ... Emmetsburg	Farmer	6th—Clay, Dickinson ..... Emmet, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74(1st)
Kinley, George R..... Des Moines	Owner-Kinley's .... Golf & Sports	40th—*Polk*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Kramer, Mary E. ..... West Des Moines	Vice President- .... Human Resources, Blue Cross & Blue Shield	41st—*Polk*	74(1st)
Lind, Jim ..... Waterloo	Service Station .... Owner-Operator	13th—*Black Hawk*	71(2nd), 72, 72X, 72XX, 73, 74(1st)
Lloyd-Jones, Jean..... Iowa City	Legislator.....	23rd—*Johnson*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
McLaren, Derryl..... Farragut	Farmer	47th—*Fremont*, Mills, ... Montgomery, Page, Pottawattamie	74(1st)
Miller, Alvin V..... Ventura	General..... Insurance Agency	10th—*Cerro Gordo*, ... Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Murphy, Larry ..... Oelwein	Adjunct..... College Instructor	14th—Black Hawk, ... Buchanan, Chickasaw, *Fayette*	71, 72, 72X, 72XX, 73, 74(1st)
Palmer, William D. ..... Ankeny	Sales/..... Insurance	39th—*Polk*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Pate, Paul D..... Marion	President/CEO- .... PM Systems Corp.	24th—Buchanan, ... Delaware, *Linn*	73, 74(1st)
Peterson, John A. ..... Pleasantville	Senator	34th—Clarke, Lucas, ... *Monroe*, Warren, Wayne	71(2nd), 72, 72X, 72XX, 73, 74(1st)
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Name and Residence	Occupation	Senatorial District	Former Legislative Service
Rensink, Wilmer ..... Sioux Center	Farmer	3rd—Plymouth, *Sioux*, ... Woodbury	70, 71, 72, 72X, 72XX, 73, 74(1st)
Rife, Jack ..... Moscow	Farmer	29th—*Muscatine*, Scott	70, 71, 72, 72X, 72XX, 73, 74(1st)
Riordan, James R. ..... Waukee	.....	45th—Adair, *Dallas*, ... Guthrie, Madison	71(2nd), 72, 72X, 72XX, 73, 74(1st)
Rittmer, Sheldon ..... De Witt	Farmer	19th—Cedar, *Clinton*	74(1st)
Rosenberg, Ralph ..... Ames	Attorney.....	37th—*Story*	69(2nd), 70, 71, 72, 72X, 72XX, 73, 74(1st)
Running, Richard V. ..... Cedar Rapids	Quality Control .... Trainer	26th—*Linn*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Slife, Harry G. ..... Cedar Falls	Retired	12th—*Black Hawk*	74(1st)
Soorholtz, John E. ..... Melbourne	Farmer-Pork ..... Producer	36th—Jasper, *Marshall*	70(2nd), 71, 72, 72X, 72XX, 73, 74(1st)
Sorensen, Albert G..... Boone	Owner/Operator ... Bed and Breakfast/ Consultant	44th—*Boone*, Carroll, ... Greene, Story	None
Sturgeon, Al ..... Sioux City	Legislator/ ..... Lawyer	1st—*Woodbury*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Szymoniak, Elaine ..... Des Moines	Retired	42nd—*Polk*	73, 74(1st)
Taylor, Ray ..... Steamboat Rock	Farm Business	9th—Franklin, Hamilton, ... Hancock, *Hardin*, Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
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Tinsman, Maggie ..... Davenport	Legislator.....	20th—*Scott*	73, 74(1st)
Vande Hoef, Richard P. . Harris	Farmer	4th—Cherokee, Clay, ... Lyon, O'Brien, *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Varn, Richard J..... Solon	Executive Director, Eastern Iowa Construction Alliance/ Lawyer	27th—Iowa, *Johnson*, ... Poweshiek	70, 71, 72, 72X, 72XX, 73, 74(1st)
Welsh, Joe J..... Dubuque	Businessman,..... Private Investigator	17th—*Dubuque*, Jackson, ... Jones	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Adams, Janet L. Webster City	Teacher	14th—*Hamilton*, Webster	72, 72X, 72XX, 73, 74(1st)
Arnould, Robert C. Davenport	Legislator	42nd—*Scott*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Baker, Tom Des Moines	Small Business Owner	85th—*Polk*	74(1st)
Banks, Brad Westfield	Farmer	5th—*Plymouth*, Woodbury	73, 74(1st)
Bartz, Merlin E. Grafton	Farmer/Laborer	19th—Cerro Gordo, Winnebago, *Worth*	74(1st)
Beaman, Jack Osceola	Self-employed	91st—Adair, Adams, Cass, *Clarke*, Union	72, 72X, 72XX, 73, 74(1st)
Beatty, Linda L. Indianola	Homemaker	68th—*Warren*	71, 72, 72X, 72XX, 73, 74(1st)
Bennett, Wayne Ida Grove	Farmer	4th—*Ida*, Monona, Woodbury	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Bernau, Bill Ames		73rd—*Story*	74(1st)
Bisignano, Tony Des Moines	Project Specialist, Polk County Board of Supervisors	80th—*Polk*	72, 72X, 72XX, 73, 74(1st)
Black, Dennis H. Grinnell	Conservationist	71st—*Jasper*, Marshall	70, 71, 72, 72X, 72XX, 73, 74(1st)
Blanshan, Eugene Scranton	Farmer	88th—Boone, Carroll, *Greene*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Brammer, Philip E. Cedar Rapids	Semi-retired Life Insurance Agent	51st—*Linn*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Brand, William J. Vinton	Human Services Professional	76th—*Benton*, Black Hawk	73, 74(1st)
Branstad, Clifford O. Thompson	Farmer	16th—Hancock, Kossuth, *Winnebago*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Brown, Joel W. Chariton	Self-employed	67th—Clarke, Monroe, *Lucas*, Wayne	73, 74(1st)
Burke, Gordon B. Marshalltown	Tool & Die Maker	72nd—*Marshall*	74(1st)
Carpenter, Dorothy F. West Des Moines	Legislator	82nd—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Chapman, Kay Cedar Rapids	Lawyer	49th—*Linn*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Cohoon, Dennis M. Burlington	Teacher	60th—*Des Moines*	72, 72X, 72XX, 73, 74(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Connors, John H. Des Moines	Labor Arbitrator & Retired Fire Captain	79th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Corbett, Ron J. Cedar Rapids	Insurance Agent/ Small Business Owner	52nd—*Linn*	72, 72X, 72XX, 73, 74(1st)
Daggett, Horace C. Creston	Farmer	92nd—*Adams*, Decatur, Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
De Groot, Kenneth R. Doon	Farmer	8th—*Lyon*, O'Brien, Osceola, Sioux	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Dickinson, Rick Sabula	Industrial Sales	34th—Dubuque, *Jackson*	74(1st)
Diemer, Marvin E. Cedar Falls	Retired	23rd—*Black Hawk*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Doderer, Minnette Iowa City	Retired	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Dvorsky, Robert E. Coralville	Department of Correctional Services Job Developer	54th—Iowa, *Johnson*	72, 72X, 72XX, 73, 74(1st)
Eddie, Russell J. Storm Lake	Self-employed & Legislator	10th—*Buena Vista*, Pocahontas	72, 72X, 72XX, 73, 74(1st)
Fogarty, Daniel P. Cylinder	Farmer	11th—Clay, *Palo Alto*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Garman, Teresa Ames	Farmer/ Real Estate Sales	87th—Boone, *Story*	72, 72X, 72XX, 73, 74(1st)
Gill, Patrick F. Sioux City	Financial Planner	2nd—*Woodbury*	74(1st)
Gipp, Chuck Decorah	Dairy Farmer	31st—Allamakee, *Winneshiek*	74(1st)
Groninga, John Mason City	Educator	20th—*Cerro Gordo*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Grubbs, Steven E. Davenport	Law Student	58th—*Scott*	74(1st)
Gruhn, Josephine Spirit Lake	Farm Owner/ Operator	12th—*Dickinson*, Emmet	70, 71, 72, 72X, 72XX, 73, 74(1st)
Hahn, Jim Muscatine	Property Management & Real Estate	56th—Louisa, *Muscatine*	74(1st)
Halvorson, Rod Fort Dodge	Real Estate Salesman, Political Consultant	13th—*Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Halvorson, Roger A. Monona	Insurance & Real Estate Broker	32nd—Allamakee, *Clayton*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
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Hansen, Steve D. Sioux City	Self-employed, Youth Worker	1st—*Woodbury*	72, 72X, 72XX, 73, 74(1st)
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Hanson, Donald E. Waterloo	Educator	26th—*Black Hawk*	74(1st)
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Hester, Joan L. Honey Creek	Legislator	98th—Harrison, *Pottawattamie*	71, 72, 72X, 72XX, 73, 74(1st)
Hibbard, Dave Booneville	Attorney	90th—Adair, Dallas, Guthrie, *Madison*	73, 74(1st)
Holveck, Jack Des Moines	Attorney	84th—*Polk*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Hurley, Charles Fayette	Attorney	28th—Chickasaw, *Fayette*	74(1st)
Iverson, Stewart, Jr. Dows	Farmer	17th—Franklin, Hancock, *Wright*	73(2nd), 74(1st)
Jay, Daniel Moulton	Lawyer	66th—*Appanoose*, Davis, Wapello	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Jesse, Glen Mitchellville	Small Business Person	70th—*Jasper*, Marion, Polk, Warren	73, 74(1st)
Jochum, Thomas J. Dubuque	Legislator/ Executive Director ARC-Iowa	36th—*Dubuque*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Johnson, Robert Andover	Agribusiness	37th—Cedar, *Clinton*	74(1st)
Kistler, Bob Fairfield	Retired Educator/ Tree Farmer	63rd—*Jefferson*, Keokuk, Wapello	73, 74(1st)
Knapp, Donald J. Cascade	Legislator	33rd—*Dubuque*, Jones	69(2nd), 70, 71, 72, 72X, 72XX, 73, 74(1st)
Koenigs, Deo A. Osage	Farmer	30th—Chickasaw, Howard, *Mitchell*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Krebsbach, Scott L. Osage	Commercial Mussel Harvestor	29th—Cerro Gordo, Floyd, *Mitchell*	74(1st)
Kremer, Joseph M. Jesup	Retired Farmer/ Legislator	27th—Black Hawk, *Buchanan*	71, 72, 72X, 72XX, 73, 74(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Lageschulte, Raymond .. Waverly	Farm Manager, ... Insurance Adjuster, Legislator	22nd—Black Hawk, ... *Bremer*, Butler	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Lundby, Mary A. ..... Marion	Legislator	47th—*Linn*	72, 72X, 72XX, 73, 74(1st)
Maulsby, Ruhl ..... Rockwell City	Farmer	9th—*Calhoun*, Sac, ... Webster	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
McKean, Andy J. ..... Anamosa	Lawyer	44th—*Jones*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
McKinney, Wayne H., Jr. Waukee	Lawyer	89th—*Dallas*	72, 72X, 72XX, 73, 74(1st)
McNeal, Clark E. ..... Iowa Falls	Lawyer	18th—Franklin, ... *Hardin*, Hamilton	74(1st)
Mertz, Dolores M. ..... Ottosen	Farm Owner/ ..... Operator	15th—Humboldt, ... *Kossuth*, Palo Alto, Pocahontas	73, 74(1st)
Metcalf, Janet S. ..... Des Moines	Legislator	83rd—*Polk*	71, 72, 72X, 72XX, 73, 74(1st)
Millage, David ..... Bettendorf	Lawyer	40th—*Scott*	74(1st)
Miller, Tom H. ..... Cherokee	Journalist	7th—*Cherokee*, Clay, ... O'Brien	71, 72, 72X, 72XX, 73, 74(1st)
Muhlbauer, Louis J. .... Manilla	Agribusiness	96th—*Crawford*, Shelby	70, 71, 72, 72X, 72XX, 73, 74(1st)
Murphy, Pat ..... Dubuque	Businessman	35th—*Dubuque*	73(2nd), 74(1st)
Neuhauser, Mary C. .... Iowa City	Lawyer	46th—*Johnson*	72, 72X, 72XX, 73, 74(1st)
Nielsen, Joyce ..... Cedar Rapids	Legislator	50th—*Linn*	73, 74(1st)
Ollie, C. Arthur ..... Clinton	Teacher	38th—*Clinton*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Osterberg, David ..... Mt. Vernon	Energy ..... Economist	43rd—Cedar, *Linn*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Pavich, Emil S. ..... Council Bluffs	Retired-Cereal .... Company	100th—*Pottawattamie*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Petersen, Dan ..... Muscatine	Farmer	57th—*Muscatine*, Scott	71(2nd), 72, 72X, 72XX, 73, 74(1st)
Peterson, Michael K. .... Carroll	Attorney	95th—Audubon, *Carroll*, ... Shelby	71, 72, 72X, 72XX, 73, 74(1st)
Plasier, Lee J. ..... Sioux Center	Business ..... Manager	6th—Plymouth, *Sioux*	72, 72X, 72XX, 73, 74(1st)
Poncy, Charles N. ..... Ottumwa	Retired School .... District Employee	65th—*Wapello*	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Rafferty, Bob Davenport	Attorney	39th—*Scott*	74(1st)
Renaud, Dennis L. Altoona	D.M. Fire Dept. & Barber Business	78th—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Renken, Bob Aplington	Farmer	21st—Butler, *Grundy*	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Royer, Bill Essex	Real Estate Sales/ Appraiser	93rd—Fremont, Mills, *Page*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Schrader, David Monroe		69th—*Marion*	72, 72X, 72XX, 73, 74(1st)
Shearer, Mark S. Columbus Junction	Newspaper Editor	55th—Des Moines, *Louisa*, Washington	73, 74(1st)
Sherzan, Gary Des Moines	Parole Officer	86th—*Polk*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Shoning, Don Sioux City	Legislator	3rd—*Woodbury*	71, 72, 72X, 72XX, 73, 74(1st)
Shoultz, Don Waterloo	Economic Development Coordinator	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74(1st)
Siegrist, Brent Council Bluffs	Educator	99th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74(1st)
Spear, Clay R. Burlington	Retired Postal Service Employee	61st—*Des Moines*, Lee	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Spenner, Gregory A. Mt. Pleasant	Broadcaster, Legislator	59th—Des Moines, *Henry*	73, 74(1st)
Svoboda, E. Jane Clutier	Farm Wife/ Homemaker, Sales	75th—Black Hawk, Marshall, *Tama*	72, 72X, 72XX, 73, 74(1st)
Teaford, Jane Cedar Falls	Legislator	24th—*Black Hawk*	71, 72, 72X, 72XX, 73, 74(1st)
Tyrrell, Phil North English	Independent Insurance Agent, Owner/ Operator	53rd—*Iowa*, Poweshiek	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74(1st)
Van Maanen, Harold Oskaloosa	Farmer	64th—Keokuk, *Mahaska*, Wapello	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74(1st)
Weidman, Dick Griswold	Retired State Trooper	97th—*Cass*, Harrison, Pottawattamie, Shelby	74(1st)
Wise, Philip L. Keokuk	Teacher	62nd—*Lee*, Van Buren	72, 72X, 72XX, 73, 74(1st)
Wissing, Matthew Davenport	Scott County Auditor's Office	41st—*Scott*	74(1st)

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

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

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

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

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

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

315 Federal Building
350 W. 6th Street
Dubuque, Iowa 52001
(319) 582-2342

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

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

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

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

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

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

UNITED STATES REPRESENTATIVES

First District

Congressman Jim Leach (R)
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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)
507 Cannon House Office Bldg.
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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)
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(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)
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Suite 21
4501 Southern Hills Drive
Sioux City, IA 51106
(712) 276-5800

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, 1991

	Balance June 30, 1990	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1991
General Fund	$ 1,479,797	$ 4,329,100,889	$ 4,330,580,686	$ 4,329,897,066	$ 683,620
Special Revenue Fund	380,860,791	1,611,742,170	1,992,602,961	1,586,800,229	405,802,732
Capitol Project Fund	6,248,677	17,884,703	24,133,380	17,409,632	6,723,748
Debt Service Fund	990,297	27,146,204	28,136,501	20,245,539	7,890,962
Enterprise Fund	14,336,251	228,829,346	243,165,597	223,448,475	19,717,122
Internal Service Fund	4,919,043	42,349,826	47,268,869	44,954,675	2,314,194
Expendable Trust Fund	38,054,144	289,894,085	327,948,229	299,546,398	28,401,831
Nonexpendable Trust Fund	5,614,444	730,639	6,345,083	74	6,345,009
Pension Fund	4,706,673,068	736,661,849	5,443,334,917	230,772,616	5,212,562,301
Trust and Agency Fund	105,847,926	2,090,170,761	2,196,018,687	2,108,536,006	87,482,681
Totals	$ 5,265,024,438	$ 9,374,510,472	$ 14,639,534,910	$ 8,861,610,710	$ 5,777,924,200

Balance July 1, 1990	$ 5,265,024,438
Receipts and Transfers	9,374,510,472
Total Available	14,639,534,910
Redemptions and Disbursements	8,861,610,710
Balance June 30, 1991	$ 5,777,924,200

DEPARTMENT OF REVENUE AND FINANCE
June 24, 1992

ANALYSIS BY CHAPTERS

REGULAR SESSION

1st EXTRAORDINARY SESSION

2nd EXTRAORDINARY SESSION

1992 Regular Session

Of The

Seventy-Fourth General Assembly

Of The

State Of Iowa

CHAPTER 1001

MUNICIPAL INVESTMENT RECOVERY PROGRAM

S.F. 2064

AN ACT establishing a municipal investment recovery program and authorizing an appropriation to the department of management and providing an effective date.

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

Section 1. NEW SECTION. 220.171 LEGISLATIVE FINDINGS.

The general assembly finds and declares that:

1. Certain Iowa municipalities and other public bodies within the state have experienced the temporary or permanent loss of public funds invested or held for investment for public purposes or projects, including those held in a common investment pool organized under chapter 28E.

2. The loss of such funds and the resulting cashflow difficulties have placed severe financial burdens on such municipalities and other public bodies.

3. There currently exists a shortage of means by which such municipalities and other public bodies can borrow or otherwise acquire replacement funds until the lost funds are recovered or replaced.

4. The availability of loan funds from the authority will reduce the short-term operating difficulties faced by such municipalities and other public bodies and permit them to continue operations and projects currently in progress.

5. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

Sec. 2. NEW SECTION. 220.172 ESTABLISHMENT OF MUNICIPAL INVESTMENT RECOVERY PROGRAM – DEFINITIONS.

1. The authority shall establish a municipal investment recovery program to make loans to municipalities in anticipation of their recovery of lost, stolen, or converted funds invested or held for investment in a common investment pool organized under chapter 28E or separately. The authority may issue its bonds or notes, or series of bonds or notes, for the purpose of funding such loans and may make secured loans to municipalities for such purposes on terms the authority determines.

2. For purposes of section 220.171, this section, and sections 220.173 through 220.176:

a. "Investment loss" means any funds of a municipality invested or held for investment by others, including funds held in a common investment pool organized under chapter 28E or held separately by a municipality, the recovery of which has been delayed, suspended, or impaired, and which are not returned to the municipality within ten days after demand, including any accrued interest or interest that would have accrued on such funds. The amount of any funds of a municipality held in a common investment pool or held separately by the municipality

in another investment vehicle that are not returned to the municipality upon its request shall represent the amount of the investment loss of the municipality.

b. "Municipality" means any public body that has invested public funds in a common investment pool organized under chapter 28E or otherwise, and includes, but is not limited to, cities, counties, school corporations, entities created under chapter 28E, municipal utility boards, and judicial district departments of correctional services of this state.

c. "Program" means the municipal investment recovery program established by the authority pursuant to this section.

Sec. 3. NEW SECTION. 220.173 LOAN AGREEMENTS — BONDS AND NOTES.

1. The authority may enter into loan agreements with a municipality to enable the municipality to recover investment losses. The principal amount of the loan agreement may include the amount of the investment loss incurred by the municipality as of the date of approval of the loan agreement, plus such amounts as the municipality shall deem necessary or desirable for capitalized interest, costs of issuance, financing costs, credit enhancements, and reserves. The repayment obligation of the municipality may be secured by a pledge of debt service taxes, enterprise revenues or income, or revenues of the municipality from any source, or secured by such other security as the authority deems advisable. Without limiting the foregoing, a judicial district department of correctional services may pledge any appropriation or other grant in aid made by the general assembly as security for its repayment obligation. However, the appropriation or other grant in aid is only subject to the pledge upon receipt of the appropriation or grant in aid by the judicial district department of correctional services. The repayment obligation may be evidenced by one or more notes of the municipality. The plan of repayment by the municipality shall not take into consideration any potential recovery of investment loss. If the municipality recovers any portion of an investment loss for which it has a loan agreement, the amount recovered shall be immediately paid to the authority to be applied by it against the municipality's obligation in accordance with the terms of the loan agreement. The loan agreements may contain other terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the purpose of establishing a loan fund for the program and making loans from the fund to municipalities under the program. The authority may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreements or other instruments.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

3. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section except to the extent they are inconsistent with this section.

4. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax.

Sec. 4. NEW SECTION. 220.174 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 220.173 that the principal of, premium, and interest on the bonds or notes are payable solely out of the pledged receipts as designated in the resolution, trust agreement, or other instrument authorizing the issuance of the bonds or notes.

For purposes of this section, unless the context otherwise requires, "pledged receipts" means the revenues and receipts received or to be received by the authority from grants, appropriations, gifts, or payments on guarantees made to the authority by any person; from accrued interest received from the sale of obligations; from income accruing from the investment of special funds of the authority, including the loan fund established by the authority for purposes of the program; from the revenues and receipts deposited in the loan fund; from the amounts payable to the authority by municipalities pursuant to loan agreements with municipalities; and from any other moneys which are available for the payment of principal, premium, if any, or interest on the bonds or notes.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this section the proceeds of the sale of its bonds or notes and other moneys which are made available from any other source.

3. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. The resolution, trust agreement, or any other instrument by which a pledge is created need not be recorded or filed under the Iowa uniform commercial code to be valid, binding, or effective against the parties.

4. The members of the authority and a person executing the bonds or notes are not liable personally on the bonds or notes and are not subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations but are special obligations of the authority, and are payable solely out of the pledged receipts to the extent that the pledged receipts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for such bonds or notes. The authority shall not pledge the faith or credit of the state to the payment of any bonds or notes. The authority shall not pledge the faith or credit of a municipality to the payment of any bonds or notes except as agreed to by the municipality in the loan agreement referred to in section 220.173, subsection 1. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state to apply moneys from, or levy or pledge any form of taxation whatever to the payment of the bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate a municipality to apply moneys from, or levy or pledge any form of taxation whatever to the payment of the bonds or notes, except as agreed to by the municipality in the loan agreement referred to in section 220.173, subsection 1.

6. The state pledges to and agrees with the holders of bonds or notes issued under the program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest on them including interest on unpaid installments of interest, and all costs

and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 5. NEW SECTION. 220.175 POWERS OF MUNICIPALITIES.

1. A municipality may enter into loan agreements and issue any type of obligations payable from any security which it is authorized by law to issue for any purpose for the restoration or replacement on a permanent or temporary basis of its investment loss. For the purpose of this program, the restoration or replacement on a permanent or temporary basis of an investment loss through the program is an essential purpose under chapter 331 or 384.

2. To approve a loan agreement under section 220.173 for this purpose, a municipality shall follow the authorization procedures required for the issuance of general obligation bonds by cities as set out in section 384.25. Chapter 75 is not applicable.

Sec. 6. NEW SECTION. 220.176 OTHER LAWS NOT APPLICABLE.

All other laws governing the authorization and issuance of obligations by municipalities shall not apply to loan agreements entered into by municipalities with the authority for purposes of the program.

Sec. 7. Sections 220.171 through 220.176 are repealed on August 1, 1993. The repeal of sections 220.171 through 220.176 shall not affect the operation or enforceability of any action taken or agreement entered into pursuant to sections 220.171 through 220.176 prior to August 1, 1993, by the authority, a municipality, or a bondholder or noteholder, and section 4.13 shall apply.

Sec. 8. APPROPRIATION. For purposes of securing one or more loan agreements with the authority as provided in this Act, and if the investment losses to the first and third judicial district departments of correctional services are not recovered, there is appropriated from the general fund of the state to the department of management for the appropriate fiscal year or years, moneys in the amount of the remaining investment losses, plus the amount of any capitalized interest, costs of issuance, and reserve expenses, of the first and third judicial district departments of correctional services. The contingent appropriations made in this section do not obligate the general assembly to maintain any such appropriation and any pledge of these appropriations by the judicial district department of correctional services shall only apply to moneys when received. The moneys shall be allocated pursuant to a requisition submitted to the director of the department of management in the manner provided in section 8.31. Any and all amounts subsequently recovered by or on behalf of the first and third judicial district departments of correctional services as a result of actions taken to recover their investment losses shall be repaid to the general fund of the state.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 7, 1992

CHAPTER 1002

POLITICAL SUBDIVISIONS – EXCEPTION TO BANKRUPTCY PROHIBITION
H.F. 2086

AN ACT permitting a political subdivision to become a debtor under the federal bankruptcy code under certain circumstances and providing an effective date.

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

Section 1. Section 76.16, Code 1991, is amended to read as follows:

76.16 DEBTOR STATUS PROHIBITED.

1. A city, county, or other political subdivision of this state shall not be a debtor under chapter 9 of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., except as otherwise specifically provided in this chapter.

This section does not apply to a court-appointed receiver for an entity organized pursuant to chapter 28E for the purpose of making joint investments on behalf of a city, county, judicial district department of correctional services, other political subdivision, or any combination thereof.

2. An entity organized pursuant to chapter 28E for the purpose of making joint investments on behalf of a city, county, judicial district department of correctional services, other political subdivision, or any combination thereof is a "municipality" for the purposes of chapter 9 of the federal Bankruptcy Code, 11 U.S.C. section 901 et seq.

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

Sec. 3. This Act is repealed July 1, 1993, and the Code editor shall recodify section 76.16 using the language contained in that section from the 1991 Code.

Approved February 11, 1992

CHAPTER 1003

SPECIAL CLASS "A" BEER PERMITS
S.F. 2032

AN ACT relating to the manufacture and disposition of beer by special class "A" permittees.

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

Section 1. Section 123.124, Code 1991, is amended to read as follows:

123.124 PERMITS – CLASSES.

Permits for the manufacture and sale, or sale of beer shall be divided into four classes, known as class "A", special class "A", class "B", or class "C" permits. A class "A" permit allows the holder to manufacture and sell beer at wholesale. A holder of a special class "A" permit may only manufacture beer to be consumed on the licensed premises for which the person also holds a class "C" liquor control license or class "B" beer permit and to be sold to a class "A" permittee for resale purposes. A class "B" permit allows the holder to sell beer at retail for consumption on or off the premises. A class "C" permit allows the holder to sell beer at retail for consumption off the premises.

Sec. 2. Section 123.130, unnumbered paragraph 3, Code 1991, is amended to read as follows:

A person who holds a special class "A" permit for the same location at which the person holds a class "C" liquor control license or class "B" beer permit may manufacture and sell beer to be consumed on the premises and may sell beer to a class "A" permittee for resale purposes.

Approved February 18, 1992

CHAPTER 1004

INCENDIARY OR IGNITABLE AMMUNITION

S.F. 2010

AN ACT relating to the classification of certain types of ammunition as offensive weapons, prohibiting possession, and making a penalty applicable, and providing an effective date.

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

Section 1. Section 724.1, subsection 7, Code 1991, is amended to read as follows:

7. Any bullet or projectile containing any explosive mixture or chemical compound capable of exploding or detonating prior to or upon impact, or any shotshell or cartridge containing exothermic pyrophoric misch metal as a projectile which is designed to throw or project a flame or fireball to simulate a flamethrower.

Notwithstanding section 724.2, no person is authorized to possess in this state a shotshell or cartridge intended to project a flame or fireball of the type described in this section.

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

Approved March 4, 1992

CHAPTER 1005

COUNTY EXEMPTION FROM RECORDING AND OTHER FEES

H.F. 39

AN ACT relating to fees charged by the county recorder and exempting the county from the payment of fees.

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

Section 1. Section 331.604, Code Supplement 1991, is amended to read as follows:

331.604 GENERAL RECORDING AND FILING FEE.

1. Except as otherwise provided by state law or section 331.605, subsection 2, 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.

2. A county shall not be required to pay a fee to the recorder for filing or recording instruments.

Sec. 2. Section 331.605, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, the county shall not be required to pay the fees required in this section.

Approved March 4, 1992

CHAPTER 1006

EXCISE TAX ON AUTOMOBILE RENTALS

H.F. 695

AN ACT relating to the imposition of an excise tax on certain rentals of motor vehicles and providing a use tax exemption for certain motor vehicles used for rental purposes and providing retroactive applicability and effective dates.

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

Section 1. Section 312.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Revenue derived from the excise tax imposed upon the rental of automobiles, under chapter 422C, as provided by section 422C.5.

Sec. 2. NEW SECTION. 422C.1 SHORT TITLE.

This chapter may be cited as the "Automobile Rental Excise Tax Act".

Sec. 3. NEW SECTION. 422C.2 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Automobile" means a motor vehicle subject to registration in any state designed primarily for carrying nine passengers or less, excluding motorcycles and motorized bicycles.

2. "Department" means the department of revenue and finance.

3. "Lessor" means a person engaged in the business of renting automobiles to users. "Lessor" includes a motor vehicle dealer licensed pursuant to chapter 322 who rents automobiles to users. For this purpose, the objective of making a profit is not necessary to make the renting activity a business.

4. "Person" means person as defined in section 422.42.

5. "Rental" means a transfer of the possession or right to possession of an automobile to a user for a valuable consideration for a period of sixty days or less.

6. "Rental price" means the consideration for renting an automobile valued in money, and means the same as "gross taxable services" as defined in section 422.42.

7. "User" means a person to whom the possession or the right to possession of an automobile is transferred for a period of sixty days or less for a valuable consideration which is paid by the user or by another person.

Sec. 4. NEW SECTION. 422C.3 TAX ON RENTAL OF AUTOMOBILES.

1. A tax of four percent is imposed upon the rental price of an automobile if the rental transaction is subject to the sales and services tax under chapter 422, division IV, or the use tax under chapter 423. The tax shall not be imposed on any rental transaction not taxable under the state sales and services tax, as provided in section 422.45, or the state use tax, as provided in section 423.4, on automobile rental receipts.

2. The lessor shall collect the tax by adding the tax to the rental price of the automobile.

3. The tax, when collected, shall be stated as a distinct item separate and apart from the rental price of the automobile and the sales and services tax imposed under chapter 422, division IV, or the use tax imposed under chapter 423.

Sec. 5. NEW SECTION. 422C.4 ADMINISTRATION AND ENFORCEMENT.

All powers and requirements of the director of revenue and finance to administer the state gross receipts tax law under chapter 422, division IV, are applicable to the administration of the tax imposed under section 422C.3, including but not limited to sections 422.25, subsection 4, 422.30, 422.48 through 422.52, 422.54 through 422.58, 422.67, 422.68, 422.69, subsection 1, and 422.70 through 422.75. However, as an exception to the powers specified in section 422.52, subsection 1, the director shall only require the filing of quarterly reports.

Sec. 6. NEW SECTION. 422C.5 DEPOSIT OF REVENUE.

The revenue arising from the operation of this chapter shall be credited to the road use tax fund.

Sec. 7. Section 423.4, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 14. Vehicles subject to registration in any state when purchased for rental or registered and titled by a motor vehicle dealer licensed pursuant to chapter 322 for rental use, and held for rental for a period of one hundred twenty days or more and actually rented for periods of sixty days or less by a person regularly engaged in the business of renting vehicles including, but not limited to, motor vehicle dealers licensed pursuant to chapter 322 who rent automobiles to users, if the rental of the vehicles is subject to taxation under chapter 422C.

NEW SUBSECTION. 15. Motor vehicles subject to registration which were registered and titled between July 1, 1982, and July 1, 1992, to a motor vehicle dealer licensed under chapter 322 and which were rented to a user as defined in section 422C.2 if the following occurred:

1. The dealer kept the vehicle on the inventory of vehicles for sale at all times.
2. The vehicle was to be immediately taken from the user of the vehicle when a buyer was found.
3. The user was aware of this situation.

Sec. 8. This Act takes effect July 1, 1992.

Approved March 5, 1992

CHAPTER 1007

LEGALIZATION OF MID-PRAIRIE COMMUNITY SCHOOL DISTRICT TAX LEVY

H.F. 2097

AN ACT to legalize the proceedings taken by the board of directors of the Mid-Prairie Community School District concerning the imposition 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, the board of directors of the Mid-Prairie Community School District considered, held a hearing upon, and approved the levy of a physical plant and equipment levy tax of sixty-seven cents per one thousand dollars of assessed valuation for ten years and presented this proposition in oral and written descriptions to the public prior to the election; and

WHEREAS, on September 11, 1990, voters of the school district approved a proposition authorizing a physical plant and equipment tax, which due to an error, stated the total amount of the tax to be raised at three cents per one thousand dollars of assessed valuation instead of sixty-seven cents per one thousand dollars of assessed valuation; and

WHEREAS, the board of directors believed that the proposition authorized a sixty-seven cents per one thousand dollars of assessed valuation tax with a three cent per one thousand dollars property tax component and an income surtax component of not to exceed six percent as authorized under section 298.2 of the Code of Iowa; and

WHEREAS, the school district proceeded under the assumption that a sixty-seven cents per one thousand dollars of assessed valuation tax for ten years was approved by the voters and, with no objection at the budget hearing, levied and imposed the sixty-seven cents per one thousand dollars of assessed valuation as a physical plant and equipment tax in the fiscal year ending June 30, 1992; and

WHEREAS, the tax has been certified as required under section 298.2 of the Code of Iowa, is being collected, and has been expended for a roof repair at the Wellman Elementary School to be financed from the sixty-seven cents per one thousand dollars of assessed valuation of physical plant and equipment tax for the fiscal year ending June 30, 1992; 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 Mid-Prairie Community School District to levy and impose a physical plant and equipment tax of sixty-seven cents per one thousand dollars of assessed valuation for fiscal years ending June 30, 1992, through June 30, 2001, and pertaining to the election for a physical plant and equipment tax levy of sixty-seven cents per one thousand dollars of assessed valuation, are hereby legalized and constitute a legal and binding physical plant and equipment levy.

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

Approved March 10, 1992

CHAPTER 1008

DETERMINATION DATE FOR TEACHING CONTRACTS

H.F. 2235

AN ACT changing the date by which the board of directors of a school corporation must determine whether to continue or terminate a teaching contract and providing an effective date.

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

Section 1. Section 279.16, unnumbered paragraph 6, Code 1991, is amended to read as follows:

If the teacher fails to timely request a private hearing or does not appear at the private hearing, the board may proceed and make a determination upon the superintendent's recommendation, which determination in that case shall be not later than ~~April~~ May 10, or not later than five days after the scheduled date for the private hearing, whichever is applicable. The board shall convene in open session and by roll call vote determine the termination or continuance of the teacher's contract.

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

Approved March 12, 1992

CHAPTER 1009

NOTIFICATION AND DETERMINATION DATES FOR SCHOOL ADMINISTRATOR CONTRACTS

H.F. 2245

AN ACT relating to notification and determination dates for the discontinuance of a school district administrator contract and providing an effective date.

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

Section 1. Section 279.24, unnumbered paragraphs 3, 5, and 7, Code 1991, are amended to read as follows:

Administrators employed in a school district for less than two consecutive years are probationary administrators. However, a school board may waive the probationary period for any administrator who has previously served a probationary period in another school district and the school board may extend the probationary period for an additional year with the consent of the administrator. If a school board determines that it should terminate a probationary administrator's contract, the school board shall notify the administrator not later than ~~March 31~~ April 30 that the contract will not be renewed beyond the current year. The notice shall be in writing by letter, personally delivered, or mailed by certified mail. The notification shall be complete when received by the administrator. Within ten days after receiving the notice, the administrator may request a private conference with the school board to discuss the reasons for termination. The school board's decision to terminate a probationary administrator's contract shall be final unless the termination was based upon an alleged violation of a constitutionally guaranteed right of the administrator.

On or before ~~March 31~~ April 30, the administrator shall be notified in writing by a letter personally delivered or mailed by certified mail that the school board has voted to consider termination of the contract. The notification shall be complete when received by the administrator.

Within five days after receipt of the written notice that the school board has voted to consider termination of the contract, the administrator may request in writing to the secretary of the school board that the notification be forwarded to the board of educational examiners along with a request that the board of educational examiners submit a list of five qualified administrative law judges to the parties. Within three days from receipt of the list the parties shall select an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The hearing shall be held no sooner than ten days and not later than thirty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a hearing, the school board, not later than ~~April~~ May 15, may determine the continuance or discontinuance of the contract. School board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of school board action shall be personally delivered or mailed to the administrator.

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

Approved March 12, 1992

CHAPTER 1010

DESIGNATED ROUTE OF INTERSTATE 80

H.F. 2136

AN ACT relating to the designated route of Interstate 80.

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

Section 1. NEW SECTION. 314.16 INTERSTATE 80 — ROUTE DESIGNATION.

The interstate which runs from Council Bluffs on the western border through Des Moines to Davenport on the eastern border shall be known as interstate 80. The state transportation commission shall be prohibited from changing the route of interstate 80 as designated on January 1, 1992.

Approved March 23, 1992

CHAPTER 1011

DEADLINES FOR COLLECTIVE BARGAINING AGREEMENTS INVOLVING TEACHERS

S.F. 2216

AN ACT relating to the deadline for reaching a collective bargaining agreement by community colleges, allowing for waiver of the deadline by mutual agreement, and providing an effective date.

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

Section 1. Section 20.17, subsection 11, Code Supplement 1991, is amended to read as follows:

11. a. ~~If the~~ In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees ~~in~~ represented by a certified employee organization who are teachers licensed under chapter 260, and ~~the~~ who are employed by a public employer which is a school district, ~~community college,~~ or area education agency, shall complete 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~~ items in such cases 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 in such cases shall be sufficiently in advance of April 15 to ~~insure~~ ensure that the arbitrators' decision can be reasonably made before April 15.

b. If the public employer is a community college, the following apply:

(1) The negotiation of a proposed collective bargaining agreement shall be complete not later than June 1 of the year when the agreement is to become effective, absent the existence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date. The board shall adopt rules providing for a date on which impasse items in such cases must be submitted to binding arbitration and for procedures for the completion of negotiations of proposed collective bargaining agreements not later than June 1. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of June 1 to ensure that the arbitrators' decision can be reasonably made by June 1.

(2) Notwithstanding the provisions of paragraph "a", the June 1 deadline may be waived by mutual agreement of the parties to the collective bargaining agreement negotiations.

Sec. 2. Section 20.19, Code Supplement 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~~ one hundred twenty days prior to ~~the certified budget submission date of the public employer~~ April 15 of the year when the collective bargaining agreement is to become effective. If the public employer is a community college, the agreement shall provide for implementation of impasse procedures not later than one hundred twenty days prior to June 1 of the year when the collective bargaining agreement is to become effective. 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. 3. Section 20.20, Code Supplement 1991, is amended to read as follows:

20.20 MEDIATION.

In the absence of an impasse agreement ~~between the parties~~ negotiated pursuant to section 20.19 or the failure of either party to utilize its procedures, one hundred twenty days prior to the certified budget submission date, or ~~ninety~~ one hundred twenty days prior to ~~the certified budget submission date~~ April 15 of the year when the collective bargaining agreement is to become effective 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. If the public employer is a community college, and in the absence of an impasse agreement negotiated pursuant to section 20.19 or the failure of either party to utilize its procedures, one hundred twenty days prior to June 1 of the year when the collective bargaining agreement is to become effective, the board, upon the request of either party, shall 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. 4. APPLICABILITY. This Act applies to negotiations between community colleges and certified employee organizations which have commenced prior to, but which have not been completed on, the effective date of this Act.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 23, 1992

CHAPTER 1012

PROBATE LAW CHANGES

S.F. 2219

AN ACT relating to probate law changes regarding certain investments by fiduciaries, the definition of fiduciary, and the bonding requirements for banks and trust companies.

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

Section 1. Section 633.123, subsection 2, Code Supplement 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of law, a bank or trust company acting as a fiduciary, in addition to other investments authorized by law for the investment of funds by a fiduciary or by the instrument governing the fiduciary and in the exercise of its investment discretion or at the direction of another person authorized to direct investment of funds held by the fiduciary, may invest and reinvest in the securities of an open-end or closed-end management investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq. Investment under this paragraph is allowed so long as the portfolio of the investment company or investment trust consists substantially of investments not otherwise prohibited by this section or by the governing instrument.

NEW UNNUMBERED PARAGRAPH. A bank or trust company acting as a fiduciary is not precluded from investing or reinvesting in the securities of an open-end or closed-end management investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq. merely because the bank or trust company or an affiliate of the bank or trust company provides services such as investment advisor, custodian, transfer agent, registrar, sponsor, distributor, or manager to the investment company or investment trust and receives a reasonable fee for the services.

Sec. 2. Section 633.126, subsection 2, Code 1991, is amended to read as follows:

2. "Fiduciary", for the purposes of this section and sections 633.127 to 633.129, means acting in any of the following capacities, namely: ~~Testamentary~~ testamentary trustee appointed by any court, trustee under any written agreement, declaration or instrument of trust, executor, administrator, guardian, or conservator, custodian under chapter 565B, or other capacity permitted under any state or federal law or regulation governing collective investment funds maintained by a bank or trust company.

Sec. 3. Section 633.175, Code Supplement 1991, is amended to read as follows:

633.175 WAIVER OF BOND BY COURT.

The court ~~may~~, for good cause shown, may exempt any fiduciary from giving bond, if the court finds that the interests of creditors and distributees will not thereby be prejudiced. However, the court, except as provided in section 633.172, subsection 2, 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.

Approved March 23, 1992

CHAPTER 1013

RENEWABLE FUEL ADVISORY COMMITTEE

S.F. 2221

AN ACT providing for the composition of the renewable fuel advisory committee.

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

Section 1. Section 159A.4, subsection 1, Code Supplement 1991, is amended to read as follows:

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. The director of the department of natural resources, or a person designated by the director, representing the department of natural resources.

~~d~~ e. 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~~ f. 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~~ g. A person representing an organization serving livestock producers in this state.

~~g~~ h. A person representing the Iowa corn growers association.

~~h~~ i. ~~One~~ A person actively engaged in farming, as defined in section 172C.1.

j. A person representing the renewable fuel industry in this state.

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, and the director of the department of natural resources shall appoint the person representing that department. The governor may make appointments of persons representing organizations listed under paragraphs ~~"f"~~ "g" and ~~"g"~~ "h" from a list of candidates which shall be provided by the organization upon request by the governor.

Sec. 2. Section 159A.4, subsection 2, Code Supplement 1991, is amended to read as follows:

2. The members appointed pursuant to subsection 1, paragraphs ~~"d"~~ "e" through ~~"h"~~ "j", 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.

Sec. 3. Section 159A.4, subsection 5, Code Supplement 1991, is amended to read as follows:

5. The members other than those enumerated in subsection 1, paragraphs "a" through ~~"e"~~ "d", are entitled to receive compensation as provided in section 7E.6.

Approved March 23, 1992

CHAPTER 1014

TRANSFERS OF REAL ESTATE INTERESTS BY TRUSTEES

S.F. 2272

AN ACT relating to the transfers of real estate interests by trustees, limiting claims against such real estate transfers, and providing for the Act's applicability.

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

Section 1. Section 614.14, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

614.14 RECOVERY OF BENEFICIARY OF TRUST.

1. If an interest in real estate is held of record by a trustee, a bona fide purchaser acquires all rights in the real estate which the trustee and the beneficiary of the trust had and any rights of persons claiming by, through or under them, free of any adverse claim.

2. A bona fide purchaser is a purchaser for value in good faith and without notice of any adverse claim, who has relied on a current, recorded affidavit in substantially the following form delivered to the purchaser:

[Individual trustee]
Affidavit in re
[insert legal description]

I, ..., being first duly sworn and under oath state of my personal knowledge that:

1. I am the trustee under the trust dated ....., 19..., to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the ..... day of ....., 19..., recorded in the office of the ..... County Recorder in ..... [insert recording data].

2. I am the presently existing trustee under the trust and am authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever.

3. The trust is in existence and I as trustee am authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by ..... on this ..... day of ....., 19...

.....
[Notary Public in and for the
State of .....]

[Corporate trustee]
Affidavit in re
[insert legal description]

I, ..., being first duly sworn and under oath state of my personal knowledge that:

1. ..... is the trustee under the trust dated ....., 19..., to which the above-described real estate was conveyed to the trustee by ....., pursuant to an instrument recorded the .... day of ....., 19..., recorded in the office of the ..... County Recorder in ..... [insert recording data].

2. ..... is the presently existing trustee under the trust and is authorized to ..... [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever, and I am ..... [officer] of the corporate trustee.

3. The trust is in existence and ..... as trustee is authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by ....., on this ..... day of ....., 19...

.....

[Notary Public in and for the
State of .....]

3. As used in this section, "adverse claim" includes a claim that a transfer was or would be wrongful, a claim that a particular adverse person is the owner of or has an interest in the real estate, and a claim that would be disclosed by the examination of any document not of record.

4. Unless clearly provided to the contrary by the instrument of transfer to a purchaser, a trustee transferring an interest in real estate warrants to the transferee all of the following:

a. That the trust pursuant to which the transfer is made is duly executed and in existence.

b. That the person creating the trust was under no disability or infirmity at the time the trust was created.

c. That the transfer by the trustee to the purchaser is effective and rightful.

d. That the trustee knows of no facts or legal claims which might impair the validity of the trust or the validity of the transfer.

5. a. A person holding an adverse claim arising or existing prior to January 1, 1992, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not file an action to enforce such claim after December 31, 1993, at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate.

b. An action based upon an adverse claim arising on or after January 1, 1992, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not be maintained either at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate, legal or equitable, more than one year after the date of recording of the instrument from which such claim may arise.

6. This section shall not be construed to limit any personal action against the trustee or purported trustee.

Sec. 2. APPLICABILITY. This section does not apply to an action pending on the effective date of this Act.

Approved March 23, 1992

CHAPTER 1015

PROCEDURES FOR WATER SERVICES TO NEW AREAS

S.F. 2101

AN ACT relating to procedures for the provision of water services within two miles of a city.

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

Section 1. Section 357.1, unnumbered paragraph 4, Code 1991, is amended to read as follows:

Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city ~~unless the city has approved a new water service plan submitted by the benefited district. If the new water service plan is not approved by the city, the plan may be subject to arbitration~~ except as provided in this section.

Sec. 2. Section 357.1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A benefited water district established under this chapter may give notice of intent to provide water service to a new area within two miles of a city by submitting a water plan to the city. The plan is only required to indicate the area within two miles of the city which the benefited water district intends to serve. If the city fails to respond to the benefited water district's plan within ninety days of receipt of the plan, the benefited water district may provide service in the area designated in the plan. The city may inform the benefited water district within ninety days of receipt of the plan that the city requires additional time or information to study the question of providing water service outside the limits of the city. If additional time or information is required, the city shall respond to the benefited water district's plan within one hundred eighty days of receipt of the plan. In responding to the plan, the city may waive its right to provide water service within the areas designated for service by the benefited water district, or the city may reserve the right to provide water service in some or all of the areas which the benefited water district intends to serve. If the city reserves the right to provide water service within some or all of the areas which the benefited water district intends to serve, the city shall provide service within four years of receipt of the plan. This section does not preclude a city from providing water service in an area which is annexed by the city.

Sec. 3. Section 357A.2, unnumbered paragraph 4, Code Supplement 1991, is amended to read as follows:

Water services, other than water services provided as of April 1, 1987, shall not be provided within two miles of the limits of a city by a rural water district incorporated under this chapter or chapter 504A ~~unless the city has approved a new water service plan submitted by the district. If the new water service plan is not approved by the city, the plan may be subject to arbitration~~ except as provided in this section.

Sec. 4. Section 357A.2, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A rural water district incorporated under this chapter or chapter 504A may give notice of intent to provide water service to a new area within two miles of a city by submitting a water plan to the city. The plan is only required to indicate the area within two miles of the city which the rural water district intends to serve. If the city fails to respond to the rural water district's plan within ninety days of receipt of the plan, the rural water district may provide service in the area designated in the plan. The city may inform the rural water district within ninety days of receipt of the plan that the city requires additional time or information to study the question of providing water service outside the limits of the city. If additional time or information is required, the city shall respond to the rural water district's plan within one hundred eighty days of receipt of the plan. In responding to the plan, the city may waive its right to provide water service within the areas designated for service by the rural water district, or the city may reserve the right to provide water service in some or all of the areas which the rural water district intends to serve. If the city reserves the right to provide water service within some or all of the areas which the rural water district intends to serve, the city shall provide service within four years of receipt of the plan. This section does not preclude a city from providing water service in an area which is annexed by the city.

Sec. 5. Section 357A.21, Code 1991, is amended to read as follows:

357A.21 ANNEXATION OF LAND BY A CITY — ARBITRATION.

A water district organized under chapter 357, 357A, 499, or 504A shall be fairly compensated for losses resulting from annexation. The governing body of a city or water utility and the board of directors or trustees of the water district may agree to terms which provide that the facilities owned by the water district and located within the city shall be retained by the water district for the purpose of transporting water to customers outside the city. If an agreement is not reached within ninety days, the issues ~~shall~~ may be submitted to arbitration. ~~An~~ If submitted, an arbitrator shall be selected by a committee which includes one member of

the governing body of the city or its designee, one member of the water district's board of directors or trustees or its designee, and a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association.

Approved March 26, 1992

CHAPTER 1016

PROPERTY AND OTHER LOCAL TAXES — COLLECTION AND ADMINISTRATION

H.F. 2269

AN ACT relating to the collection and administration of taxes, special assessments, and various rates and charges and providing applicability and effective dates.

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

Section 1. Section 135D.24, subsection 7, Code Supplement 1991, is amended to read as follows:

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 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 sections 445.3 and 445.4 and 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 in lieu of redemption 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. 2. Section 135D.25, Code 1991, is amended to read as follows:

135D.25 APPORTIONMENT AND COLLECTION OF TAXES.

The tax and ~~penalties~~ interest for delinquent taxes collected under ~~the provisions of~~ section 135D.24, shall be apportioned in the same manner as though they were the proceeds of taxes levied on real property at the same location as ~~such~~ the mobile home.

Chapters 446, 447, and 448 apply to the sale of a mobile home for the collection of delinquent taxes and ~~penalties~~ interest, the redemption of a mobile home sold for the collection of delinquent taxes and ~~penalties~~ interest, and the execution of a tax sale certificate of title for the purchase of a mobile home sold for the collection of delinquent taxes and ~~penalties~~ interest in the same manner as though a mobile home were real property within the meaning of these chapters to the extent consistent with this chapter. The certificate of title shall be issued by the county treasurer. The ~~county~~ treasurer shall charge ten dollars for each certificate of title, except that the ~~county~~ treasurer shall issue a tax sale certificate of title to the county at no charge.

When a mobile home is removed from the county where delinquent taxes, regular or special, are owing, or when it is administratively impractical to pursue tax collection through the remedies of this section, all taxes, regular and special, ~~penalties,~~ interest, and costs shall be abated by resolution of the county board of supervisors. The resolution shall direct the ~~county~~ treasurer to strike from the tax books the reference to that mobile home.

Sec. 3. Section 311.18, Code 1991, is amended to read as follows:

311.18 ASSESSMENT DELINQUENT — ~~PENALTIES~~ INTEREST.

The assessed taxes shall become delinquent ~~on the first day of September~~ from October 1 after their maturity unless the last day of September is a Saturday or Sunday, in which case the taxes become delinquent from the following Tuesday, shall bear the same interest, ~~the same penalties,~~ and be attended with the same rights and remedies for collection, as ordinary taxes.

Sec. 4. Section 317.21, subsection 1, Code 1991, is amended to read as follows:

1. Annually, after the weed commissioner has completed the program of destruction of weeds by reason of noncompliance by persons responsible ~~therefor~~ for the destruction, the board of supervisors shall determine as to each tract of real estate the actual cost of labor and materials used by the commissioner in cutting, burning, or otherwise destroying ~~said~~ the weeds, the cost of serving notice, and of special meetings or proceedings, if any. To the total of all ~~such~~ sums expended, ~~they~~ the board shall add an amount equal to twenty-five percent ~~thereof~~ of that total to compensate for the cost of supervision and administration and assess the resulting sum against ~~said~~ the tract of real estate by a special tax, which shall be certified to the county auditor and county treasurer by the clerk of the board of supervisors, and shall be placed upon the tax books, and collected, ~~together~~ with interest ~~and penalty~~ after ~~due~~ delinquent, in the same manner as other unpaid taxes. ~~Such~~ The tax shall be due on March 1 after ~~such~~ assessment, and shall be delinquent ~~after March 30~~ from April 1 after due unless the last day of March is a Saturday or Sunday, in which case the tax becomes delinquent from the following Tuesday. When collected, ~~said funds~~ the moneys shall be paid into the fund from which ~~said~~ the costs were originally paid.

Sec. 5. Section 331.552, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Collect all penalties that have accrued prior to April 1, 1992, on unpaid taxes, as defined in section 445.1, and process them as interest.

Sec. 6. Section 364.13A, Code 1991, is amended to read as follows:

364.13A SPECIAL ASSESSMENTS — LIEN AND PRECEDENCE.

A special assessment levied pursuant to section 364.11 or 364.12, including all interest, ~~and penalties~~ is a lien against the benefited property from the date of filing the schedule of assessments until the assessment is paid. Special assessments have equal precedence with ordinary taxes and are not divested by judicial sale.

Sec. 7. Section 384.2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The county auditor shall place city taxes and assessments upon the tax list for the current year, and the county treasurer shall collect city taxes and assessments in the same manner as other taxes. Delinquent city taxes and assessments draw the same interest ~~and penalties~~

as other taxes. Sales for delinquent city taxes and assessments must be made in the manner provided in chapter 446. The county treasurer shall combine in one tax sale all taxes and assessments due from the same person and collectible by the county.

Sec. 8. Section 384.60, subsection 5, unnumbered paragraph 2, Code 1991, is amended to read as follows:

On or before the second publication of the notice, the clerk shall send by mail to each property owner whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. The notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of the first notice of the final assessment schedule, and thereafter all unpaid special assessments bear interest at the rate specified by the council, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments as provided in section 384.65, subsection 3, and each installment will be delinquent ~~on September 30~~ from October 1 following its due date, unless the last day of September is a Saturday or Sunday, in which case the installment becomes delinquent from the following Tuesday, and will draw additionally the same delinquent interest ~~and the same penalties~~ as ordinary taxes. The notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment or interest due on the special assessment.

Sec. 9. Section 384.63, unnumbered paragraph 3, Code 1991, is amended to read as follows:

When a private improvement is constructed on a lot subject to a deficiency, during the period of amortization, the council shall, by resolution, assess a pro rata portion of the deficiency on that lot, in the same proportion to the total deficiency on that lot as the number of future installments of special assessments remaining to be paid is to the total number of installments of assessments for the project, subject to the twenty-five percent limitation of section 384.62. A deficiency assessment becomes a lien on the property and is payable in the same manner, and subject to the same ~~interest and penalties~~ interests as the other special assessments. The council shall direct the clerk to certify a deficiency assessment to the county treasurer, and to send a notice of the deficiency assessment by mail to each owner, as provided in section 384.60, subsection 5, but publication of the notice is not required.

Sec. 10. Section 384.65, subsections 4, 5, and 8, Code 1991, are amended to read as follows:

4. Each installment of an assessment with interest on the unpaid balance is delinquent ~~after the thirtieth day of September next~~ from October 1 after its due date, unless the last day of September is a Saturday or Sunday, in which case the installment becomes delinquent from the following Tuesday, and bears the same delinquent interest ~~with the same penalties~~ as ordinary taxes. When collected, the interest ~~and penalties~~ must be credited to the same fund as the special assessment.

5. From the date of filing of a certified copy of the resolution of necessity, the plat, and the schedule of assessments as provided in section 384.51, all special assessments with all interest ~~and penalties~~ become and remain a lien on the benefited properties until paid, and have equal precedence with ordinary taxes, and are not divested by any judicial sale.

8. Each installment of a special assessment shall be calculated to the nearest whole dollar. Interest on unpaid installments and interest ~~penalties~~ added for delinquencies shall also be calculated to the nearest whole dollar. The minimum interest ~~or interest penalty~~ amount is one dollar.

Sec. 11. Section 384.69, Code 1991, is amended to read as follows:

384.69 PROPERTY SOLD AT TAX SALE.

Property against which a special assessment has been levied for public improvements may be sold for any sum of principal or interest due and delinquent, at any regular or adjourned

tax sale in the same manner with the same forfeitures, ~~penalties~~ interest, right of redemption, certificates, and deeds, as for the nonpayment of ordinary taxes. The purchaser at a tax sale, other than the county, takes the property charged with the lien of the remaining unpaid installments and interest. When bonds have been issued in anticipation of special assessments and interest for which property is to be sold, the city may be a purchaser and is entitled to all rights of purchasers at tax sales. The proceeds subsequently realized from sales of property so purchased by the city must be credited to the funds of the city from which deficiencies on the improvement were paid, or if there were no deficiencies, to the general fund.

Sec. 12. Section 422.26, Code Supplement 1991, is amended by adding after unnumbered paragraph 8, the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The distress warrant shall be in a form as prescribed by the director. It shall be directed to the sheriff of the appropriate county and it shall identify the taxpayer, the tax type, and the delinquent amount. It shall direct the sheriff to distrain, seize, garnish, or levy upon, and sell, as provided by law, any real or personal property belonging to the taxpayer to satisfy the amount of the delinquency plus costs. It shall also direct the sheriff to make due and prompt return to the department or to the district court under chapters 626 and 642 of all amounts collected.

Sec. 13. Section 425.23, subsection 3, paragraph a, Code Supplement 1991, is amended to read as follows:

a. A person who is eligible to file a claim for credit for property taxes due and who has a household income of six thousand dollars or less and who has ~~a~~ an unpaid special assessment levied against the homestead may file a claim with the county treasurer that the claimant had a household income of six thousand dollars or less and that ~~a~~ an unpaid special assessment is presently levied against the homestead. The department shall provide to the respective ~~county~~ treasurers the forms necessary for the administration of this subsection. The claim shall be filed not later than September 30 of each year. Upon the filing of the claim, ~~a penalty or~~ interest for late payment shall not accrue against the amount of the unpaid special assessment due and payable. The claim filed by the claimant constitutes a claim for credit of an amount equal to the actual amount due ~~and payable~~ upon the unpaid special assessment, plus interest, payable during the fiscal year for which the claim is filed against the homestead of the claimant ~~or an amount equal to the annual payment of the special assessment levied against the homestead of the claimant and payable in annual installments through the period of years provided by the governing body of the city, whichever is less~~. However, where the claimant is an individual described in section 425.17, subsection 2, paragraph "b", the claim filed constitutes a claim for credit of an amount equal to one-half of the actual amount due ~~and payable~~, plus interest, during the fiscal year ~~or equal to one-half of the annual payment, whichever is less~~ for which the claim is filed. The department of revenue and finance shall, upon the filing of the claim with the department by the ~~county~~ treasurer, pay that amount of the unpaid special assessment during the current fiscal year to the ~~county~~ treasurer. The ~~county~~ treasurer shall submit the claims to the director of revenue and finance not later than October 15 of each year. The director of revenue and finance shall certify the amount of reimbursement due each county for unpaid special assessment credits allowed under this subsection. The amount of reimbursement due each county shall be paid by the director of revenue and finance on October 20 of each year, drawn upon warrants payable to the respective ~~county~~ treasurer. There is appropriated annually from the general fund of the state to the department of revenue and finance an amount sufficient to carry out the provisions of this subsection. The ~~county~~ treasurer shall credit any moneys received from the department against the amount of the unpaid special assessment due and payable on the homestead of the claimant.

Sec. 14. Section 427.8, Code Supplement 1991, is amended to read as follows:

427.8 PETITION FOR SUSPENSION OR ABATEMENT OF TAXES, ASSESSMENTS, AND RATES OR CHARGES, INCLUDING INTEREST, FEES, AND COSTS.

If a person 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 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, and rates or charges, including interest, fees, and costs, which are assessed against the petitioner or the petitioner's estate for the current year and those unpaid for prior years, or the board may abate the taxes, special assessments, and rates or charges, including interest, fees, and costs. The petition, when approved, shall be filed by March 1 of the current tax year with the treasurer.

Sec. 15. Section 427.9, Code Supplement 1991, is amended to read as follows:

427.9 SUSPENSION OF TAXES, ASSESSMENTS, AND RATES OR CHARGES, INCLUDING INTEREST, FEES, AND COSTS.

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 parcels, as defined in section 445.1, of the fact, giving a statement of 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, including interest, fees, and costs, assessed against the 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 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 taxes suspended.

Sec. 16. Section 427.10, Code Supplement 1991, is amended to read as follows:

427.10 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, abate the taxes, special assessments, and rates or charges, including interest, fees, and costs, which have previously been suspended as provided in section 427.8 or 427.9.

Sec. 17. Section 427.11, Code Supplement 1991, is amended to read as follows:

427.11 GRANTEE OR DEVISEE TO PAY TAX.

If the petitioner or person described in section 427.9 sells any parcel upon which the taxes, special assessments, and rates or charges, including interest, fees, and costs, have been suspended, or if any parcel, or any part of the parcel, upon which the taxes, special assessments, and rates or charges, including interest, fees, and costs, have been suspended, passes by devise, bequest, or inheritance to any person other than the surviving spouse or minor child of the petitioner or other person, the ~~taxes, special assessments, and rates or charges without any accrued interest, that have~~ total amount due that has been thus suspended shall all become due and payable with the next semiannual installment of taxes. Interest shall accrue on the total amount due at the rate of one and one-half percent per month from the next succeeding delinquency date to the month of payment unless payment is tendered in full before the delinquency date. Interest does not accrue during the suspension period on suspended parcels, including those parcels suspended prior to April 1, 1992. The petitioner, or any other person, may pay the suspended amounts at any time during the suspension period. Except in the case of mobile home taxes, special assessments, or rates or charges, the treasurer may accept a partial payment during the suspension period with the partial payment first being applied to interest and costs.

Sec. 18. Section 445.3, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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. This paragraph does not apply to the collection of ad valorem taxes under section 445.32, grain handling taxes under section 428.35, and moneys and credits taxes under chapter 430A.

Sec. 19. Section 445.3, Code Supplement 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions in section 535.3, interest on the judgment shall be at the rate provided in section 447.1 and shall commence from the month of the commencement of the action. This interest shall be in lieu of the interest assessed under section 445.39 from and after the month of the commencement of the action.

NEW UNNUMBERED PARAGRAPH. An appeal may be taken to the Iowa supreme court as in other civil cases regardless of the amount involved.

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provisions in this section, if the treasurer is unable or has reason to believe that the treasurer will be unable to offer land at the annual tax sale to collect the total amount due, the treasurer may immediately collect the total amount due by the commencement of an action under this section.

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of law, if a statute authorizes the collection of a delinquent tax, assessment, rate, or charge by tax sale, the tax, assessment, rate, or charge, including interest, fees, and costs, may also be collected under this section and section 445.4.

Sec. 20. Section 445.16, Code Supplement 1991, is amended to read as follows:

445.16 ABATEMENT OR COMPROMISE OF TAX.

~~When a parcel is offered and not sold at regular tax sale, or if~~ 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. In addition, if a parcel is offered at regular tax sale and is not sold, the county, prior to public bidder sale to the county under section 446.19, may compromise by written agreement, or abate by resolution, the tax, interest, fees, or costs, as provided in this section.

A copy of the agreement or resolution shall be filed with the county treasurer.

Sec. 21. Section 445.23, Code Supplement 1991, is amended to read as follows:

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~~ for which information is requested, and the money shall be deposited in the county general fund.

Sec. 22. Section 445.36A, Code Supplement 1991, is amended to read as follows:

445.36A PARTIAL PAYMENTS.

1. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of taxes. A minimum payment amount shall be established by the 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 sections 445.3 and 445.4 and 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 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 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 in lieu of redemption 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. 23. Section 445.37, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

However, if there is a delay ~~of~~ in the 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 the date of delivery or on the delinquent date of the first installment, whichever date occurs later. The delay shall not affect the due dates for special assessments 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, including any extension, in absence of a statute to the contrary.

Sec. 24. Section 446.9, subsection 2, Code Supplement 1991, is amended to read as follows:

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 as selected by the board of supervisors and 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 parcel to be sold that is clear, concise, and sufficient to distinguish the 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 parcel to be sold is taxed, the amount delinquent for which the parcel is liable each year, the amount of the interest, fees, costs, and the cost of publication in the newspaper, all to be incorporated as a single sum. The publication shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

Sec. 25. Section 446.16, Code Supplement 1991, is amended to read as follows:

446.16 BID – PURCHASER.

The person who offers to pay the total amount due, which is a lien on any parcel, for the smallest ~~portion~~ percentage of the parcel is the purchaser, and when the purchaser designates the ~~portion~~ percentage of any parcel for which the purchaser will pay the total amount due, the ~~portion~~ percentage thus designated shall ~~become~~ give the person an undivided ~~portion~~ interest upon the issuance of a treasurer's deed, as provided in chapter 448. The delinquent

tax lien transfers with the tax sale certificate, whether held by the county or purchased by an individual, through assignment or direct purchase at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 26. Section 446.17, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If notice of annual tax sale has been published under section 446.9, as it appeared in the 1991 Code, the notice is valid and further notice is not required for an adjourned sale held under this section, unless it is a public bidder sale.

Sec. 27. Section 446.20, subsection 1, Code Supplement 1991, is amended to read as follows:

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 county treasurer, assist in prosecution of action authorized under this section and sections 445.3 and 445.4.

The remedies associated with tax sale and personal judgment may be simultaneously pursued until such time as the total amount due has been collected or otherwise discharged. If the total amount due is collected pursuant to a personal judgment, the tax sale shall be canceled by the treasurer. If a tax deed is issued, any personal judgment shall be released and a satisfaction of judgment shall be filed with the clerk of the appropriate district court.

Sec. 28. Section 446.27, subsection 2, Code Supplement 1991, is amended to read as follows:

2. If the treasurer, deputy treasurer, or designated person is directly or indirectly concerned in the purchase of a parcel sold 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 parcel. In addition, the treasurer, deputy treasurer, or designated person, as the case may be, is guilty of a fraudulent practice.

Sec. 29. Section 446.31, Code Supplement 1991, is amended to read as follows:

446.31 ASSIGNMENT — PRESUMPTION FROM DEED RECITALS.

The certificate of purchase is assignable by endorsement and entry in the county system in the office of county treasurer of the county from which the certificate was issued, and when 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 is presumptive evidence of that fact. When the county acquires a certificate of purchase, the board of supervisors may compromise and assign the certificate. A compromise and assignment shall be by written agreement. A copy of the agreement shall be filed with the treasurer. All money received from assignment of certificates of purchase shall be apportioned to the tax-levying and certifying bodies in proportion to their interests in the taxes for which 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. 30. Section 446.38, Code Supplement 1991, is amended to read as follows:

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~~ in accordance with chapter 446 in lieu of the county making application to the probate court.

Sec. 31. NEW SECTION. 446.45 APPLICABLE LAW.

Sections 446.21, 446.31, 446.32, and 446.37, as amended by 1991 Iowa Acts, chapter 191, sections 73, 82, 83, and 86, only apply if associated with a tax sale that occurred on or after April 1, 1992. For tax sales occurring prior to April 1, 1992, the provisions of sections 446.21, 446.31, 446.32, and 446.37 in effect on the date of the tax sale apply.

Sec. 32. Section 447.13, Code Supplement 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 record these costs against the parcel. The certificate holder or the holder's agent shall report in writing to the treasurer the amount of authorized costs incurred, and the treasurer shall file the statement. Costs not filed with the treasurer before a redemption is complete 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 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 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 parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem.

Sec. 33. NEW SECTION. 447.14 LAW IN EFFECT AT TIME OF SALE.

The law in effect at the time of tax sale governs redemption.

Sec. 34. Section 448.12, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section, as amended by 1991 Iowa Acts, chapter 191, section 111, is effective for parcels sold at tax sales occurring on or after April 1, 1992, and for disabilities removed on or after April 1, 1992. For tax sales occurring prior to April 1, 1992, the provisions of this section in effect on the date of the tax sale apply.

Sec. 35. Section 468.54, Code 1991, is amended to read as follows:

468.54 FUNDS — DISBURSEMENT — INTEREST.

~~Such~~ The taxes when collected shall be kept in a separate fund known as the county drainage or levee fund and shall be paid out only for purposes properly connected with and growing out of the county drainage and levee districts on order of the board. The auditor shall continue to keep a record of each of the drainage and levee district's funds so as to accurately reflect the financial condition of each ~~such~~ district account. The county treasurer, on order of the board of supervisors, shall invest such funds not immediately needed for current operating expenses in United States government bonds, in time certificates of deposit, in savings accounts in ~~such~~ banks as the board shall approve, in the interest bearing obligations of the drainage and levee districts of the county, or as provided by chapter 453. Interest collected by the treasurer on the funds ~~so~~ invested shall be deposited in the county drainage or levee fund, and on July 1 of each year the auditor shall apportion and credit ~~such~~ the interest to each drainage or levee district account in the proportion which the average credit balance of each district bears to the average balance of the county drainage or levee fund. The averages to be ascertained shall be the averages of the balances existing on the first of each month during the fiscal year immediately preceding. Interest ~~and penalties~~ collected on drainage or levee district taxes shall be credited to the district for which the taxes are being collected. This

section ~~shall~~ does not ~~be construed so as to~~ permit expenditures in behalf of any district in excess of its share of the county drainage or levee fund. ~~The provisions of this~~ This section ~~shall~~ does not apply to drainage and levee districts under trustee management unless the trustees consent ~~thereto~~ to its application, and in the absence of such consent, section 468.528 ~~shall apply~~ applies.

Sec. 36. Section 468.55, Code 1991, is amended to read as follows:

468.55 ASSESSMENTS — MATURITY AND COLLECTION.

All drainage or levee tax assessments ~~shall~~ become due and payable ~~at the same time as other~~ with the first half of ordinary taxes, and shall be collected in the same manner with the same ~~penalties~~ interest for delinquency and the same manner of enforcing collection by tax sales.

Sec. 37. Section 468.57, subsections 1 and 2, Code 1991, are amended to read as follows:

1. To pay one-third of the amount of ~~such~~ the assessment at the time of filing ~~such~~ the agreement; one-third within twenty days after the engineer in charge ~~shall certify~~ certifies to the auditor that the improvement is one-half completed; and the remaining one-third within twenty days after the improvement has been completed and accepted by the board. All ~~such~~ installments shall be without interest if paid at said times, otherwise ~~said~~ the assessments shall bear interest from the date of the levy at a rate not exceeding that permitted by chapter 74A, payable annually, and be collected as other taxes on real estate, with like ~~penalty~~ interest for delinquency.

2. To pay ~~such~~ the assessments in not less than ten nor more than twenty equal installments, the number to be fixed by the board, and interest at the rate fixed by the board, not exceeding that permitted by chapter 74A. The first installment of each assessment, or the total amount if less than one hundred dollars, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of the levy as set by the board to the first day of December following the due date. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the first semiannual payment of ordinary taxes. All future installments of an assessment may be paid on any date by payment of the then outstanding balance plus interest accrued to the date of payment. Each installment of an assessment with interest on the unpaid balance is delinquent ~~after the thirtieth day of September next~~ from October 1 after its due date, unless the last day of September is a Saturday or Sunday, in which case the installment becomes delinquent from the following Tuesday, and bears the same delinquent interest ~~with the same penalties~~ as ordinary taxes. When collected, the interest ~~and penalties~~ must be credited to the same drainage fund as the drainage special assessment.

Sec. 38. Section 468.395, Code 1991, is amended to read as follows:

468.395 COLLECTION OF TAX.

The assessment required under sections 468.393 and 468.394 shall be made by the board of supervisors at the time of levying general taxes, after the work has been authorized, and the ~~same~~ assessment shall be entered on the records of the board of supervisors, then entered on the tax books by the county auditor as drainage taxes, and shall be collected by the county treasurer at the same time, in the same manner, and with the same ~~penalties~~ interest, as general taxes~~; and if~~. If the ~~same~~ assessment is not paid the ~~county~~ treasurer shall sell all ~~such~~ lands upon which ~~such~~ the assessment remains unpaid, at the same time, and in the same manner, as is now by law provided for the sale of lands for delinquent taxes, including all steps up to the execution and delivery of the tax deed ~~for the same~~. The landowners shall take notice of and pay ~~such~~ the assessments without other or further notice than ~~such~~ as is provided for in this part. The funds realized from ~~such~~ the assessments shall constitute the drainage fund, as contemplated in this part, and shall be disbursed on warrants drawn against that fund by the county auditor, on the order of the board of supervisors.

Sec. 39. Section 468.577, Code 1991, is amended to read as follows:

468.577 ADJUDICATION ON REPORT.

At the hearing of the conservator's report, the court shall fix and determine the amount of money in the hands of the county treasurer belonging to ~~said~~ the drainage district; the amount of the indebtedness of ~~said~~ the drainage district; and to whom ~~said~~ the indebtedness is due, and shall fix and determine the time, manner, and priority of payment of ~~said~~ the indebtedness; ~~also the~~. The court shall fix and determine the amount of unpaid assessment or assessments against each tract of land within ~~said~~ the drainage district, and may extend the time of payment, and reamortize and reallocate the ~~said~~ assessments upon each tract of land within ~~said~~ the drainage district; ~~also, if~~. If the court finds that the assessments as levied against each tract of land within ~~said~~ the drainage district, are not sufficient to pay the indebtedness due and owing by ~~said~~ the drainage district, the court may order the board of supervisors of the county within which the ~~said~~ drainage district is located, to levy an assessment against the lands within ~~said~~ the drainage district, in an amount to pay the deficit; ~~provided, however~~. However, ~~that no~~ assessment for the payment of drainage bonds or improvement certificates shall not be levied against any tract of land ~~where~~ if the owner of ~~said~~ the land is not delinquent in payment of any assessment ~~and provided, further, that the~~. The amount of the reassessment on a particular piece of land shall be in direct proportion to the amount of unpaid assessments on ~~said~~ the land ~~and provided, further, that no~~. The assessment or expenses incidental thereto, for the payment of drainage bonds or improvement certificates under this part, shall not be levied against any tract of land ~~where~~ if the owner of ~~said~~ the land had previously paid all of the owner's assessment. ~~Said~~ The assessment ~~to~~ shall be assessed and levied by the board of supervisors upon the lands within ~~said~~ the drainage district, in the same proportion as the original assessment. A copy of ~~said~~ the order entered by the court, shall be filed by the clerk of the district court with the county auditor, and the schedule of payments of the indebtedness of ~~said~~ the drainage district as fixed and determined by the court, shall be entered upon the drainage records of the drainage district and also spread upon the tax records of the county, and shall become due and payable at the same time as ordinary taxes, and shall be collected in the same manner with the same ~~penalties~~ interest for delinquency, and the same manner of enforcing collection by tax sale. ~~Also the~~ The court may apportion the costs between the creditors of the drainage district, and the drainage district.

Sec. 40. Section 569.8, subsection 4, Code Supplement 1991, is amended to read as follows:

4. The transfer by a county of a parcel acquired by tax deed gives the purchaser free title as to previously levied or set taxes.

Sec. 41. 1991 Iowa Acts, chapter 191, section 124, is amended to read as follows:

SEC. 124. ~~This~~ Except for section 19, this Act takes effect April 1, 1992. Section 19 of this Act takes effect January 1, 1993.

Sec. 42. Except for sections 13 and 41, this Act takes effect April 1, 1992. Section 13 of this Act takes effect January 1, 1993. Section 41 of this Act, being deemed of immediate importance, is effective upon enactment.

Approved March 26, 1992

CHAPTER 1017

ALTERNATE ENERGY PRODUCTION FACILITIES
S.F. 2138

AN ACT relating to the inclusion of agricultural crops or residues in the definition of alternative energy for the purpose of encouraging the development of alternative energy production facilities.

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

Section 1. Section 476.42, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility.

Approved March 30, 1992

CHAPTER 1018

UNDERGROUND STORAGE TANKS — ADMINISTRATION
S.F. 2282

AN ACT defining administration expenses for the expenditure of underground storage tank fund moneys, relating to the designation of underground storage tank disposal facilities, and making an appropriation.

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

Section 1. Section 455G.6, subsection 15, Code 1991, is amended to read as follows:

15. Subject to the terms of any bond documents, moneys in the fund or fund accounts may be expended for administration expenses, civil penalties, moneys paid under an agreement, stipulation, or settlement, and for the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter. For purposes of this chapter, administration expenses include expenses incurred by the underground storage tank section of the department of natural resources in relation to tanks regulated under this chapter.

Sec. 2. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive petroleum underground storage tank board, to the department of natural resources 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 administration expenses of the underground storage tank section of the department of natural resources:

..... $ 136,000

Sec. 3. Section 455B.490, Code 1991, is repealed.

Approved March 30, 1992

CHAPTER 1019

VEHICLE REGISTRATION FEES AND SALES TAX ON SERVICES

S.F. 2346

AN ACT relating to motor vehicle registration fees for multipurpose vehicles, and the sales, services, and use tax on certain services, and providing an effective date.

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

Section 1. Section 321.109, subsection 1, Code 1991, as amended by 1992 Iowa Acts, Senate File 2116,* section 401, is amended to read as follows:

1. The annual fee for all motor vehicles including ~~multipurpose vehicles and~~ vehicles designated by manufacturers as station wagons, except motor trucks, motor homes, multipurpose vehicles, ambulances, hearses, motorcycles, and motor bicycles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ten dollars, issue a certificate of title in the name and address of the nonresident purchaser delivering the same to the person entitled to the title as provided in this chapter.

Sec. 2. Section 321.124, subsection 3, Code 1991, as amended by 1992 Iowa Acts, Senate File 2116,* section 402, is amended to read as follows:

3. The annual registration fee for motor homes and multipurpose vehicles is as follows:

a. For class "A" motor homes with a list price of eighty thousand dollars or more as certified to the department by the manufacturer, four hundred dollars for registration each year through five model years and three hundred dollars for each succeeding registration.

b. For class "A" motor homes with a list price of forty thousand dollars or more but less than eighty thousand dollars as certified to the department by the manufacturer, two hundred dollars for registration each year through five model years and one hundred fifty dollars for each succeeding registration.

c. For class "A" motor homes with a list price of twenty thousand dollars or more but less than forty thousand dollars as certified to the department by the manufacturer, one hundred forty dollars for the first five registrations and one hundred five dollars for each succeeding registration.

d. For class "A" motor homes with a list price of less than twenty thousand dollars as certified to the department by the manufacturer, one hundred twenty dollars for registration each year through five model years and eighty-five dollars for each succeeding registration.

e. For a class "A" motor home which is a passenger-carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters, ninety dollars for registration each year through ten model

*Chapter 1232 herein

years and sixty-five dollars for each succeeding registration. In computing the number of registrations, the registrations shall be cumulative beginning with the registration of the class "A" motor home as a motor truck prior to its conversion, modification, or alteration to provide temporary living quarters.

f. For class "B" motor homes, ninety dollars for registration each year through five model years and sixty-five dollars for each succeeding registration.

g. For class "C" motor homes, one hundred ten dollars for registration each year through five model years and eighty dollars for each succeeding registration.

h. For multipurpose vehicles in accordance with the following:

(1) Two hundred dollars for registration for the first and second model years.

(2) One hundred seventy-five dollars for registration for the third and fourth model years.

(3) One hundred fifty dollars for registration for the fifth model year.

(4) Seventy-five dollars for registration for the sixth model year.

(5) Fifty-five dollars for registration for each succeeding model year.

Sec. 3. 1992 Iowa Acts, Senate File 2116,* section 403, is amended to read as follows:

SEC. 403. Section 422.42, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 17. "Nonresidential commercial operations" means industrial, commercial, mining, and agricultural operations, whether for profit or not, but does not include apartment complexes, and mobile home parks, ~~or other rental operations where the primary purpose is for human habitation~~.

Sec. 4. 1992 Iowa Acts, Senate File 2116,* section 404, is amended to read as follows:

SEC. 404. Section 422.43, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 13. a. A tax of four percent is imposed upon the gross receipts from the sales, furnishing, or service of solid waste collection and disposal service.

For purposes of this subsection, "solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from ~~industrial,~~ nonresidential commercial~~, mining, and agricultural~~ operations, ~~and from community activities,~~ but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; foundry sand used for daily cover at a sanitary landfill; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material defined by the federal Atomic Energy Act of 1954.

A recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least eighty-five percent is exempt from the tax imposed by this subsection if the waste exempted is collected and disposed of separately from other solid waste.

b. A person who transports mixed municipal solid waste generated by that person or another person without compensation shall pay the tax imposed by this subsection at the collection or disposal facility based on the disposal charge or tipping fee. However, the costs of a service or the portion of a service to collect and manage recyclable materials separated from mixed municipal solid waste by the waste generator is exempt from the tax imposed by this subsection. For purposes of this paragraph, "mixed municipal solid waste" means garbage, refuse, and other solid waste from nonresidential commercial~~, industrial, and community activities~~ operations which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Sec. 5. Section 422.45, subsection 5, unnumbered paragraph 1, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2116,* section 408, is amended to read as follows:

*Chapter 1232 herein

The gross receipts from services rendered, furnished, or performed and of all sales of goods, wares, or merchandise used for public purposes to 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, 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, heat, or pay television service to the general public; except the sales, furnishing or providing of sewage services to a county or municipality on behalf of nonresidential commercial operations; and except the sales, furnishing, or service of solid waste collection and disposal service to a county or municipality on behalf of ~~industrial,~~ nonresidential commercial~~, mining, and agricultural~~ operations located within the county or municipality.

Sec. 6. Section 422.45, subsection 20, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2116,* section 409, 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, does not apply to the sales, furnishing, or service of solid waste collection and disposal service to ~~industrial,~~ nonresidential commercial~~, mining, and agricultural~~ operations; does not apply to the sales, furnishing, or service of sewage service for nonresidential commercial operations; does not apply to fees paid to cities and counties for the privilege of participating in any athletic sports.

Sec. 7. Section 422.45, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 47. The gross receipts from the rendering, furnishing, or performing of additional services taxed by 1992 Iowa Acts, Senate File 2116,* pursuant to a written service contract in effect on March 1, 1992. This exemption is repealed August 31, 1992.

Sec. 8. This Act, being deemed of immediate importance, takes effect April 1, 1992.

Approved March 31, 1992

*Chapter 1232 herein

CHAPTER 1020

PESTICIDE INFORMATION

S.F. 2263

AN ACT relating to 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 206.2, subsection 22, Code Supplement 1991, is amended to read as follows:

22. "Poison control center" means an entity existing as part of a hospital licensed under chapter 135B which ~~adheres to the standards~~ is an institutional member of the American association of poison control centers.

Sec. 2. APPLICABILITY AND EFFECTIVE DATES.

1. This Act is retroactively applicable to July 1, 1990.
2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 1, 1992

CHAPTER 1021

REIMBURSEMENT FOR SPECIAL EDUCATION SERVICES

S.F. 2039

AN ACT to specify that the amount of funds retained by area education agencies for administrative expenses reimbursement under the federal-state, special education medicaid reimbursement program is to be calculated as a percentage of the federal portion of the amount reimbursed, and providing an effective date.

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

Section 1. Section 281.15, subsection 7, Code Supplement 1991, is amended to read as follows:

7. 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 federal portion 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. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 3, 1992

CHAPTER 1022

CHILDREN REQUIRING SPECIAL EDUCATION
S.F. 2158

AN ACT relating to the definition of children requiring special education.

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

Section 1. Section 281.2, subsection 1, Code 1991, is amended to read as follows:

1. "Children requiring special education" means persons under twenty-one years of age, including children under five years of age, who are handicapped in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication or learning ~~disabilities or who are behaviorally disordered~~ disability, as defined by the rules of the department of education.

Approved April 6, 1992

CHAPTER 1023

ANNOUNCEMENT OF INFORMATION AT SENTENCING
S.F. 2187

AN ACT relating to the announcement of information by the court at the time of sentencing of persons convicted of committing aggravated misdemeanors and felonies.

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

Section 1. Section 901.5, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the defendant is being sentenced for an aggravated misdemeanor or a felony, the court shall publicly announce the following:

a. That the defendant's term of incarceration may be reduced by as much as half of the maximum sentence because of statutory good conduct time, work credits, and program credits.

b. That the defendant may be eligible for parole before the sentence is discharged.

c. In the case of multiple sentences, whether the sentences shall be served consecutively or concurrently.

Approved April 6, 1992

CHAPTER 1024

MEMORIAL HALLS, MONUMENTS, AND COUNTY HOSPITALS — PURCHASING
H.F. 2181

AN ACT relating to purchasing regulations for officers and managers of memorial halls, county hospitals, and monuments.

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

Section 1. Section 37.16, Code 1991, is amended to read as follows:

37.16 DISBURSEMENT OF FUNDS.

All funds voted under the provisions of this chapter shall be disbursed by the county or city officers, only ~~upon the written order~~ with the approval of ~~said commissioners~~ the commission. However, the commission may adopt purchasing regulations to govern the purchase of specified goods and services without the prior approval of the commission. The purchasing regulations shall conform to generally accepted practices followed by public purchasing officers. ~~Such~~ The commission shall report to and make settlement with the board of supervisors or the city council, as the case may be, at the time and in the manner required of county and city officers.

Sec. 2. Section 347.12, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The treasurer of the county hospital shall receive and disburse all funds. Warrants shall be drawn by the secretary and countersigned by the chairperson of the board after the claim has been certified by the board. However, the board may adopt purchasing regulations to govern the purchase of specified goods and services without the prior certification by the board. The purchasing regulations shall conform to generally accepted practices followed by public purchasing officers.

Sec. 3. Section 347A.1, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The treasurer of the county hospital shall receive and disburse all funds. Warrants shall be drawn by the secretary and countersigned by the chairperson of the board after the claim has been certified by the board. However, the board may adopt purchasing regulations to govern the purchase of specified goods and services without the prior certification of the board. The purchasing regulations shall conform to generally accepted practices followed by purchasing officers. The treasurer of the county hospital shall keep an accurate account of all receipts and disbursements and shall register all orders drawn and reported by the secretary, showing the number, date, to whom drawn, the fund upon which drawn, the purpose, and amount. The secretary of the board of trustees shall file with the board on or before the tenth day of each month, a complete statement of all receipts and disbursements from all funds during the preceding month, and also the balance remaining on hand in all funds at the close of the period covered by the statement. Before the fifteenth day of each month, the county treasurer shall give notice to the chairperson of the board of trustees of the amount of revenue collected for each fund of the hospital to the first day of that month and the county treasurer shall pay the taxes to the treasurer of the hospital as provided in section 331.552, subsection 29.

Approved April 6, 1992

CHAPTER 1025

REPORTS OF COUNTY CONSERVATION BOARDS

H.F. 2204

AN ACT relating to dissemination of annual reports of county conservation boards.

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

Section 1. Section 111A.3, Code 1991, is amended to read as follows:

111A.3 MEETINGS – ANNUAL REPORT.

Within thirty days after ~~their~~ the appointment of members of the board, the board shall organize by selecting from its members a president and secretary and such other officers as are deemed necessary, who shall hold office for the calendar year in which elected and until their successors are selected and qualify. Three members of the board shall constitute a

quorum for the transaction of business. The board shall hold regular monthly meetings. Special meetings may be called by the president, and shall be called on the request of a majority of members, as the necessity may require. The county conservation board shall have power to adopt bylaws, to adopt and use a common seal, and to enter into contracts. The county board of supervisors shall provide suitable offices for the meetings of the county conservation board and for the safekeeping of its records. Such records shall be subject to public inspection at all reasonable hours and under such regulations as the county conservation board may prescribe. ~~Said~~ The board shall annually make a full and complete report to the county board of supervisors of its transactions and operations for the preceding year. Such report shall contain a full statement of its receipts, disbursements, and the program of work for the period covered, and may include such recommendations as may be deemed advisable. ~~A copy of this report shall be filed with the natural resource commission.~~

Approved April 6, 1992

CHAPTER 1026

MOTORCYCLE TRAILER REGISTRATION PLATES

H.F. 2277

AN ACT relating to motorcycle trailer registration plates and providing for the Act's applicability.

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

Section 1. Section 321.166, subsections 1, 3, and 4, Code 1991, are amended to read as follows:

1. Registration plates shall be of metal and of a size not to exceed six inches by twelve inches, except that the size of plates issued for use on motorized bicycles, motorcycles, motorcycle trailers, and special mobile equipment shall be established by the department.

3. The registration plate number shall be displayed in characters which shall not exceed a height of four inches nor a stroke width exceeding five-eighths of an inch. Special plates issued to dealers shall display the alphabetical character "D", which shall be of the same size of the characters in the registration plate. The registration plate number issued for motorized bicycles, ~~and~~ motorcycles, and motorcycle trailers shall be a size prescribed by the department.

4. The registration plate number, except on motorized bicycle, motorcycle, motorcycle trailer, and special mobile equipment registration plates, shall be of sufficient size to be readable from a distance of one hundred feet during daylight.

Sec. 2. This Act applies to motorcycle trailer registration plates issued on or after January 1, 1993.

Approved April 6, 1992

CHAPTER 1027

COMMUNITY COLLEGE COUNCIL

S.F. 2163

AN ACT relating to the nonvoting membership of the community college council.

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

Section 1. Section 256.31, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

256.31 COMMUNITY COLLEGE COUNCIL.

1. A community college council is established consisting of six members. Membership of the council shall be as follows:

a. The three members of the state board of education who have knowledge of issues and concerns affecting the community college system as provided in section 256.3.

b. An additional member of the state board of education appointed annually by the president of the state board of education.

c. A community college president appointed by an association which represents the largest number of community college presidents in the state.

d. A community college trustee appointed by an association which represents the largest number of community college trustees in the state.

2. The nonboard members shall serve staggered terms of three years beginning on May 1 of the year of appointment. Vacancies on the council shall be filled in the same manner as the original appointment. A person appointed to fill a vacancy shall commence service on the date of appointment and shall serve only for the unexpired portion of the term.

3. The council shall assist the state board of education with substantial issues which are directly related to the community college system. The state board shall refer all substantial issues directly related to the community college system to the council. The council shall formulate recommendations on each issue referred to it by the state board and shall submit the recommendations to the state board within any specified time periods.

Sec. 2. TRANSITION. The community college president and the community college trustee currently serving unexpired terms as ex officio nonvoting members on the effective date of this Act may complete their terms as voting members.

Approved April 7, 1992

CHAPTER 1028

SUPPORT PAYMENT COLLECTION AND DISBURSEMENT RESPONSIBILITIES

S.F. 2168

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, as amended by 1991 Iowa Acts, chapter 62, section 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, ~~1993~~ 1994. The following procedure shall be used for any order affected by the initial transfer of responsibilities:

Approved April 7, 1992

CHAPTER 1029

INDECENT EXPOSURE IN CERTAIN ESTABLISHMENTS
S.F. 2287

AN ACT relating to indecent exposure by a minor in certain establishments and providing a penalty.

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

Section 1. Section 728.5, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 7. If such person allows or permits a minor to engage in or otherwise perform in a live act intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons. However, if such person allows or permits a minor to participate in any act included in subsections 1 through 4, the person shall be guilty of an aggravated misdemeanor.

Sec. 2. Section 728.8, Code 1991, is amended to read as follows:
728.8 SUSPENSION OF LICENSES OR PERMITS.
Any person who knowingly permits a violation of section 728.2, ~~or~~ 728.3, or 728.5, subsection 7, to occur on premises under the person's control shall have all permits and licenses issued to the person under state or local law as a prerequisite for doing business on such premises revoked for a period of six months. The county attorney shall notify all agencies responsible for issuing licenses and permits of any conviction under section 728.2, ~~or~~ 728.3, or 728.5, subsection 7.

Approved April 7, 1992

CHAPTER 1030

CONTRACT BIDDING REQUIREMENTS FOR CITY PUBLIC IMPROVEMENTS
H.F. 2232

AN ACT relating to contract bidding requirements for a city.

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

Section 1. Section 384.96, Code 1991, is amended to read as follows:
384.96 SEALED BIDS.
When the estimated total cost to a city of a public improvement exceeds the sum of twenty-five thousand dollars, the governing body shall advertise for sealed bids for the proposed improvement by publishing a notice to bidders as provided in section 362.3, except that the notice to bidders may be published more than twenty days but not more than forty-five days before the date for filing bids.

Approved April 6, 1992

CHAPTER 1031

WORKERS' COMPENSATION — BURIAL EXPENSES
H.F. 2276

AN ACT relating to burial expenses under the workers' compensation law.

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

Section 1. Section 85.28, Code 1991, is amended to read as follows:

85.28 BURIAL EXPENSE.

When death ensues from the injury, the employer shall pay the reasonable expenses of burial of such employee, not to exceed ~~one~~ five thousand dollars, which shall be in addition to other compensation or any other benefit provided for in this chapter.

Approved April 6, 1992

CHAPTER 1032

BOXING AND WRESTLING MATCHES — REPORTS AND TAXES
H.F. 2392

AN ACT relating to the time requirement for filing reports and paying taxes after a boxing or wrestling match has been conducted.

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

Section 1. Section 90A.7, subsection 1, Code Supplement 1991, is amended to read as follows:

1. ~~Every~~ A person conducting a boxing or wrestling match in this state shall, within ~~twenty-four hours~~ twenty days after ~~such~~ the match, furnish to the commissioner a written report, duly verified, showing the number of tickets sold for ~~such~~ the boxing or wrestling match, and the amount of gross proceeds of ~~such~~ the 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~~ the boxing or wrestling match.

Approved April 6, 1992

CHAPTER 1033

PERFORMANCE OF STUDENT HEALTH SERVICES
H.F. 2415

AN ACT relating to the performance of special health services or intrusive nonemergency medical services for students by nonadministrative personnel.

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

Section 1. NEW SECTION. 280.23 STUDENT HEALTH SERVICES.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall not require nonadministrative personnel to perform any special health services or intrusive nonemergency medical services for students unless the nonadministrative personnel are licensed or otherwise qualified and have consented to perform the services.

Approved April 6, 1992

CHAPTER 1034

PROCEDURES UPON CLOSING OF POLLS
S.F. 2114

AN ACT relating to procedures upon the closing of polls using electronic voting or tabulating systems.

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

Section 1. Section 52.32, subsections 1, 2, and 3, Code 1991, are amended by striking the subsections and inserting in lieu thereof the following:

1. At the time for closing the polls, or as soon thereafter as all persons entitled under section 49.74 to do so have cast their votes, the precinct election officials in each precinct where an electronic voting system or an electronic tabulating system is in use shall secure the system against further voting. The precinct election officials shall certify the number of declarations of eligibility signed as required by section 49.77, and record that number on the tally sheet with the number of special, unused, spoiled, and unvoted ballots cast, with each number recorded separately. The numbers shall be used to determine whether the number of ballots cast as recorded in the electronic precinct reports varies from the number of declarations of eligibility. If so, that fact shall be reported in writing to the commissioner by the counting center officials, together with the number of ballots varying from the number of declarations of eligibility and the reason for the variance, if known.

2. The precinct election officials shall affix a seal upon the ballot container. The precinct election officials shall then each affix their signatures to a statement attesting that the requirements of this section have been met and the time the ballot container is removed from the precinct polling location for delivery to the counting center pursuant to section 52.37. The statement shall be returned to the commissioner with the election register as required by section 50.17.

Sec. 2. Section 52.37, subsection 1, Code 1991, is amended to read as follows:

1. The sealed ballot container from each precinct shall be delivered to the counting center by two of the election officials of that precinct, not members of the same political party, who shall travel together in the same vehicle and shall have the container under their immediate joint control until they surrender it to the commissioner or the commissioner's designee in

charge of the counting center. The commissioner or designee shall, in the presence of the two precinct election officials who delivered the container, enter on a record kept for the purpose that the container was received, the time the container was received, and the condition of the seal upon receipt.

Approved April 9, 1992

CHAPTER 1035

UNIFORM CONSUMER CREDIT CODE — RELIANCE ON RULING
S.F. 2132

AN ACT relating to the liability of a creditor under the consumer credit code for an act done or omitted in conformity with a declaratory ruling of the administrator.

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

Section 1. Section 537.6104, subsection 4, Code Supplement 1991, is amended to read as follows:

4. Except for refund of an excess charge, no liability is imposed under this chapter for an act done or omitted in conformity with a rule or declaratory ruling of the administrator, notwithstanding that after the act or omission the rule or declaratory ruling is amended or repealed or determined by judicial or other authority to be invalid for any reason.

Approved April 9, 1992

CHAPTER 1036

OFFICER'S OR EMPLOYEE'S INTEREST IN CITY CONTRACTS — EXCEPTION
S.F. 2134

AN ACT relating to a city officer's or employee's permissible interest in a franchise agreement.

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

Section 1. Section 362.5, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Franchise agreements between a city and a utility and contracts entered into by a city for the provision of essential city utility services.

Approved April 9, 1992

CHAPTER 1037

LAND ACQUISITIONS BY COMMUNITY COLLEGES
S.F. 2162

AN ACT transferring approval authority over certain land acquisitions by community colleges to the director of the department of education.

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

Section 1. Section 280A.35, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A merged area ~~may~~ shall not purchase land which will increase the aggregate of land owned by the merged area, excluding land acquired by donation or gift, to more than three hundred twenty acres without the approval of the ~~state board~~ director of the department of education. The limitation does not apply to a merged area owning more than three hundred twenty acres, excluding land acquired by donation or gift, prior to January 1, 1969.

Approved April 9, 1992

CHAPTER 1038

UNCLAIMED PROPERTY
S.F. 2174

AN ACT relating to unclaimed property, and providing an effective date and applicability provisions.

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

Section 1. Section 556.9A, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. "Property" means intangible personal property located outside the state, but issued by the state of Iowa, a state agency, a political subdivision of the state, or a person formed or otherwise located within the state as a corporation, trust, partnership, limited partnership, association, cooperative, union, or organization.

Sec. 2. Section 556.9A, subsection 2, Code 1991, is amended to read as follows:

2. Property and income derived from the property, including but not limited to dividends, earnings, and interest, which are held by a temporary custodian ~~on behalf of the property's owner,~~ are presumed abandoned and after deducting lawful charges are subject to the custody of this state as unclaimed property, if all the following apply:

a. The owner has not claimed the property or income derived from the property or corresponded in writing with the temporary custodian of the property within three years after the date prescribed for delivery of the property or payment of income from the property.

b. The ~~current~~ last known address of the owner is unknown.

~~c. Notice that the property may be claimed has been delivered to the last known address of the owner.~~

Sec. 3. EFFECTIVE DATE AND APPLICABILITY PROVISIONS.

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

2. Section 2 of this Act applies to all property held at any time on or after the effective date of section 2, regardless of when the property is abandoned or becomes presumptively abandoned.

Approved April 9, 1992

CHAPTER 1039

REGULATION OF CREDIT UNIONS

S.F. 2180

AN ACT relating to the regulation of credit unions by granting the superintendent certain additional enforcement authority, establishing certain bonding and insurance requirements, and defining certain member rights.

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

Section 1. Section 533.6, subsections 2 and 5, Code 1991, are amended to read as follows:

2. The superintendent ~~shall annually examine,~~ may make or cause to be ~~examined,~~ made an examination of each credit union whenever the superintendent believes such examination is necessary or advisable, but in no event less frequently than once during each eighteen month period. Each credit union and all of its officers and agents shall give to the representatives of the superintendent free access to all books, papers, securities, records and other sources of information under their control. A report of such examination shall be forwarded to the chairperson of each credit union within thirty days after the completion of the examination. Within thirty days of the receipt of this report, a meeting of the directors shall be called to consider matters contained in the report and the action taken shall be set forth in the minutes of the board. The superintendent may accept, in lieu of the ~~annual~~ examination of a credit union, an audit report conducted by a certified public accounting firm selected from a list of firms previously approved by the superintendent. The cost of the audit shall be paid by the credit union.

5. ~~When~~ If the superintendent has reason to believe that an officer, director, ~~or~~ employee, or committee member of a credit union has violated any law, rule, or cease and desist order relating to a credit union or has ~~continued~~ engaged in an unsafe or unsound practice in conducting the business of a credit union ~~after having been warned by the superintendent to discontinue or correct such violation or unsafe or unsound practice~~, the superintendent may cause notice to be served upon the officer, director, ~~or~~ employee, or committee member to appear before the superintendent to show cause why the person should not be removed from office or employment. A copy of such notice shall be sent by ~~restricted delivery~~ certified or restricted certified mail to each director of the credit union affected. If, after granting the accused reasonable opportunity to be heard, the superintendent finds that the accused has violated a law, rule, or cease and desist order relating to a credit union or has ~~continued~~ engaged in an unsafe or unsound practice in conducting the business of a credit union ~~after having been warned by the superintendent~~, the superintendent in the superintendent's discretion may order that the accused be removed from office and from any position of employment with the credit union. A copy of the order shall be served upon the accused and upon the credit union affected, at which time the accused shall cease to be an officer, director, ~~or~~ employee, or committee member of the credit union.

Sec. 2. NEW SECTION. 533.6A INTERIM CEASE AND DESIST ORDER — FINAL ORDER — SUSPENSION.

1. If it appears to the superintendent that a credit union, or any director, officer, employee, or committee member of a credit union is engaging in or is about to engage in an unsafe or unsound practice or dishonest act in conducting the business of the credit union that is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its members prior to the completion of the proceedings conducted pursuant to section 533.6, the superintendent may issue an interim order requiring the credit union, director, officer, employee, or committee member to cease and desist from any such practice or act, and to take affirmative action, including suspension of the director, officer, employee, or committee member to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings. The interim order becomes effective upon personal service upon

the credit union, or upon the director, officer, employee, or committee member of the credit union 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 credit union or the director, officer, employee, or committee member until the effective date of the final order.

2. Within ten days after a credit union or any director, officer, employee, or committee member is served with an interim order, the credit union or director, officer, employee, or committee member may apply to the district court in the county in which the credit union has its principal place of business, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the interim order pending the completion of the administrative proceedings. If serious prejudice to the interests of the superintendent, the credit union, the officer, director, employee, or committee member would result from a court 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 credit union or any director, officer, employee, or committee member. 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 credit union, or the director, officer, employee, or committee member fails to appear at the hearing, the credit union, or the director, officer, employee, or committee member 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 credit union, or the director, officer, employee, or committee member a final order to cease and desist from any such practice or act. The order may require the credit union, or the director, officer, employee, or committee member to cease and desist from any such practice or act and, further, to take affirmative action, including suspension of the director, officer, employee, or committee member.

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 credit union, director, officer, employee, or committee member 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 credit union 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 credit union 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.

Sec. 3. Section 533.7, Code 1991, is amended to read as follows:

533.7 FISCAL YEAR — MEETINGS.

The fiscal year of all credit unions shall end December 31. Annual meetings shall be held, and special meetings may be held, in the manner indicated in the bylaws.

At all meetings ~~no~~ a member shall not have more than one vote regardless of the shares held by the member. There shall be no voting by proxy. A member other than a natural person may cast a single vote through a delegated agent which agent shall be a member of the organization for which the agent acts. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct ~~it~~ the board to take action not inconsistent with the bylaws or ~~of~~ this chapter. In order to be binding upon the board of directors, any action so taken by the membership to modify, amend, or reverse an act of the board or to instruct the board to take action requires an affirmative vote of a majority of all eligible members after submitting the modification, amendment, or reversal, by mail ballot pursuant to rules on mailed ballots adopted by the superintendent.

Sec. 4. Section 533.62, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Each credit union shall pay to the superintendent an annual ~~filing~~ fee ~~which shall be submitted with the annual report~~ as established by the superintendent and adopted by the credit union review board. The fee shall be based upon the actual operating costs of the credit union division, ~~exclusive of examination expenses, and shall be established and promulgated as a rule by the superintendent. The superintendent shall assess against a credit union the actual and necessary expenses of the agency incidental to any examination of that credit union made pursuant to the provisions of this chapter or to an order of the superintendent.~~

2. Failure of a credit union to pay ~~an annual filing fee or examination~~ a fee pursuant to subsection 1 within fifteen days after the fee is due shall result in the fee being considered delinquent and a penalty ~~of five dollars per day, or for any part of a day, during which the credit union is~~ equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent, ~~and~~. The delinquency may be ~~the~~ grounds for revocation of the charter of the credit union ~~which failed to make payment~~.

Sec. 5. Section 533.64, Code Supplement 1991, is amended to read as follows:

533.64 ACCOUNT INSURANCE.

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.

A credit union shall maintain a fidelity bond for credit union employees and officials in a sufficient amount to indemnify the credit union against losses which may be incurred by reason of any act or acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misapplication, misappropriation, or other unlawful act committed by the employee or official directly or through connivance with others, and general insurance coverage for losses caused by persons not associated with the credit union. The fidelity bond and general insurance coverage shall be obtained from a company authorized to do business in this state. The superintendent may require additional coverage for any credit union if, in the opinion of the superintendent, current coverage is insufficient. The board of directors of the credit union shall obtain the additional coverage within thirty days after written notice from the superintendent.

The superintendent may furnish to any official of an insurance plan by which the accounts of a credit union are insured or by which its employees and officials are bonded, any information relating to examinations, investigations, and reports of the status of that credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance ~~to that~~ or bond of the credit union or resolution of a claim.

Approved April 9, 1992

CHAPTER 1040

COMMUNITY COLLEGE ACCREDITATION
S.F. 2186

AN ACT relating to the time by which community colleges must meet new accreditation standards established by the state board of education and providing for continuation of previous accreditation standards for an additional year.

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

Section 1. Section 280A.47, subsection 1, unnumbered paragraph 1, and paragraph a, Code 1991, are amended to read as follows:

The state board of education shall establish an accreditation process for community college programs. By July 1, ~~1993~~ 1994, all community colleges shall meet the standards for accreditation. For the school year commencing July 1, ~~1994~~ 1995, and in succeeding school years, the department of education shall use a two component process for the continued accreditation of community college programs.

a. The first component consists of annual monitoring by the department of education of all community colleges for compliance with program accreditation standards adopted by the state board. The first component monitoring requires community colleges to submit to an annual audit of college programs by the department of education beginning July 1, ~~1993~~ 1994.

Sec. 2. 1990 Acts,* chapter 1253, section 127, is amended to read as follows:

SEC. 127. Section 280A.33 is repealed effective June 30, ~~1993~~ 1994.

Approved April 9, 1992

CHAPTER 1041

DISPOSAL SYSTEMS AND PUBLIC WATER SUPPLY SYSTEMS
S.F. 2209

AN ACT relating to viable water systems.

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

Section 1. Section 455B.171, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 29. "Viable" means a disposal system or a public water supply system which is self-sufficient and has the financial, managerial, and technical capability to reliably meet standards of performance on a long-term basis, as required by state and federal law, including the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

Sec. 2. Section 455B.173, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Adopt, modify, or repeal rules relating to the business plan which disposal systems and public water supply systems must file with the department pursuant to section 455B.174, and adopt, modify, or repeal rules establishing a methodology and timetable by which nonviable systems shall take action to become viable or make alternative arrangements in providing treatment or water supply services.

*Iowa Acts probably intended

Sec. 3. Section 455B.173, subsection 3, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Establish, modify or repeal rules relating to the location, construction, operation, and maintenance of disposal systems and public water supply systems and specifying the conditions, including the viability of a system pursuant to section 455B.174, under which the director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system or public water supply system, or for the discharge of any pollutant or for the disposal of water wastes resulting from poultry and livestock operations. The rules specifying the conditions under which the director shall issue permits for the construction of an electric power generating facility subject to chapter 476A shall provide for issuing a conditional permit upon the submission of engineering descriptions, flow diagrams and schematics that qualitatively and quantitatively identify effluent streams and alternative disposal systems that will provide compliance with effluent standards or limitations.

Sec. 4. Section 455B.174, subsection 4, Code 1991, is amended to read as follows:

4. a. Approve or disapprove the plans and specifications for the construction of disposal systems or public water supply systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system or public water supply system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall also issue, revoke, suspend, modify, or deny permits for the discharge of any pollutant. The permits shall contain conditions and schedules of compliance as necessary to meet the requirements of this part of this division, ~~and~~ the federal Water Pollution Control Act and the federal Safe Drinking Water Act. The director shall not issue or renew a permit to a disposal system or a public water supply system which is not viable. If the director has reasonable grounds to believe that a disposal system or public water supply system is not viable, the department may require the system to submit a business plan as a means of determining viability. This plan shall include the following components:

(1) A facilities plan which describes proposed new facilities and the condition of existing facilities, rehabilitation and replacement needs, and future needs to meet the requirements of the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

(2) A management plan which consists of an administrative plan describing methods to assure performance of functions necessary to administer the system, including credentials of management personnel; and an operation and maintenance plan describing how all operating and maintenance duties necessary to the system's proper function will be accomplished.

(3) A financial plan which describes provisions for assuring that adequate revenues will be available to meet cash flow requirements, based on the full cost of providing the service, adequate initial capitalization, and access to additional capital for contingencies.

If, upon submission and review of the business plan, the department determines that the disposal system or public water supply system is not viable, the director may require the system to take actions to become viable within a time period established pursuant to section 455B.173, or to make alternative arrangements in providing treatment or water supply services as determined by rule.

b. A In addition to the requirements of paragraph "a", a permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to public notice and opportunity for public participation including public hearing as

the department may by rule require. The director shall promptly notify the applicant in writing of the director's action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the ~~department of inspections and appeals~~ commission from the denial of a permit or from any condition in any permit if the applicant files notice of appeal with the director within thirty days of the notice of denial or issuance of the permit. The director shall notify the applicant within thirty days of the time and place of the hearing.

c. Copies of all forms or other paper instruments required to be filed during on-site inspections or investigations shall be given to the owner or operator of the disposal system or public water supply system being investigated or inspected before the inspector or investigator leaves the site. Any other report, statement, or instrument shall not be filed with the department unless a copy is sent by ordinary mail to the owner or operator of the disposal system or public water supply system within ten working days of the filing. If an inspection or investigation is done in co-operation with another state department, the department involved and the areas inspected shall be stated.

d. The director shall also issue or deny conditional permits for the construction of disposal systems for electric power generating facilities subject to chapter 476A. All applications for conditional permits shall be subject to such notice and opportunity for public participation as may be required by the department and as may be consistent with chapter 476A and any agreement pursuant thereto under chapter 28E. The applicant or an intervenor may appeal to the department from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the director or the department upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the department. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawing and an application for a construction permit for a disposal system that will meet the effluent limitations in the conditional permit.

Approved April 9, 1992

CHAPTER 1042

JOBS TRAINING AND RETRAINING PROGRAMS

S.F. 2295

AN ACT relating to the Iowa small business new jobs training program and the Iowa retraining program.

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

Section 1. Section 280C.2, subsections 1, 2, 3, 5, 6, 7, 12, and 13, Code 1991, are amended to read as follows:

1. "~~New jobs~~ Jobs training program" or "program" means the project or projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for a new or expanding small business or for the retraining of workers of an existing business ~~in the merged area served by the community college~~.

2. "Project" means a training arrangement which is the subject of an agreement entered into between the community college and ~~an employer~~ a business to provide program services.

3. "Program services" includes but is not limited to the following:

a. New jobs training.

b. Retraining of existing workers.

~~b~~ c. Adult basic education and job-related instruction.

~~e~~ d. Vocational and skill-assessment services and testing.

~~d~~ e. Training facilities, equipment, materials, and supplies.

~~e~~ f. On-the-job training.

~~f~~ g. Administrative expenses for the ~~new~~ jobs training program.

~~g~~ h. Subcontracted services with institutions governed by the state board of regents, private colleges or universities, or other federal, state, or local agencies.

~~h~~ i. Contracted or professional services.

5. "~~Employer~~ Participating business" means the small business providing new jobs or retraining jobs ~~in the merged area served by the community college~~ and ~~entering~~ which enters into an agreement with the community college.

6. "Employee" means the person employed in a new job by a small business or a person currently employed by a business who is to be retrained.

7. "Agreement" is the agreement between ~~an employer~~ a business and a community college concerning a project.

12. "Date of commencement of the project" means the date of the preliminary agreement.

13. "~~Small~~ Eligible business" or "business" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services and which meets the other criteria established by the Iowa department of economic development. "~~Small~~ Eligible business" does not include a business which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state of Iowa. This subsection does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced. "Small business" does not include a business whose training costs can be economically funded under chapter 280B.

"Eligible business" includes the following:

a. Retraining business which is currently conducting retooling of a production facility.

b. Small business which meets other criteria established by the department of economic development relating to business size.

Sec. 2. Section 280C.2, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 15. "Retraining job" means a job with an existing business that is substantially at risk of becoming displaced within the following ten years due to the retooling of the business.

NEW SUBSECTION. 16. "Retooling" means upgrading, modernizing, or expanding a business to increase the production or efficiency of business operations including, but not limited to, replacing equipment, introducing new manufacturing processes, or changing managerial procedures.

Sec. 3. Section 280C.3, Code 1991, is amended to read as follows:

280C.3 AGREEMENT.

A community college may enter into an agreement to establish a project. ~~However, before a community college and a small business enter into an agreement to establish a project, the community college shall consult with the local office of the division of job service of the department of employment services to determine if there already exists in the community, a skilled or experienced group of unemployed workers, as a result of a plant closing or reduction in force, sufficiently large to supply the needs of the new or expanding small business. If such a supply of workers exists, the community college shall enter into the agreement only if the small business agrees to give preference in training to those workers over any other workers who do not have greater qualifications.~~ If an agreement is entered into, the community college and the ~~employer~~ business shall notify the department of revenue and finance as soon as possible. An agreement may provide, but is not limited to:

1. Program costs, including deferred costs, for a project creating new jobs by providing education and training of workers for a new or expanding small business may be paid from one or a combination of the following sources:

a. Incremental property taxes to be received or derived from ~~an employer's business~~ the business' property where new jobs are created as a result of the project.

b. New jobs credit from withholding to be received or derived from new employment resulting from the project.

c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs in whole or in part.

d. Guarantee of payments to be received under paragraph "a", "b", or "c".

2. Program costs, including deferred costs, for a project retraining workers of existing businesses, may be paid from one or a combination of the following sources:

a. Loan repayments provided by the business.

b. Tuition, student fees, or special charges fixed by the board of directors to defray program costs in whole or in part.

~~2~~ 3. Payment of program costs shall not be deferred for a period longer than ten years from the date of commencement of the project.

~~3~~ 4. Costs of on-the-job training shall not apply to retraining projects. Costs of on-the-job training for ~~employees~~ new jobs training projects shall not exceed fifty percent of the annual gross payroll costs for up to one year of the new jobs. For purposes of this subsection, "gross payroll" can be the gross wages, salaries, and benefits for the jobs in training in the project.

~~4~~ 5. A provision, where applicable, which fixes the minimum amount of incremental property taxes, new jobs credit from withholding, or tuition and fee payments which shall be paid for program costs.

~~5~~ 6. Any payments required to be made by ~~an employer~~ a business are a lien upon the ~~employer's business~~ business' property until paid and have equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchaser at tax sale obtains the property subject to the remaining payments.

Sec. 4. Section 280C.3, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Provisions relating to the type of financial assistance being provided which may be in the form of grants, loans, forgivable loans, or a combination of grants and loans according to guidelines adopted by the department of economic development. However, the amount of financial assistance provided for a project under this chapter shall not exceed fifty thousand dollars. Financial assistance for a new jobs project shall be limited to loans. Financial assistance for a retraining project shall not include a grant or forgivable loan unless the result of the retooling creates, at the business production site subject to the retooling, a net increase in the number of employment positions, a net increase in the quality of the employment positions held by participating workers, or a net increase in wages paid to participating workers. The financial assistance provided to a participating business must be based on the actual cost of training or retraining participating workers under the project.

NEW SUBSECTION. 8. Before a community college and a business enter into an agreement to establish a project, the community college shall consult with the local office of the division of job service of the department of employment services to determine if there already exists in the community, a skilled or experienced group of unemployed workers, as a result of a plant closing or reduction in force, sufficiently large to supply the needs of the new or expanding business. If such a supply of workers exists, the community college shall enter into the agreement only if the business agrees to give preference in hiring for new jobs to those workers over any other workers who do not have greater qualifications.

Sec. 5. Section 280C.4, Code 1991, is amended to read as follows:

280C.4 INCREMENTAL PROPERTY TAXES.

If an agreement provides that all or part of program costs are to be paid for by incremental property taxes, the board of directors shall provide by resolution that taxes levied on the ~~employer's~~ taxable business property, where new jobs are created as a result of a project, each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the ~~employer's business~~ business' property, where new jobs are created as a result of a project, was taxable property in an urban renewal project and the resolution was an ordinance within the meaning of those subsections. To the extent that the taxes received by the board of directors represent repayments of an advance made under section 280C.6 plus interest, the taxes shall be paid to the treasurer of state. However, with respect to any urban renewal project as to which an ordinance is in effect under section 403.19, the collection of incremental property taxes authorized by this chapter are suspended in favor of collection of incremental taxes under section 403.19. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property of the ~~employer's~~ business, where new jobs are created as a result of a project.

Sec. 6. Section 280C.5, Code 1991, is amended to read as follows:

280C.5 NEW JOBS CREDIT FROM WITHHOLDING.

If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, it shall be done as follows:

1. New jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs.

2. An amount equal to one and one-half percent of the gross wages paid by the ~~employer~~ business to each employee participating in a project shall be credited from the payment made by ~~an employer~~ a business pursuant to section 422.16. If the amount of the withholding by the ~~employer~~ business is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the ~~employer~~ business shall receive a credit against other withholding taxes due by the ~~employer~~ business. The ~~employer~~ business shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue and finance, to the community college. To the extent this credit represents repayments of an advance made under section 280C.6 plus interest, it shall be paid to the treasurer of state. When the repayments of an advance plus interest have been paid, the ~~employer~~ business credits shall cease and any money received after this shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The ~~employer~~ business shall certify to the department of revenue and finance that the credit in withholding is in accordance with an agreement and shall provide other information the department may require.

4. A community college shall certify to the department of revenue and finance the amount of new jobs credit from withholding ~~an employer~~ a business has remitted to the community college and shall provide other information the department may require.

5. An employee participating in a project will receive full credit for the amount withheld as provided in section 422.16.

Sec. 7. Section 280C.6, Code Supplement 1991, is amended to read as follows:

280C.6 JOB TRAINING FUND.

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~~ businesses for program costs, moneys transferred from the Iowa employment retraining fund to the community college job training fund on July 1, 1992, plus the repayments, including interest, of loans made from that retraining fund, 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.~~

2. To provide funds for the present payment of the costs of a ~~new jobs~~ training program by the ~~employer~~ business, the community college may provide to the ~~employer~~ business 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 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, if the agreement provides it as a loan, 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. 8. Section 280C.7, Code 1991, is amended to read as follows:

280C.7 DEPARTMENT OF ECONOMIC DEVELOPMENT TO COORDINATE.

The ~~Iowa~~ department of economic development in consultation with the department of education and the division of job service of the department of employment services shall coordinate the ~~new~~ jobs training program. The department of economic development shall adopt, ~~amend, and repeal~~ rules ~~under~~ pursuant to chapter 17A that the community college will use in developing projects with new and expanding small business new jobs training proposals or existing business retraining proposals. The department shall establish by rule criteria for determining what constitutes ~~a small~~ an eligible business. A project shall not be funded under this chapter unless the department approves the project. The department shall establish by rule criteria for approval of projects. The department ~~is authorized to make~~ may adopt any rule ~~that is adopted, amended, or repealed~~ effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The ~~Iowa~~ department of economic development shall prepare an annual report for the governor and general assembly on the activities and the future anticipated needs of this ~~new~~ jobs training program.

Sec. 9. NEW SECTION. 280C.8 ALLOCATION.

1. For the fiscal year beginning July 1, 1992, only, the department of economic development shall make funds available to the community colleges as follows:

a. RETRAINING PROJECTS. The department shall set aside at the beginning of the fiscal year from the moneys newly appropriated to the fund an amount for each merged area to be used to provide the financial assistance for retraining proposals of businesses located in the merged area whose applications have been approved by the department. The financial assistance shall be provided by the department from the amount set aside for that merged area. If any portion of the moneys set aside for a merged area have not been used or committed by March 1 of the fiscal year, that portion is available for use by the department to provide financial assistance to businesses located in other merged areas. The department shall adopt by rule a formula for this set-aside based on population and per capita income of the merged area.

b. NEW JOBS TRAINING PROJECTS. The department shall make available financial assistance for new jobs training projects from repayments and interest in the fund from previously funded new jobs training projects. Funds shall be awarded to projects based on the order proposals are received and approved.

2. Moneys available to the community colleges for this program may be used to provide grants to train for new jobs or retain existing jobs when the project costs are less than five thousand dollars. If the project is for a consortium of businesses, project costs shall not exceed an average of five thousand dollars per business.

3. The department shall include with its budget request for the fiscal year beginning July 1, 1993, a preliminary recommendation for the allocation of moneys in the job training fund for the fiscal year beginning July 1, 1993, and succeeding fiscal years. The department shall seek input from representatives of the community colleges in preparing the recommendation.

Sec. 10. On the effective date of this Act, all moneys in the Iowa employment retraining fund created in the office of the treasurer are transferred to the community college job training fund and any repayments of loans made from moneys in the Iowa employment retraining fund received on or after July 1, 1992, shall be credited to and deposited in the community college job training fund.

Sec. 11. Sections 15.292, 15.293, 15.294, 15.296, 15.297, and 15.298, Code 1991, are repealed.

Sec. 12. Sections 15.291 and 15.295, Code Supplement 1991, are repealed.

Approved April 9, 1992

CHAPTER 1043

MEDICAL ASSISTANCE PROGRAM REQUIREMENTS

S.F. 2311

AN ACT relating to medical assistance program requirements involving health care facilities, certificates of need, and specified low-income federal medicare beneficiaries, and providing an effective date.

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

Section 1. Section 135.63, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. A residential program exempt from licensing as a health care facility under chapter 135C in accordance with section 135C.6, subsection 8.

Sec. 2. Section 135.64, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In determining whether to approve an application for a certificate of need for the construction or conversion of an intermediate care facility for the mentally retarded, the department and the council shall only approve the application if, in addition to other applicable standards, the application meets the standards applied to intermediate care facilities for the mentally retarded for family scale and size, location, and community inclusion as provided in rules adopted by the department of human services.

Sec. 3. Section 135C.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. A residential program which provides care to not more than three individuals and receives moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver or other medical assistance program under chapter 249A.

b. A residential program which serves not more than four individuals and is operating under provisions of a federally approved home and community-based waiver for persons with mental retardation, if all individuals residing in the program receive on-site staff supervision during the entire time period the individuals are present in the program's living unit. The need

for the on-site supervision shall be reflected in each individual's program plan developed pursuant to the department of human services' rules relating to case management for persons with mental retardation. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area.

Sec. 4. Section 249A.3, subsection 8, Code Supplement 1991, is amended to read as follows:

8. Medicare cost sharing shall be provided in accordance with the provisions of Title XIX of the federal Social Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(a)(10)(E), 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 member of any of the following eligibility categories:

a. 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

b. 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).

c. A specified low-income medicare beneficiary as defined under Title XIX of the federal Social Security Act, section 1902(a)(10)(E), as codified in 42 U.S.C. § 1396a(10)(E)(iii).

Sec. 5. HOME AND COMMUNITY-BASED WAIVER REPORT. The department of human services shall monitor the implementation of the federally approved home and community-based waiver program for persons with mental retardation under the medical assistance program. The department shall submit a report concerning the waiver program to the governor and the general assembly on or before February 15, 1993, which shall include but is not limited to all of the following information relating to the waiver program:

1. The number of persons served under the waiver program, services received by the persons prior to receiving the waiver program services, and the persons' living environments prior to receiving the waiver program services.

2. The number of four-bed residential program applications received by the department, the number approved, the number denied, and the reasons for granting or denying the applications.

3. The number of persons who meet the criteria for service in a four-bed residential program who were actually served in a three or fewer bed residential program.

4. The number of requests received by the department for waiver of the seventy dollars per day reimbursement cap, the number of requests granted, the number of requests denied, and the reasons for granting or denying the requests. The staffing needs of the individuals living in the residential programs making the waiver requests and the number of the requests submitted from programs with three or fewer beds.

5. Recommendations to the governor and the general assembly concerning the reallocation of funding under the waiver program based upon the actual utilization of the waiver program and the advisability of increasing the waiver program's seventy dollars per day reimbursement cap on community living arrangements.

Sec. 6. EMERGENCY RULES. The department of human services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of section 3 of this Act and the rules shall become effective upon filing unless a later date is specified in the rules. Any rules adopted pursuant to this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 7. IMPLEMENTATION LIMITATION – LEGISLATIVE INTENT. During the initial implementation period beginning March 1, 1992, and ending February 28, 1993, of the residential programs which serve not more than four individuals under section 135C.6, subsection 8, paragraph "b", the number of beds in residential programs approved by the department of human services under that provision shall be limited to a total of forty beds. It is the intent of the general assembly to review the report submitted by the department of human services pursuant to section 5 of this Act in order to determine whether any further limitation is appropriate.

Sec. 8. EFFECTIVE DATE. Sections 1, 3, and 6 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 9, 1992

CHAPTER 1044

SHERIFFS' FEES IN GARNISHMENT PROCEEDINGS
H.F. 52

AN ACT relating to sheriffs' fees in garnishment proceedings.

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

Section 1. Rule of civil procedure 258, Iowa court rules, third edition, is amended to read as follows:

258. EXECUTION — DUTY OF OFFICER. An officer receiving an execution must execute it with diligence. ~~He~~ The officer shall levy on such property of the judgment debtor as is likely to bring the exact amount, as nearly as practicable. ~~He~~ The officer may make successive levies if necessary. ~~He~~ The officer shall collect the things in action, by suit in ~~his~~ the officer's own name if need be, or sell them. ~~He~~ The officer shall sell sufficient property levied on and garnish sufficient funds, or property of sufficient value, to satisfy the execution, paying the proceeds, less ~~his~~ the officer's own costs, to the clerk.

Sec. 2. Section 639.35, Code 1991, is amended to read as follows:

639.35 MONEY PAID CLERK.

~~All money~~ Money attached by the sheriff, or coming into the sheriff's hands by virtue of the attachment, shall ~~forthwith~~ be paid ~~over~~, less the sheriff's costs, to the clerk~~, to be by the~~. The clerk ~~retained till the further action of~~ shall retain the money until directed otherwise by the court.

Approved April 9, 1992

CHAPTER 1045

EMPLOYMENT SECURITY
H.F. 2008

AN ACT amending and repealing obsolete provisions of the Iowa employment security law.

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

Section 1. Section 96.5, subsection 1, paragraph h, Code Supplement 1991, is amended by striking the paragraph.

Sec. 2. Section 96.5, subsection 3, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

If the division of job service finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by ~~the employment office or~~ the division or to accept suitable work when offered that individual~~, or to return to customary~~

~~self-employment, if any~~. The division ~~in co-operation with the employment office~~ shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the division on forms provided by the division~~, unless~~. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual ~~from further~~ for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Sec. 3. Section 96.9, subsection 7, Code Supplement 1991, is amended by striking the subsection.

Sec. 4. Section 96.19, subsection 18, Code 1991, is amended by striking the subsection.

Sec. 5. Sections 96.22, 96.30, 96.33, and 96.34, Code 1991, are repealed.

Approved April 9, 1992

CHAPTER 1046

HEALTH CARE COVERAGE – FIBROCYSTIC CONDITION

H.F. 2033

AN ACT relating to all state-regulated third-party payors providing health care coverage or service by prohibiting an exception or exclusion of benefits solely based upon the diagnosis of a fibrocystic condition.

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

Section 1. NEW SECTION. 514C.7 PROHIBITION ON RESTRICTING COVERAGE IN CERTAIN INSTANCES INVOLVING A DIAGNOSIS OF A FIBROCYSTIC CONDITION.

Notwithstanding the uniformity of treatment requirements of section 514C.6, a third-party payor as defined in that section shall not deny or fail to renew, or include an exception to or exclusion of benefits in, a policy or contract of individual or group accident and sickness insurance solely based upon an insured being diagnosed as having a fibrocystic condition.

Sec. 2. APPLICABILITY. This Act applies to policies, contracts, or plans delivered or issued for delivery on or after July 1, 1992, and to existing policies, contracts, or plans on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later.

Approved April 9, 1992

CHAPTER 1047

DELINQUENT SANITARY SEWER CHARGES

H.F. 2135

AN ACT relating to the collection of delinquent sanitary sewer charges.

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

Section 1. Section 358.20, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Any sanitary district may by ordinance establish just and equitable rates, ~~or~~ charges, or rentals for the utilities and services furnished by ~~it~~ the district to be paid to ~~such~~ the district by every person, firm or corporation whose premises are served by a connection to ~~such~~ the utilities and services directly or indirectly. ~~Such~~ The rates, charges, or rentals, as near as may be in the judgment of the board of trustees of the district, shall be equitable and in proportion to the services rendered and the cost ~~thereof~~ of the services, and taking into consideration in the case of ~~each such~~ the premises the quantity of sewage produced thereby and its concentration, strength, and pollution qualities. The board of trustees may change ~~such~~ the rates, charges, or rentals from time to time as it may deem advisable, and by ordinance may provide for ~~the~~ collection ~~thereof~~. The board ~~is authorized to~~ may contract with any municipality within the district, whereby ~~such~~ the municipality may collect or assist in collecting any of ~~such~~ the rates, charges, or rentals, whether in conjunction with water rentals or otherwise, and ~~any such~~ the municipality ~~is hereby empowered to~~ may undertake ~~such~~ the collection and render ~~such~~ the service. ~~Such~~ The rates, charges, or rentals, if not paid when due, shall constitute a lien upon the real property served by a connection ~~as aforesaid and shall be~~. The lien shall have equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as ~~other~~ taxes, and is not divested by a judicial sale.

Approved April 9, 1992

CHAPTER 1048

IMPLEMENTS OF HUSBANDRY

H.F. 2166

AN ACT relating to implements of husbandry, by providing certain regulatory exemptions for machinery used to mix and dispense nutrients to bovine animals.

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

Section 1. Section 321.1, subsection 16, paragraph f, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

~~All self-propelled~~ Self-propelled machinery operated at speeds of less than thirty miles per hour~~,~~. The machinery must be specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary off-road usage~~, and~~. In addition, the machinery must be used exclusively for the mixing and dispensing of nutrients to bovine animals fed at a feedlot, or the application of plant food materials, agricultural limestone or agricultural chemicals~~, and~~. However, the machinery shall not be specifically designed or intended for the transportation of such nutrients, plant food materials, agricultural limestone, ~~and such~~ or agricultural chemicals ~~and materials~~. ~~Such~~ The machinery shall be operated in compliance with section 321.463.

Approved April 9, 1992

CHAPTER 1049

HEARINGS ON VACATION OF ROADS OR RAILROAD CROSSINGS
H.F. 2244

AN ACT relating to notice requirements for hearings on the vacation and closing of roads or railroad crossings.

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

Section 1. Section 306.12, Code 1991, is amended to read as follows:

306.12 NOTICE – SERVICE.

Notice of ~~such~~ the hearing under section 306.11 shall be published in ~~some~~ a newspaper of general circulation in the county or counties where ~~such~~ the road is located, ~~at least~~ not less than four nor more than twenty days prior to the date of hearing. The agency which ~~instituted said proceedings and~~ is holding ~~such~~ the hearing, shall notify all adjoining property owners, all utility companies whose facilities adjoin the road right of way or are on the road right of way, and the department, ~~the agency or~~ boards of supervisors, or agency in control of affected state lands, ~~as the case may be,~~ of the time and place of ~~such~~ the hearing, by certified mail ~~addressed to the affected property owners, all utility companies whose facilities are on the road right of way and the department, the county auditor, or the agency in control of affected state lands, as the case may be~~.

Approved April 9, 1992

CHAPTER 1050

AREA EDUCATION AGENCIES – EMPLOYEE ANNUITY CONTRACTS
H.F. 2335

AN ACT relating to the purchase of employee annuity contracts by area education agencies.

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

Section 1. Section 273.3, subsection 14, Code 1991, is amended to read as follows:

14. At the request of an employee through contractual agreement the board may ~~arrange for the~~ purchase ~~of an~~ group or individual annuity ~~contract~~ contracts for ~~any of its~~ employees from ~~any company~~ an insurance organization or mutual fund the employee chooses for retirement or other purposes that is authorized to do business in this state, and through an Iowa-licensed insurance agent ~~that the employee selects, for retirement or other purposes, and~~, securities dealer, or salesperson. The board may make payroll deductions ~~in accordance with the arrangements~~ for the purpose of paying the entire premium due, and to become due, ~~under~~ in accordance with the terms of 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.

Approved April 9, 1992

CHAPTER 1051

UNIFORM COMMERCIAL CODE — FINANCING STATEMENTS
H.F. 2344

AN ACT relating to certain financing statements required to be filed with the secretary of state, and providing for retroactive applicability and an immediate effective date.

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

Section 1. Section 554.11105, subsection 3, Code 1991, is amended to read as follows:

3. The effectiveness of any financing statement or continuation statement filed prior to January 1, 1975, may be continued by a continuation statement as permitted by this chapter as amended, except that if this chapter as amended requires a filing in an office where there was no previous financing statement, a new financing statement conforming to either section 554.9402 or subsection 8 shall be filed in that office. A financing statement conforming to the requirements of subsection 8 continues the effectiveness of a financing statement or continuation statement initially filed prior to January 1, 1975, for a period of five years from the last date that the prior financing statement or continuation statement would be effective if no further filing were made, if the financing statement conforming to the requirements of subsection 8 is filed within six months prior to the expiration of the prior financing statement or continuation statement.

Sec. 2. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 1975.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 9, 1992

CHAPTER 1052

AIR TOXICS FEE
H.F. 2359

AN ACT relating to an animal feed milling industry exemption from payment and to reassessment of the temporary air toxics fee.

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

Section 1. Section 455B.133A, subsection 1, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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. An affected source under this subsection which is involved in the animal feed milling industry (Standard Industrial Classification (SIC) Code 2048) and which emits less than one hundred pounds of hazardous air pollutants, annually, is exempt from payment of the fee imposed. An affected source which is involved in the animal feed milling industry which emits one hundred pounds through one ton of hazardous air pollutants, annually, shall pay an annual fee of twenty-five dollars.

Approved April 9, 1992

CHAPTER 1053

DEDUCTIBLE POLICIES IN WORKERS' COMPENSATION
H.F. 2375

AN ACT relating to authorizing deductibles for policies of insurance providing workers' compensation coverage.

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

Section 1. NEW SECTION. 515A.15A DEDUCTIBLE POLICIES IN WORKERS' COMPENSATION.

The commissioner may enter an order under section 515A.18 to assure availability within this state of a policy under this chapter which provides as part of the policy, or as an endorsement to the policy, an option for a deductible related to benefits payable under a policy issued pursuant to this chapter. The order may make provisions for changes in experience ratings, premium surcharges, or any other modification, as a result of issuance of a policy, or of an endorsement to the policy, pursuant to the order. Under an order entered pursuant to this section, the commissioner shall provide that if the policyholder selects a deductible option, the insured employer is liable for all of the amount of the deductible for benefits paid for each compensable claim of an employee under the policy.

Approved April 9, 1992

CHAPTER 1054

RADIATION MACHINES USED FOR MAMMOGRAPHY
H.F. 2426

AN ACT relating to the licensing and inspection of radiation machines used for mammography and providing an applicability date.

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

Section 1. Section 136C.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Adopt rules specifying the minimum training and performance standards for an individual using a radiation machine for mammography, and other rules necessary to implement section 136C.15. The rules shall complement federal requirements applicable to similar radiation machinery and shall not be less stringent than those federal requirements.

Sec. 2. NEW SECTION. 136C.15 RADIATION MACHINES USED FOR MAMMOGRAPHY – REGISTRATION STANDARDS AND REQUIREMENTS – APPLICATION FOR AUTHORITY – INSPECTION.

1. A person shall not use a radiation machine to perform mammography unless the radiation machine is registered with the department pursuant to the department's rules and is specifically authorized for use for mammography as provided in this section.

2. The department shall authorize a radiation machine for use for mammography if the radiation machine meets all of the following:

a. The radiation machine meets the criteria for the American college of radiology mammography accreditation program. The department shall make copies of those criteria available to the public and may by rule adopt modified criteria. The department may accept an evaluation report issued by the American college of radiology as evidence that a radiation machine

meets those criteria. If at any time the department determines that it will not accept any evaluation reports issued by the American college of radiology as evidence that a radiation machine meets those criteria, the department shall promptly notify each person who has registered a radiation machine under this paragraph.

b. The radiation machine, the film or other image receptor used in the radiation machine, and the facility where the radiation machine is used meet the requirements set forth in department rules for radiation machines.

c. The radiation machine is specifically designed to perform mammography.

d. The radiation machine is used exclusively to perform mammography.

e. The radiation machine is used in a facility that does all of the following:

(1) At least annually has a qualified radiation physicist provide on-site consultation to the facility, including, but not limited to, a complete evaluation of the entire mammography system to ensure compliance with this section and the rules adopted pursuant to this section.

(2) Maintains for at least seven years, records of the consultation required in subparagraph (1) and the findings of the consultation.

f. The radiation machine is used according to the department rules on patient radiation exposure and radiation dose levels.

g. The radiation machine is operated only by an individual who can demonstrate to the department that the individual is specifically trained in mammography and meets the standards established in this section, or an individual who is a physician or an osteopathic physician.

3. The department may issue a nonrenewable temporary authorization for a radiation machine for use for mammography if additional time is needed to allow submission of evidence satisfactory to the department that the radiation machine meets the standards set forth in subsection 2 for approval for mammography. A temporary authorization granted under this subsection shall be effective for no more than twelve months. The department may withdraw a temporary authorization prior to its expiration if the radiation machine does not meet one or more of the standards set forth in subsection 2.

4. To obtain authorization from the department to use a radiation machine for mammography, the person who owns or leases the radiation machine or an authorized agent of the person shall apply to the department for mammography authorization on an application form provided by the department and shall provide all of the information required by the department as specified on the application form. A person who owns or leases more than one radiation machine used for mammography shall obtain authorization for each radiation machine. The department shall process and respond to an application within thirty days after the date of receipt of the application. Upon determining to grant mammography authorization for a radiation machine, the department shall issue a certificate of registration specifying mammography authorization for each authorized radiation machine. A mammography authorization is effective for three years.

5. No later than sixty days after initial mammography authorization of a radiation machine under this section, the department shall inspect the radiation machine. After that initial inspection, the department shall annually inspect the radiation machine and may inspect the radiation machine more frequently. The department shall make reasonable efforts to coordinate the inspections under this section with the department's other inspections of the facility in which the radiation machine is located.

6. After each satisfactory inspection by the department, the department shall issue a certificate of radiation machine inspection or a similar document identifying the facility and radiation machine inspected and providing a record of the date the radiation machine was inspected. The facility shall post the certificate or other document near the inspected radiation machine.

7. The department may withdraw the mammography authorization for a radiation machine if it does not meet one or more of the standards set forth in subsection 2.

8. The department shall provide an opportunity for a hearing in connection with a denial or withdrawal of mammography authorization.

9. Upon a finding that a deficiency in a radiation machine used for mammography or a violation of this section or the rules adopted pursuant to this section seriously affects the health, safety, and welfare of individuals upon whom the radiation machine is used for mammography, the department may issue an emergency order summarily withdrawing the mammography authorization of the radiation machine. The department shall incorporate its findings in the order and shall provide an opportunity for a hearing within five working days after issuance of the order. The order shall be effective during the proceedings.

10. If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography. An application for reinstatement of a mammography authorization shall be filed and processed in the same manner as an application for mammography authorization under subsection 4, except that the department shall not issue a reinstated certificate of mammography registration until the department inspects the radiation machine and determines that it meets the standards set forth in subsection 2. The department shall conduct an inspection required under this subsection no later than sixty days after receiving a proper application for reinstatement of a mammography authorization.

11. The department shall establish fees pursuant to section 136C.10 for the application for authorization and the inspection related to a radiation machine used for mammography.

Sec. 3. APPLICABILITY. The provisions of this Act shall apply beginning October 1, 1992.

Approved April 9, 1992

CHAPTER 1055

PROPOSED VACATION OF OFFICIAL PLAT

H.F. 2378

AN ACT relating to the time for notice of the proposed vacation of an official plat.

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

Section 1. Section 409A.22, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition for vacation with the governing body which would have jurisdiction to approve the plat at the time the petition is filed. After the petition has been filed, the governing body shall fix the time and place for public hearing on the petition. Written notice of the proposed vacation shall be served in the manner of original notices as provided in Iowa rules of civil procedure and be served upon proprietors and mortgagees within the official plat that are within three hundred feet of the area to be vacated. If a portion of the official plat adjoins a river or state-owned lake, the Iowa department of natural resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with ~~ten~~ fourteen days between publications, stating the date, time, and place of the hearing.

Approved April 9, 1992

CHAPTER 1056

WORKERS' COMPENSATION SECOND INJURY FUND

H.F. 2395

AN ACT relating to workers' compensation, by establishing a second injury fund task force, continuing assessment of a surcharge on workers' compensation benefits paid in the state, and authorizing adoption of administrative rules.

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 number of and persons serving as members of the task force shall be chosen by the industrial commissioner and the commissioner of insurance.

2. The commissioner of insurance shall perform administrative functions for the task force. Meetings shall be called upon agreement by the industrial commissioner and the commissioner of insurance.

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. 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, 1993.

Sec. 2. SURCHARGE FOR THE 1992-1993 FISCAL YEAR.

1. For the fiscal year commencing July 1, 1992, 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 eight hundred seventy thousand dollars in assessing the surcharge.

2. 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, expenses for claim adjustments, 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, 1992, and shall not exceed one hundred seventy thousand dollars.

3. An insurer or self-insurer shall pay a surcharge imposed by this section no later than thirty days following the assessment.

4. 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 to the treasurer of state a policyholder or employer who fails to pay a surcharge within thirty days of its due date.

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.

5. 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. INDUSTRIAL COMMISSIONER TO ADOPT RULES PROVIDING FOR MEDIATION. The industrial commissioner shall adopt rules pursuant to chapter 17A requiring that parties who are involved in a dispute regarding benefits for a second injury claimed under section 85.64 enter into a mediation proceeding administered by the industrial commissioner prior to entering into a contested case proceeding under section 85.26. The rules shall provide that the statute of limitations in section 85.26, subsection 1, shall be tolled for the duration of the mediation proceedings.

Approved April 9, 1992

CHAPTER 1057

SOIL CONSERVATION – LAND SUBJECT TO A PUBLIC INTEREST
S.F. 200

AN ACT relating to soil conservation by providing for protection of land subject to a public interest.

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

Section 1. Section 467A.47, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The commissioners ~~of a soil and water conservation district~~ shall inspect or cause to be inspected any land within the district, ~~upon receipt of a written and signed complaint, from an owner or occupant of~~ to determine if land is being damaged by sediment, ~~that~~ from soil erosion ~~is~~ occurring on ~~the~~ neighboring land in excess of the limits established by the district's soil erosion control regulations. If the land is privately owned, the commissioners shall make or cause to be made the inspection, upon receiving a written complaint signed by an owner or occupant of land claiming that the owner's or occupant's land is being damaged by sediment. If the land is subject to a public interest, the commissioners shall make or cause to be made the inspection upon a majority vote of commissioners at an open meeting held pursuant to chapter 21. Land is subject to a public interest if the land is publicly held, subject to an easement held by the public, or the subject of an improvement made at public expense.

PARAGRAPH DIVIDED. If, ~~they~~ after the inspection, the commissioners find that sediment damages are occurring to ~~property~~ land which is owned or occupied by the person filing the complaint or subject to a public interest, and that excess soil erosion is occurring on ~~the~~ neighboring land ~~inspected, they~~ the commissioners shall issue an administrative order to the landowner or landowners of record, and to the occupant of the land if known to the commissioners~~, describing~~. The order shall describe the land and ~~stating~~ state as nearly as possible the extent to which soil erosion on the land exceeds the limits established by the district's regulations. The order shall be delivered either by personal service or by restricted certified mail to each of the persons to whom it is directed, and shall:

Approved April 13, 1992

CHAPTER 1058

BOUNDARIES FOR LOCAL EXCHANGE UTILITIES
S.F. 511

AN ACT relating to certified exchange boundaries for local exchange utilities and providing an effective date.

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

Section 1. NEW SECTION. 476.29 CERTIFICATES FOR PROVIDING LOCAL TELECOMMUNICATIONS SERVICES.

1. After September 30, 1992, a utility must have a certificate of public convenience and necessity issued by the board before furnishing land-line local telephone service in this state. No lines or equipment shall be constructed, installed, or operated for the purpose of furnishing the service before a certificate has been issued.

2. Except as provided in subsection 12, a certificate shall be issued by the board, after notice and opportunity for hearing, if the board determines that the service proposed to be rendered

will promote the public convenience and necessity. The board may establish reasonable conditions or restrictions on the certificate at the time of issuance.

3. A certificate is transferable, subject to approval of the board pursuant to section 476.20, subsection 1, and for purposes of a rate-regulated local exchange utility shall be treated by the board in the same manner as a reorganization pursuant to sections 476.76 and 476.77.

4. Each certificate shall define the service territory in which land-line local telephone service will be provided. The service territory shall be shown on maps and other documentation as the board may require to be filed with the board. The board shall, by rule, specify the style, size, and kind of map or other documentation, and the information to be shown.

5. Each local exchange utility has an obligation to serve all eligible customers within the utility's service territory, unless explicitly excepted from this requirement by the board.

6. The certificate and tariffs approved by the board are the only authority required for the utility to furnish land-line local telephone service. However, to the extent not inconsistent with this section, the power to regulate the conditions required and manner of use of the highways, streets, rights-of-way, and public grounds remains in the appropriate public authority.

7. The inclusion of any facilities or service territory of a local exchange utility within the boundaries of a city does not impair or affect the rights of the utility to provide land-line local telephone service in the utility's service territory.

8. An agreement between local exchange utilities to designate service territory boundaries and customers to be served by the utilities, or for exchange of customers between utilities, when approved by the board after notice to affected persons and opportunity for hearing, is valid and enforceable and shall be incorporated into the appropriate certificates. The board shall approve an agreement if the board finds the agreement will result in adequate service to all areas and customers affected and is in the public interest.

9. A certificate may, after notice and opportunity for hearing, be revoked by the board for failure of a utility to furnish reasonably adequate telephone service and facilities. The board may also order a revocation affecting less than the entire service territory, or may place appropriate conditions on a utility to ensure reasonably adequate telephone service. Prior to revocation proceedings, the board shall notify the utility of any inadequacies in its service and facilities and allow the utility a reasonable time to eliminate the inadequacies.

10. In the event that eighty percent or more of the subscribers in a community served by a local exchange utility sign a petition indicating they are adversely affected by school reorganization or economic dislocation and prefer to have their local telephone service provided by a different local exchange utility and file that petition with the board, the board, after notice and opportunity for hearing, shall determine whether the certificate held by the local exchange utility shall be revoked or conditioned as provided in subsection 9.

11. The board shall assure that all territory in the state is served by a local exchange utility. If at any time due to certificate revocation proceedings, discontinuance of service proceedings, or any other reason, it appears that a particular territory may not be served by any local exchange utility, the board may, after notice to interested persons and opportunity for hearing, include all or part of the territory in the certificate of another local exchange utility or utilities. In determining the local exchange utility or utilities to be authorized or required to serve, the board shall consider the willingness and ability of the utilities to serve, the location of existing service facilities, the community of interest of the customers involved, and any other factors deemed relevant to the public interest.

12. The board, on or prior to September 30, 1992, shall issue to each local exchange utility in the state, without a contested case proceeding, a nonexclusive certificate to serve the area included within the utility's service territory boundaries as shown by the service territory boundary maps on record with the board on January 1, 1992. The board shall adopt rules pursuant to chapter 17A to implement the issuance of certificates.

a. A customer served by a local exchange utility, but outside the service territory of that utility when the utility's certificate is issued, shall continue to be served by that utility for as long as that customer remains eligible to receive and requests service.

b. If more than one utility has on file maps indicating service in the same territory, the board shall request the involved utilities to resolve the overlap. If the overlap is not resolved in a reasonable time, the board, after notice to interested persons and opportunity for hearing, shall determine the boundary, taking into consideration the criteria listed in subsection 11.

13. Whenever the board or the consumer advocate deems it necessary to carry out duties related to the implementation of this section, the board or consumer advocate may contract for necessary services with persons who are not state employees including, but not limited to, cartographers, engineers, and surveyors. The cost of services contracted for shall not be paid from appropriated funds, but shall be assessed pro rata to all utilities receiving certificates based on the number of each utility's access lines.

14. This section does not prevent the board from adopting rules requiring or allowing local exchange utilities to provide extended area service or adjacent exchange service.

15. The board shall provide a written report to the general assembly no later than January 20, 2005, describing the current status of local telephone service in this state. The report shall include at a minimum the number of certificates of convenience issued, the number of current providers of local telephone service, and any other information deemed appropriate by the board.

Sec. 2. REPEAL. Section 476.29, subsection 13, is amended by striking the subsection effective July 1, 1995.

Sec. 3. REPEAL. Section 476.29 is repealed effective July 1, 2007.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 13, 1992

CHAPTER 1059

GENETIC TESTING

S.F. 2145

AN ACT relating to the use of genetic testing in employment situations by employers, employment agencies, labor organizations, and licensing agencies, and providing civil remedies.

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

Section 1. NEW SECTION. 729.6 GENETIC TESTING.

1. As used in this section, unless the context otherwise requires:

a. "Employer" means the state of Iowa, or any political subdivision, board, commission, department, institution, or school district, and every other person employing employees within the state.

b. "Employment agency" means a person, including the state, who regularly undertakes to procure employees or opportunities for employment for any other person.

c. "Genetic testing" means a test of a person's genes, gene products, or chromosomes, for abnormalities or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, impairment, or other disorders, whether physical or mental, or that demonstrate genetic or chromosomal damage due to environmental factors.

d. "Labor organization" means any organization which exists for the purpose in whole or in part of collective bargaining, or dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

e. "Licensing agency" means a board, commission, committee, council, department, examining board, or officer, except a judicial officer, in the state, or in a city, county, township, or local government, authorized to grant, deny, renew, revoke, suspend, annul, withdraw, or amend a license or certificate of registration.

f. "Unfair genetic testing" means any test or testing procedure that violates this section.

2. An employer, employment agency, labor organization, licensing agency, or its employees, agents, or members shall not directly or indirectly do any of the following:

a. Solicit, require, or administer a genetic test to a person as a condition of employment, preemployment application, labor organization membership, or licensure.

b. Affect the terms, conditions, or privileges of employment, preemployment application, labor organization membership, or licensure, or terminate the employment, labor organization membership, or licensure of any person who obtains a genetic test.

3. Except as provided in subsection 6A, a person shall not sell to or interpret for an employer, employment agency, labor organization, or licensing agency, or its employees, agents, or members, a genetic test of an employee, labor organization member, or licensee, or of a prospective employee, member, or licensee.

4. An agreement between a person and an employer, prospective employer, employment agency, labor organization, or licensing agency, or its employees, agents, or members offering the person employment, labor organization membership, licensure, or any pay or benefit in return for taking a genetic test is prohibited.

5. An employee, labor organization member, or licensee, or prospective employee, member, or licensee who acted in good faith shall not be discharged, disciplined, or discriminated against in any manner for filing a complaint or testifying in any proceeding or action involving violations of this section. An employee, labor organization member, or licensee, or prospective employee, member, or licensee discharged, disciplined, or otherwise discriminated against in violation of this section shall be compensated by the employer, employment agency, labor organization, or licensing agency in the amount of any loss of wages and benefits arising out of the discrimination.

6. This section may be enforced through a civil action.

a. A person who violates this section or who aids in the violation of this section is liable to an aggrieved employee, labor organization member, or licensee, or aggrieved prospective employee, member, or licensee, for affirmative relief including reinstatement or hiring, with or without back pay, membership, licensing, or any other equitable relief as the court deems appropriate including attorney fees and court costs.

b. If a person commits, is committing, or proposes to commit, an act in violation of this section, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee, labor organization member, or licensee, or aggrieved prospective employee, member, or licensee, the county attorney, or the attorney general.

A person who in good faith brings an action under this subsection alleging that an employer, employment agency, labor organization, or licensing agency has required or requested a genetic test in violation of this section shall establish that sufficient evidence exists upon which a reasonable person could find that a violation has occurred. Upon proof that sufficient evidence exists upon which a finding could be made that a violation has occurred as required under this paragraph, the employer, employment agency, labor organization, or licensing agency has the burden of proving that the requirements of this section were met.

6A. This section does not prohibit the genetic testing of an employee who requests a genetic test and who provides written and informed consent to taking a genetic test for any of the following purposes:

a. Investigating a workers' compensation claim under chapters 85, 85A, 85B, and 86.

b. Determining the employee's susceptibility or level of exposure to potentially toxic chemicals or potentially toxic substances in the workplace, if the employer does not terminate the

employee, or take any other action that adversely affects any term, condition, or privilege of the employee's employment as a result of the genetic test.

Approved April 13, 1992

CHAPTER 1060

DEGREES OF PROPERTY OFFENSES

S.F. 2266

AN ACT relating to the property offenses of theft, fraudulent practices, false use of a credit card, criminal mischief, computer damage, and computer theft, and changing the dollar values of the property involved in order to commit various degrees of these offenses.

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

Section 1. Section 714.2, Code 1991, is amended to read as follows:

714.2 DEGREES OF THEFT.

1. The theft of property exceeding ~~five~~ ten thousand dollars in value, or the theft of property from the person of another, or from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing, or the proximity of battle, or the theft of property which has been removed from a building because of a physical disaster, riot, bombing, or the proximity of battle, is theft in the first degree. Theft in the first degree is a class "C" felony.

2. The theft of property exceeding ~~five hundred~~ one thousand dollars but not exceeding ~~five~~ ten thousand dollars in value or theft of a motor vehicle as defined in chapter 321 not exceeding ~~five~~ ten thousand dollars in value, is theft in the second degree. Theft in the second degree is a class "D" felony. However, for purposes of this subsection, "motor vehicle" does not include a motorized bicycle as defined in section 321.1, subsection 3, paragraph "b".

3. The theft of property exceeding ~~one~~ five hundred dollars but not exceeding ~~five hundred~~ one thousand dollars in value, or the theft of any property not exceeding ~~one~~ five hundred dollars in value by one who has before been twice convicted of theft, is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property exceeding ~~fifty~~ one hundred dollars in value but not exceeding ~~one~~ five hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding ~~fifty~~ one hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Sec. 2. Section 714.9, Code 1991, is amended to read as follows:

714.9 FRAUDULENT PRACTICE IN THE FIRST DEGREE.

Fraudulent practice in the first degree is a fraudulent practice where the amount of money or value of property involved exceeds ~~five~~ ten thousand dollars.

Fraudulent practice in the first degree is a class "C" felony.

Sec. 3. Section 714.10, Code 1991, is amended to read as follows:

714.10 FRAUDULENT PRACTICE IN THE SECOND DEGREE.

Fraudulent practice in the second degree is the following:

1. A fraudulent practice where the amount of money or value of property or services involved exceeds ~~five hundred~~ one thousand dollars but does not exceed ~~five~~ ten thousand dollars.

2. A fraudulent practice where the amount of money or value of property or services involved does not exceed ~~five hundred~~ one thousand dollars by one who has been convicted of a fraudulent practice twice before.

Fraudulent practice in the second degree is a class "D" felony.

Sec. 4. Section 714.11, subsection 1, Code 1991, is amended to read as follows:

1. A fraudulent practice where the amount of money or value of property or service involved exceeds ~~one~~ five hundred dollars but does not exceed ~~five hundred~~ one thousand dollars.

Sec. 5. Section 714.12, Code 1991, is amended to read as follows:

714.12 FRAUDULENT PRACTICE IN THE FOURTH DEGREE.

Fraudulent practice in the fourth degree is a fraudulent practice where the amount of money or value of property or services involved exceeds ~~fifty~~ one hundred dollars but does not exceed ~~one~~ five hundred dollars.

Fraudulent practice in the fourth degree is a serious misdemeanor.

Sec. 6. Section 714.13, Code 1991, is amended to read as follows:

714.13 FRAUDULENT PRACTICE IN THE FIFTH DEGREE.

Fraudulent practice in the fifth degree is a fraudulent practice where the amount of money or value of property or services involved does not exceed ~~fifty~~ one hundred dollars.

Fraudulent practice in the fifth degree is a simple misdemeanor.

Sec. 7. Section 715A.6, subsection 2, Code 1991, is amended to read as follows:

2. An offense under this section is a class "D" felony if the value of the property or services secured or sought to be secured by means of the credit card is greater than ~~five hundred~~ one thousand dollars, otherwise the offense is an aggravated misdemeanor.

Sec. 8. Section 716.3, Code 1991, is amended to read as follows:

716.3 CRIMINAL MISCHIEF IN THE FIRST DEGREE.

Criminal mischief is criminal mischief in the first degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed is more than ~~five~~ ten thousand dollars, or if such acts are intended to or do in fact cause a substantial interruption or impairment of service rendered to the public by a gas, electric, steam or waterworks corporation, telephone or telegraph corporation, common carrier, or a public utility operated by a municipality. Criminal mischief in the first degree is a class "C" felony.

Sec. 9. Section 716.4, Code 1991, is amended to read as follows:

716.4 CRIMINAL MISCHIEF IN THE SECOND DEGREE.

Criminal mischief is criminal mischief in the second degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds ~~five hundred~~ one thousand dollars but does not exceed ~~five~~ ten thousand dollars. Criminal mischief in the second degree is a class "D" felony.

Sec. 10. Section 716.5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Criminal mischief is criminal mischief in the third degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds ~~two~~ five hundred dollars, but does not exceed ~~five hundred~~ one thousand dollars, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if the act consists of rendering substantially less effective than before any light, signal, obstruction, barricade, or guard which has been placed or erected for the purpose of enclosing any unsafe or dangerous place or of alerting persons to an unsafe or dangerous condition. Criminal mischief in the third degree is an aggravated misdemeanor.

Sec. 11. Section 716.6, Code 1991, is amended to read as follows:

716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

Criminal mischief is criminal mischief in the fourth degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds one hundred dollars, but does not exceed ~~two~~ five hundred dollars. Criminal mischief in the fourth degree is a serious misdemeanor. All criminal mischief which is not criminal mischief in the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

Sec. 12. Section 716A.4, Code 1991, is amended to read as follows:

716A.4 COMPUTER DAMAGE IN THE FIRST DEGREE.

Computer damage is computer damage in the first degree when the damage results in a loss of property or services of more than ~~five~~ ten thousand dollars. Computer damage in the first degree is a class "C" felony.

Sec. 13. Section 716A.5, Code 1991, is amended to read as follows:

716A.5 COMPUTER DAMAGE IN THE SECOND DEGREE.

Computer damage is computer damage in the second degree when the damage results in a loss of property or services of more than ~~five hundred~~ one thousand dollars but not more than ~~five~~ ten thousand dollars. Computer damage in the second degree is a class "D" felony.

Sec. 14. Section 716A.6, Code 1991, is amended to read as follows:

716A.6 COMPUTER DAMAGE IN THE THIRD DEGREE.

Computer damage is computer damage in the third degree when the damage results in a loss of property or services of more than ~~one~~ five hundred dollars but not more than ~~five hundred~~ one thousand dollars. Computer damage in the third degree is an aggravated misdemeanor.

Sec. 15. Section 716A.7, Code 1991, is amended to read as follows:

716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

Computer damage is computer damage in the fourth degree when the damage results in a loss of property or services of more than ~~fifty~~ one hundred dollars but not more than ~~one~~ five hundred dollars. Computer damage in the fourth degree is a serious misdemeanor.

Sec. 16. Section 716A.8, Code 1991, is amended to read as follows:

716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

Computer damage is computer damage in the fifth degree when the damage results in a loss of property or services of not more than ~~fifty~~ one hundred dollars. Computer damage in the fifth degree is a simple misdemeanor.

Sec. 17. Section 716A.10, Code 1991, is amended to read as follows:

716A.10 COMPUTER THEFT IN THE FIRST DEGREE.

Computer theft is computer theft in the first degree when the theft involves or results in a loss of services or property of more than ~~five~~ ten thousand dollars. Computer theft in the first degree is a class "C" felony.

Sec. 18. Section 716A.11, Code 1991, is amended to read as follows:

716A.11 COMPUTER THEFT IN THE SECOND DEGREE.

Computer theft is computer theft in the second degree when the theft involves or results in a loss of services or property of more than ~~five hundred~~ one thousand dollars but not more than ~~five~~ ten thousand dollars. Computer theft in the second degree is a class "D" felony.

Sec. 19. Section 716A.12, Code 1991, is amended to read as follows:

716A.12 COMPUTER THEFT IN THE THIRD DEGREE.

Computer theft is computer theft in the third degree when the theft involves or results in a loss of services or property of more than ~~one~~ five hundred dollars but not more than ~~five hundred~~ one thousand dollars. Computer theft in the third degree is an aggravated misdemeanor.

Sec. 20. Section 716A.13, Code 1991, is amended to read as follows:

716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

Computer theft is computer theft in the fourth degree when the theft involves or results in a loss of services or property of more than ~~fifty~~ one hundred dollars but not more than ~~one~~ five hundred dollars. Computer theft in the fourth degree is a serious misdemeanor.

Sec. 21. Section 716A.14, Code 1991, is amended to read as follows:

716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

Computer theft is computer theft in the fifth degree when the theft involves or results in a loss of services or property of not more than ~~fifty~~ one hundred dollars. Computer theft in the fifth degree is a simple misdemeanor.

Approved April 13, 1992

CHAPTER 1061

EXEMPTIONS FROM EXECUTION – PENSIONS AND ANNUITIES

S.F. 2275

AN ACT relating to the exemption from execution for a debtor's rights in a payment under a pension, annuity, or similar plan or contract and providing retroactive and effective dates.

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

Section 1. Section 627.6, subsection 8, paragraph e, Code 1991, is amended to read as follows:

e. A payment or a portion of a payment under a pension, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, ~~to the extent reasonably necessary for the support of the debtor and any dependent of the debtor~~ unless the payment or a portion of the payment results from contributions to the plan or contract by the debtor within one year prior to the filing of a bankruptcy petition, which contributions are above the normal and customary contributions under the plan or contract, in which case the portion of the payment attributable to the contributions above the normal and customary rate is not exempt.

Sec. 2. RETROACTIVE APPLICABILITY PROVISION. This Act applies retroactively to January 1, 1992, and applies to bankruptcy matters pending on or after January 1, 1992.

Approved April 13, 1992

CHAPTER 1062

CONSUMER FRAUD

S.F. 2276

AN ACT relating to consumer fraud and providing penalties and providing an effective date.

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

Section 1. Section 82.6, Code 1991, is amended to read as follows:

82.6 PENALTY.

1. Any seller who violates the provisions of this chapter shall be guilty of a simple misdemeanor.

2. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a".

Sec. 2. Section 203B.5, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a".

Sec. 3. Section 714.16, subsection 7, Code Supplement 1991, is amended to read as follows:

7. A civil action pursuant to this section shall be by equitable proceedings. If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys or property, real or personal, which have been acquired by means of a practice declared to be unlawful by this section, including the appointment of a receiver in cases of substantial and willful violation of this section. If a person has acquired moneys or property by any means declared to be unlawful by this section and if the cost of administering restitution outweighs the benefit to consumers or consumers entitled to the restitution cannot be located through reasonable efforts, the court may order disgorgement of moneys or property acquired by the person by awarding the moneys or property to the state to be used by the attorney general for the administration and implementation of this section. Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for restitution or an injunction, to allege or to prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth. A claim for restitution may be proved by any competent evidence, including evidence that would be appropriate in a class action.

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section. A penalty imposed pursuant to this subsection is in addition to any penalty imposed pursuant to section 537.6113. Civil penalties ordered pursuant to this subsection shall be paid to the treasurer of state to be deposited in the general fund of the state.

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

Approved April 13, 1992

CHAPTER 1063

USE OF LOCAL OPTION TAX MONEYS

S.F. 2338

AN ACT relating to the use of local sales and services tax moneys.

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

Section 1. Section 422B.1, subsection 5, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If a majority of those voting on the question of imposition of a local option tax favor imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. The local option tax may be repealed or the rate increased or decreased or the use thereof changed after an election at which a majority of those voting on the question of repeal or rate or use change favored the repeal or rate or use change. The election at which the question of repeal or rate or use change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 3 and 4 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition or rate or use change shall be voted on only by the qualified electors of the areas of the county where the tax has been imposed or has not been imposed, as appropriate.

Approved April 13, 1992

CHAPTER 1064

HOUSING ASSISTANCE – ADMINISTRATIVE EXPENSES

S.F. 2344

AN ACT relating to the allocation of moneys by the Iowa finance authority.

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

Section 1. Section 220.15, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The authority shall ensure that moneys allocated to an eligible person administering a program to provide housing assistance under this section, shall include moneys necessary to pay for all expenses relating to providing the housing assistance, including administrative expenses. However, not more than twenty percent of the total moneys allocated to a person shall be used for purposes of paying administrative expenses.

Approved April 13, 1992

CHAPTER 1065

TRANSPORTATION RULES – APPROVAL BY COMMISSION
H.F. 623

AN ACT requiring administrative rules adopted by the director of transportation to first be approved by the state transportation commission.

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

Section 1. Section 307.10, Code 1991,* is amended by adding the following new subsection:

NEW SUBSECTION. 8. Approve all rules prior to their adoption by the director pursuant to section 307.12, subsection 9.

Approved April 13, 1992

CHAPTER 1066

ORGANIZATION OF COOPERATIVE ASSOCIATIONS
H.F. 2262

AN ACT relating to the organization of cooperative associations.

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

Section 1. Section 499.43, unnumbered paragraph 1, Code 1991, is amended to read as follows:

An existing Iowa co-operative corporation organized pursuant to chapter 497, by a majority vote of all its members, at a meeting called for that purpose and held before its present articles expire, may amend its articles to comply with this chapter and section 499.40, which may extend its corporate duration. The amended articles shall be executed and filed, and a certificate of incorporation issued, as required by section 499.44. Upon issuance of the certificate, the corporation shall be deemed an association under this chapter.

Sec. 2. NEW SECTION. 499.43A EXISTING COOPERATIVES ORGANIZED UNDER CHAPTER 498 – OPTION.

A cooperative association organized under chapter 498 may elect to be governed by and to comply with the provisions of this chapter. The election shall be governed by the following procedures:

1. The board of directors and members must adopt a resolution reciting that the cooperative association elects to be governed by and to comply with this chapter. The cooperative association, to the extent necessary, shall change its name to comply with the provisions of this chapter. The resolution shall be adopted according to the same procedures as provided in section 499.41. Upon the adoption of the resolution, the cooperative association shall execute an instrument on forms prescribed by the secretary of state. The instrument must be signed by the president and secretary and verified by one of the officers signing the instrument. The instrument shall include all of the following:

a. The name of the cooperative association, before and after this election.

b. A description of each resolution adopted by the cooperative association pursuant to this section, including the date each resolution was adopted.

2. The instrument shall be filed with the secretary of state and with the county recorder in the county in which the principal office of the cooperative association is located. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association is in compliance with the provisions of chapter 498 at the time of

*Section 307.10 amended in 1991 Iowa Code Supplement

filing. A cooperative association shall file an annual report which is due pursuant to section 499.49. Upon filing the instrument with the secretary, all of the following shall apply:

a. The cooperative association shall be deemed to be organized under this chapter and the provisions of this chapter shall apply to the cooperative association.

b. The secretary of state shall issue a certificate to the cooperative association acknowledging that it is deemed to be organized under this chapter.

3. The application of this chapter to the cooperative association does not affect a right accrued or established, or liability or penalty incurred pursuant to chapter 498, prior to the filing of the instrument with the secretary of state.

Approved April 13, 1992

CHAPTER 1067

VACANCIES IN COUNTY OFFICES

H.F. 2304

AN ACT relating to the procedure for filling vacancies that occur in county offices.

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

Section 1. Section 69.13, subsection 2, Code Supplement 1991, is amended by striking the subsection.

Sec. 2. Section 69.14A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

69.14A FILLING VACANCY OF ELECTED COUNTY OFFICER.

1. A vacancy on the board of supervisors shall be filled by one of the two following procedures:

a. By appointment by the committee of county officers designated to fill the vacancy in section 69.8. The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the committee of county officers designated to fill the vacancy chooses to proceed under this paragraph, the committee shall publish notice in the manner prescribed by section 331.305 stating that the committee intends to fill the vacancy by appointment but that the electors of the district or county, as the case may be, have the right to file a petition requiring that the vacancy be filled by special election. The committee may publish notice in advance if an elected official submits a resignation to take effect at a future date. The committee may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection shall have actually resided in the county which the appointee represents sixty days prior to appointment.

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, whichever is later, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306.

b. By special election held to fill the office for the remaining balance of the unexpired term. The committee of county officers designated to fill the vacancy in section 69.8 may, on its own motion, or shall, upon receipt of a petition as provided in paragraph "a", call for a special election to fill the vacancy in lieu of appointment. The committee shall order the special election at the earliest practicable date, but giving at least thirty days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

2. A vacancy in any of the offices listed in section 39.17 shall be filled by one of the two following procedures:

a. By appointment by the board of supervisors. The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the board of supervisors chooses to proceed under this paragraph, the board shall publish notice in the manner prescribed by section 331.305 stating that the board intends to fill the vacancy by appointment but that the electors of the county have the right to file a petition requiring that the vacancy be filled by special election. The board may publish notice in advance if an elected official submits a resignation to take effect at a future date. The board may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection shall have actually resided in the county which the appointee represents sixty days prior to appointment.

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, whichever is later, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306.

b. By special election held to fill the office for the remaining balance of the unexpired term. The board of supervisors may, on its own motion, or shall, upon receipt of a petition as provided in paragraph "a", call for a special election to fill the vacancy in lieu of appointment. The committee shall order the special election at the earliest practicable date, but giving at least thirty days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

3. Notwithstanding subsection 2, in the event of a vacancy for which no eligible candidate residing in the county comes forward for appointment, a county board of supervisors may employ a person to perform the duties of the office for at least sixty days but no more than ninety days. After ninety days, the board shall proceed under subsection 2.

Approved April 13, 1992

CHAPTER 1068

TRAFFIC ENFORCEMENT IN MOBILE HOME PARKS

H.F. 2327

AN ACT relating to waiving the right to vehicular traffic enforcement in mobile home parks.

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

Section 1. Section 321.251, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The titleholder of real property under subsection 2 may elect to waive the right 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 filing a waiver with the county recorder of each county in which the property is located. The waiver shall include the legal description of the real property and shall bind the titleholder of the real property and any successors in interest. The waiver may only be rescinded if each law enforcement jurisdiction, in which the titleholder of real property wishes to obtain the benefit of this section, consents to the rescission of the waiver through adoption of a resolution.

Approved April 13, 1992

CHAPTER 1069

NONRESIDENT INSURANCE AGENTS

H.F. 2374

AN ACT relating to reciprocal license fees for nonresident insurance agents.

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

Section 1. Section 522.4, Code 1991, is amended to read as follows:

522.4 FEE – INSURERS TO CERTIFY AGENTS.

1. The fee charged for an agent's license shall be ten dollars unless otherwise provided in subsection 2. Every insurer authorized to transact business in this state shall certify its agents to the commissioner who shall keep a list of the agents and charge an annual appointment fee of five dollars for each agent. The commissioner shall remit the fees collected to the treasurer of state for deposit in the general fund of the state.

2. A nonresident person seeking to procure a license pursuant to this chapter shall be charged a fee equal to the greater of the following:

a. The fee as determined pursuant to subsection 1.

b. A fee equal to the fee which the nonresident person would be charged by such person's state of residence if that person were a resident of this state making application for a license in that state.

Approved April 13, 1992

CHAPTER 1070

REAL ESTATE COMMISSION – DISPOSITION OF FEES

H.F. 2376

AN ACT relating to the disposition of fees and charges collected by the real estate commission.

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

Section 1. Section 117.14, Code 1991, is amended to read as follows:

117.14 FEES AND EXPENSES.

All fees and charges collected by the real estate commission under this chapter shall be paid into the professional licensing revolving fund, except that the equivalent of the greater of ten dollars or forty percent per year of the fees for each real estate salesperson's ~~or~~ license, plus the equivalent of the greater of ten dollars or twenty-five percent per year of the fees for each broker's license shall be paid into the Iowa real estate education fund created in section 117.54. All expenses incurred by the commission under this chapter, including compensation of staff assigned to the commission, shall be paid out of the professional licensing revolving fund, except for expenses incurred and compensation paid for the real estate education director, which shall be paid out of the real estate education fund.

Approved April 13, 1992

CHAPTER 1071

IN-HOME DETENTION

H.F. 2407

AN ACT relating to in-home detention.

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

Section 1. Section 356.26, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

The district court may also grant by order to any person ~~sentenced to~~ held in a county jail the privilege ~~of a sentence~~ of in-home detention ~~where~~ if the county sheriff has certified to the court that the jail has an in-home detention program.

Approved April 13, 1992

CHAPTER 1072

CUSTODY OF CERTAIN PERSONS – ABSENCE WITHOUT LEAVE

H.F. 2436

AN ACT relating to the detention of persons alleged to be seriously mentally impaired or to be chronic substance abusers.

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

Section 1. Section 125.81, subsection 3, Code Supplement 1991, is amended to read as follows:

3. In a facility in the community which is suitably equipped and staffed for the purpose, provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime shall not be ordered, ~~except in cases of actual emergency if no other secure resource is accessible, and then only for a period of not more than twenty-four hours and under close supervision~~.

Sec. 2. Section 125.85, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A person who is placed for evaluation at a facility under section 125.83 or who is committed to a facility under section 125.84, subsection 2, shall remain at that facility unless discharged or otherwise permitted to leave by the court or administrator of the facility. If a person placed at a facility or committed to a facility leaves the facility without permission or without having been discharged, the administrator may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the facility.

Sec. 3. Section 229.11, subsection 3, Code 1991, is amended to read as follows:

3. In a public or private facility in the community which is suitably equipped and staffed for the purpose, provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime ~~may~~ shall not be ordered ~~except in cases of actual emergency when no other secure facility is accessible and then only for a period of not more than twenty-four hours and under close supervision~~.

Sec. 4. NEW SECTION. 229.14A ESCAPE FROM CUSTODY.

A person who is placed in a hospital or other suitable facility for evaluation under section 229.13 or who is required to remain hospitalized for treatment under section 229.14, subsection 2, shall remain at that hospital or facility unless discharged or otherwise permitted to leave by the court or the chief medical officer of the hospital or facility. If a person placed

at a hospital or facility or required to remain at a hospital or facility leaves the facility without permission or without having been discharged, the chief medical officer may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the hospital or facility.

Approved April 13, 1992

CHAPTER 1073

COUNTY OFFICERS' POWERS AND DUTIES

H.F. 2443

AN ACT making technical amendments to the powers, duties, and procedures of county officers and providing for other properly related matters.

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

Section 1. Section 106.77, subsection 7, Code 1991, is amended to read as follows:

7. The county recorder shall maintain a record of any certificate of title ~~it~~ which the county recorder issues and shall keep each certificate of title on record until the certificate of title has been inactive for five years.

Sec. 2. Section 176.5, Code 1991, is amended to read as follows:

176.5 ADDITIONAL PROVISIONS.

~~Such~~ The articles may include other provisions which are not inconsistent with the provisions of this chapter and shall be recorded by the county recorder ~~without~~ for the fee specified in section 331.604.

Sec. 3. Section 321.126, subsection 6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If a vehicle is sold or junked ~~and a replacement vehicle is not purchased within the thirty days following the date of sale or junking~~, the owner in whose name the vehicle was registered~~, after the expiration of the thirty-day period,~~ may make claim to the department for a refund of the sold or junked vehicle's registration fee. Also if the owner of a vehicle receives a vehicle registration fee credit under section 321.46, subsection 3, and the credit allowed exceeds the amount of the registration fee for the vehicle acquired, the owner may claim a refund for the balance of the credit. The refund is subject to the following limitations:

Sec. 4. Section 321.153, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The distributed teleprocessing network shall be used in the collection, receipting, accounting, and reporting of any fee collected through the registration renewal or title process, with sufficient time and financial resources provided for implementation.

Sec. 5. Section 331.486, Code 1991, is amended to read as follows:

331.486 ASSESSMENT OF COSTS OF PUBLIC IMPROVEMENTS.

A county may assess to property within a county special assessment district the cost of construction and repair of public improvements benefiting the district and may assess to ~~county~~ property within a joint special assessment district the cost of construction and repair of public improvements benefiting the district. A county may construct and assess the cost of public improvements within a district in the same manner as a city may proceed under chapter 384,

division IV, and chapter 384, division IV, applies to counties with respect to public improvements, the assessment of their costs, and the issuance of bonds for the public improvements. A county may contract for a public improvement benefiting a district under this part pursuant to chapter 331, division III, part 3.

Sec. 6. Section 331.602, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Record all instruments presented to the recorder's office for recordation upon payment of the proper fees and compliance with other recording requirements as provided by law. The instruments presented for filing or recordation shall be legible and reproducible, and shall have typed or legibly printed on them the names of all signatories including the names of acknowledging officers and witnesses beneath the original signatures. The instruments shall be no larger than eight and one-half inches by fourteen inches ~~except as otherwise provided in section 409.31, subsection 2, or~~ except as otherwise authorized by the recorder.

Sec. 7. Section 331.602, subsection 14, Code Supplement 1991, is amended to read as follows:

14. Record ~~without fee~~ the articles of incorporation of farm aid associations as provided in section 176.5 for the fee specified in section 331.604.

Sec. 8. Section 331.602, subsection 42, Code Supplement 1991, is amended to read as follows:

42. Carry out duties relating to the indexing of name changes, and the recorder ~~may~~ shall charge a fee for indexing as provided in section 331.604.

Sec. 9. Section 425.2, unnumbered paragraph 6, Code Supplement 1991, is amended to read as follows:

The failure of a person to file a claim under this section on or before July 1 of the year for which the person is first claiming the credit or to have the evidence of ownership recorded in the office of the county recorder does not disqualify the claim if the person claiming the credit or through whom the credit is claimed is otherwise qualified. The belated claim shall be filed with the appropriate assessor on or before December 31 of the following calendar year and, if approved by the board of supervisors, the county treasurer shall ~~file an amended certificate of homestead tax credits with~~ submit the belated claim to the director of revenue and finance ~~pursuant to section 425.4~~ who shall send payment to the claimant. The payment shall be made from funds appropriated to the homestead credit fund.

Sec. 10. Section 427.1, subsection 23, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A society or organization claiming an exemption under subsection 6 or subsection 9 of this section shall file with the assessor not later than ~~February~~ July 1 a statement upon forms to be prescribed by the director of revenue and finance, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the property derived from the rentals, leases, or other uses of the property not solely for the appropriate objects of the society or organization. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original claim for exemption. When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property transferred and the name of the person to whom title to the property is transferred.

Sec. 11. Section 427.1, subsection 24, Code Supplement 1991, is amended by striking the subsection.

Sec. 12. Section 428A.1, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

When each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder,

a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. A declaration of value is not required for those instruments described in section 428A.2, subsections 2 to 5, 7 to 13, and 16 to 20, 21, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 172C.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. The county recorder shall not record the declaration of value, but shall enter on the declaration of value information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value the information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue and finance, at times as directed by the director of revenue and finance. The assessor shall retain one copy of each declaration of value for three years from December 31 of the year in which the transfer of realty for which the declaration was filed took place. The director of revenue and finance shall, upon receipt of the information required to be filed under this chapter by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 172C.1.

Sec. 13. Section 441.23, Code 1991, is amended to read as follows:

441.23 NOTICE OF VALUATION.

If there has been an increase or decrease in the valuation of the property, or upon the written request of the person assessed, the assessor shall, at the time of making the assessment, inform the person assessed, in writing, of the valuation put upon the taxpayer's property, and notify the person, if the person feels aggrieved, to appear before the board of review and show why the assessment should be changed. However, if the valuation of a class of property is uniformly decreased, the assessor may notify the affected property owners by publication in the official newspapers of the county. The owners of real property shall be notified not later than April 15 of any adjustment of the real property assessment.

Sec. 14. NEW SECTION. 443.23 DEFINITION.

As used in this chapter, unless the context otherwise requires, "tax list", "assessment list", "book", or "record" kept by a county auditor, assessor, treasurer, or other county officer means the county system as defined in section 445.1.

Sec. 15. NEW SECTION. 558.1A DEFINITION.

As used in this chapter, unless the context otherwise requires, "list", "book", "record", or "schedule" kept by a county auditor, assessor, treasurer, recorder, or other county officer means the county system as defined in section 445.1.

Approved April 13, 1992

CHAPTER 1074

PURCHASE OF RECYCLED PRODUCTS

S.F. 84

AN ACT relating to the purchase of recycled products including recycled paper by state agencies.

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

Section 1. Section 18.18, subsection 2, paragraph a, subparagraphs (1) and (2), Code Supplement 1991, are amended to read as follows:

(1) "Recycled paper" means a paper product with not less than ~~forty~~ fifty percent of its total weight consisting of secondary and postconsumer material ~~and recovered paper material~~. At least ten percent of the total weight of recycled paper shall be postconsumer materials.

(2) "Postconsumer material" means only those products generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling, and disposition. Postconsumer material does not include manufacturing wastes.

Sec. 2. Section 18.18, subsection 2, paragraph a, subparagraph (3), Code Supplement 1991, is amended by striking the subparagraph and inserting in lieu thereof the following:

(3) "Secondary material" means fragments of finished products or finished products of a manufacturing process which has converted a resource into a commodity of real economic value, and includes postconsumer material but does not include excess virgin resources of the manufacturing process.

Sec. 3. Section 18.18, subsection 2, Code Supplement 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. The department shall adopt standards for the allowable content of postconsumer and secondary material of recycled paper which shall conform with but may be more stringent than the American society for testing and materials standards.

NEW PARAGRAPH. d. The department shall establish a prioritization procedure for the purchase of recycled paper which provides for a five percent differential in the cost of the purchase of paper which has been recycled through the use of a nonchlorinated process.

NEW PARAGRAPH. e. If a provision under this subsection results in the limitation of sources for the purchase of printing and writing paper to three or fewer sources, the department may waive the requirement in order to purchase necessary amounts of printing and writing paper.

NEW PARAGRAPH. f. The department, in conjunction with the department of natural resources, shall review the availability of a higher percentage content of postconsumer content printing and writing paper and shall, by rule, adjust the percentage requirement accordingly.

Sec. 4. Section 18.18, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Notwithstanding the requirements of this subsection regarding the purchase of recycled paper, the department shall purchase acid-free permanent paper in the amount necessary for the production or reproduction of documents, papers, or similar materials produced or reproduced for permanent preservation pursuant to law.

Sec. 5. Section 18.18, Code 1991,* is amended by adding the following new subsection:

NEW SUBSECTION. 8. The department of general services, by January 1, 1993, shall seek an agreement with the agencies of the states of Minnesota and Wisconsin authorized to purchase general use items for state agencies, to provide for the cooperative purchase of recycled products.

Approved April 14, 1992

*Code Supplement 1991 probably intended

CHAPTER 1075

EXECUTIVE DIRECTORS OF COMMISSIONS OF VETERAN AFFAIRS

S.F. 2024

AN ACT relating to the employment of a commission of veteran affairs' executive director to serve two or more counties and providing for training of executive directors of county commissions of veteran affairs.

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

Section 1. Section 29.4, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The division shall provide training to executive directors of county commissions of veteran affairs pursuant to section 250.6. The department of public defense may adopt rules in accordance with chapter 17A to provide for training of county veteran affairs executive directors.

Sec. 2. Section 250.6, Code 1991, is amended to read as follows:

1. a. The members of the commission shall qualify by taking the usual oath of office, and give bond in the sum of five hundred dollars each, conditioned for the faithful discharge of their duties with sureties to be approved by the county auditor. The commission shall organize by the selection of one of their members as chairperson, and one as secretary. The commission, subject to the approval of the board of supervisors, shall have power to employ an executive director and other necessary administrative or clerical assistants when needed, the compensation of such employees to be fixed by the board of supervisors, but no member of the commission shall be so employed. The executive director must possess the same qualifications as provided in section 250.3 for commission members. However, this qualification requirement shall not apply to a person employed as an executive director prior to July 1, 1989.

b. Upon the employment of an executive director, the executive director shall complete a course of initial training provided by the veterans affairs division of the department of public defense pursuant to section 29.4. If an executive director is not appointed, a commissioner or a clerical assistant shall complete the course of training. The division shall issue the executive director, commissioner, or clerical assistant a certificate of training after completion of the initial training course. To maintain annual certification, the executive director, commissioner, or clerical assistant shall attend one division training course each year. Failure to maintain certification may be cause for removal from office. The expenses of training shall be paid from the appropriation authorized in section 250.14.

2. Two or more boards of supervisors may agree, pursuant to chapter 28E, to share the services of an executive director. The agreement shall provide for the establishment of a commission of veteran affairs' office in each of the counties participating in the agreement.

3. The commission with the approval of the board of supervisors shall appoint one of the deputies of the county auditor to serve as administrative assistant to the commission, to serve without additional compensation, unless for good reasons shown, this arrangement is not feasible.

4. In counties where a commission has established an office, the office shall be open a minimum of four hours each work day. The hours that the office is open shall be posted in a prominent position outside the office. In lieu of an office being open a minimum of four hours each work day, the names, home addresses, telephone numbers, and duties of commission members shall be posted.

Approved April 14, 1992

CHAPTER 1076

RETURN OF MILK CONTAINERS
S.F. 2059

AN ACT relating to the theft of milk containers and the applicability of a penalty and providing an effective date.

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

Section 1. Section 192.124, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 189.21, a person retaining a container used for the handling of dairy products intended for sale as provided in this section, which bears a mark registered pursuant to section 192.123, shall not be subject to any penalty provided by law, if the person returns the container to its owner on or after the effective date of this Act, but before August 1, 1992.

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

Approved April 14, 1992

CHAPTER 1077

HUMAN SERVICES – DES MOINES DISTRICT OFFICE
S.F. 2063

AN ACT authorizing the department of human services to close the Des Moines district office in reorganizing the department's field operations service delivery system and providing an effective date.

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

Section 1. DES MOINES DISTRICT OFFICE. Notwithstanding 1991 Iowa Acts, chapter 267, section 129, subsection 6, directing the department of human services to close its district offices except for the Des Moines district office, the department may close the Des Moines district office. The department's closure of the Des Moines office is authorized as part of the department's reorganization plan developed pursuant to 1991 Iowa Acts, chapter 267, section 129, subsections 5 and 6, and is subject to the other requirements included in those provisions.

The department shall adopt administrative rules on an emergency basis under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section authorizing the closing of the Des Moines district office. The rules shall become effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

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

Approved April 14, 1992

CHAPTER 1078

INSURANCE DIVISION — REGULATED INDUSTRIES

S.F. 2179

AN ACT relating to entities and subject matter under the regulatory authority of the regulated industries unit of the division of insurance, including residential service contracts, continuing care retirement communities, perpetual care cemeteries, funeral services and merchandise, and cemetery merchandise, and providing an effective date.

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

Section 1. Section 523A.20, Code Supplement 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 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 general fund of the state. In addition, on May 1 of 1994 and 1995, the commissioner, to the extent necessary to fund audits, investigations, and receiverships, shall assess establishment permit holders five dollars for each agreement reported on the establishment permit holder's annual report of sales executed during the preceding year, which shall be deposited in the insurance division regulatory fund. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit expenses, 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. 2. Section 523C.3, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. A surety bond, a copy of the receipt from the treasurer of state that a cash deposit has been made, or a copy of a custodial agreement as provided in section 523C.5.

Sec. 3. Section 523C.5, Code 1991, is amended to read as follows:

523C.5 REQUIRED BOND, CASH DEPOSIT, OR CUSTODIAL ACCOUNT.

1. To assure the faithful performance of obligations under residential service contracts issued and outstanding in this state, a service company shall, prior to the issuance or renewal of a license, file with the commissioner a surety bond in the amount of one hundred thousand dollars, which has been issued by an authorized surety company and approved by the commissioner as to issuer, form, and contents or establish a custodial account in the amount of one hundred thousand dollars at an authorized depository. The bond or custodial account shall not be canceled or be subject to cancellation unless thirty days' advance notice in writing is filed with the commissioner. Notwithstanding chapter 17A, if a bond or custodial account is canceled for any reason and a new bond or notice that a new custodial account has been established in the required amount is not received by the commissioner on or before the effective date of cancellation, the license of the service company is automatically revoked as of the date the bond or custodial account ceases to be in effect. A service company whose license is revoked under this section may file an application for a new license pursuant to section 523C.3.

The bond or custodial account posted by a service company pursuant to this section shall be for the benefit of, and subject to recovery thereon by any residential service contract holder sustaining actionable injury due to the failure of the service company to faithfully perform its obligations under a residential service contract because of insolvency of the service company.

If a service company ceases to do business in this state and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond or custodial account shall be released.

The commissioner may by rule designate institutions authorized to act as a depository under this section and establish requirements for custodians, custodial agreements, custodial accounts, or the method of valuing noncash assets held in a custodial account which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

2. In lieu of the bond or custodial account required by this section, the service company may deposit with the treasurer of state a cash deposit in the same amount. The treasurer of state shall not refund a deposit until sixty days after the service company has ceased doing business in this state, a bond has been filed with the commissioner which complies with this section, or a custodial account is established which complies with this section.

Sec. 4. Section 523C.6, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves, ~~but excluding assets held in a custodial account under section 523C.5,~~ computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.

Sec. 5. Section 523C.8, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523C.8 REBATES AND COMMISSIONS.

A service company shall not pay a commission to any person as an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract. However, this section does not prohibit payment of an override commission or marketing fee to an employee or commission sales agent who is the marketing representative of the service company or its parent company, subsidiary, or affiliate on the sale or marketing of a residential service contract, provided the employee or commission sales agent is not a real estate licensee sharing in or entitled to share in, or affiliated with, a real estate commission generated by the underlying real property transaction. This section also does not prohibit bona fide payments or reimbursements for inspection fees, if an inspection of the property to be the subject of a residential service contract is required by a service company and if the inspection fee is reasonably related to the services performed.

Sec. 6. Section 523C.11, Code 1991, is amended to read as follows:

523C.11 RESERVE ACCOUNT.

1. A service company shall maintain in an independent depository a reserve account ~~containing cash or marketable securities~~ consisting of unencumbered assets in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued and outstanding in this state, if any, less actual expenditures for services rendered under those contracts. The assets shall be held in the form of cash or marketable securities.

2. The depository shall make its records concerning the service company reserve accounts available to the commissioner or a designee for inspection on the premises of the depository and, upon request, shall produce documents and records which the commissioner determines are necessary to verify the value and safety of the assets of the reserve account.

3. ~~The service company shall submit with each license renewal application an affidavit by an authorized officer of the depository attesting to the balance in the reserve account and that the reserve account is being maintained in accordance with this chapter.~~

4. The commissioner may by rule designate institutions authorized to act as a depository under this section and may establish requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

4. For purposes of this section, aggregate annual fees does not include the annual fees collected on residential service contracts for which the service company has purchased contractual liability insurance which demonstrates to the satisfaction of the commissioner that one

hundred percent of the service company's claim exposure related to such service contracts is covered by the insurance. The contractual liability insurance must be obtained from an insurer authorized to do business in this state and shall contain the following provisions:

a. If the service company is unable to fulfill its obligations under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to the persons making claims under the contracts.

b. The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

c. The insurer shall not cancel or refuse to renew the policy unless sixty days' written notice has been given to the commissioner by the insurer before the date of the cancellation or nonrenewal.

Sec. 7. Section 523C.13, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The commissioner shall adopt rules which regulate residential service contracts to prohibit misrepresentation, false advertising, defamation, boycotts, coercion, intimidation, false statements and entries and unfair discrimination or practices. If the commissioner finds that a person has violated the rules adopted under this section, the commissioner ~~shall issue an order to that person to cease and desist and~~ may order any or all of the following:

Sec. 8. NEW SECTION. 523C.18 VIOLATIONS.

A person who willfully violates section 523C.5 is, upon conviction, guilty of a class "D" felony.

Sec. 9. NEW SECTION. 523C.19 CEASE AND DESIST ORDERS.

If an investigation provides reasonable evidence that a person violated any provision of this chapter or any rule adopted pursuant to this chapter, the commissioner may issue an order directed at the person to cease and desist from engaging in the act or practice resulting in the violation.

Sec. 10. Section 523D.3, subsection 2, Code Supplement 1991, is amended to read as follows:

2. The provider shall file with the insurance division ~~of insurance~~, annually within five months following the end of the provider's fiscal year, an annual disclosure statement which shall contain the information required by this chapter for the initial disclosure statement. The annual disclosure statement shall also be accompanied by a narrative describing:

a. Any material differences between the pro forma ~~income statement~~ cash flow projection filed pursuant to this chapter as part of the most recent annual disclosure statement and the actual results of operations during the fiscal year, if the material differences substantially affect the financial safety or soundness of the community.

b. ~~Any material differences between the pro forma balance sheet and the actual results of operations during the fiscal year.~~

~~The annual disclosure statement shall also contain a~~ A revised pro forma ~~income statement~~ cash flow projection for the next fiscal year.

Sec. 11. Section 523D.5, subsection 1, paragraph f, Code Supplement 1991, is amended to read as follows:

f. If the new facility or proposed expansion offers a promise to provide nursing or health care services to residents in the future pursuant to contracts effective for the life of the resident or a period in excess of one year in consideration for an entrance fee, an actuarial forecast in a form satisfactory to the commissioner, which identifies the qualifications of the actuary or actuaries preparing the forecast.

Sec. 12. Section 523E.1, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

This section does not apply to payments for merchandise delivered to the purchaser. Delivery includes storage in a warehouse under the control of the seller or any other warehouse or storage facility approved by the commissioner when a receipt of ownership in the name

of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise unless this identification requirement with respect to bronze merchandise is waived by the commissioner by rule, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523E.2, subsection 1, are satisfied.

Sec. 13. Section 523E.20, Code Supplement 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 general fund of the state. In addition, on May 1 of 1994 and 1995, the commissioner, to the extent necessary to fund audits, investigations, and receiverships, shall assess establishment permit holders five dollars for each agreement reported on the establishment permit holder's annual report of sales executed during the preceding year, which shall be deposited in the insurance division regulatory fund. 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 general fund of the state. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit expenses, 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. 14. Section 566A.7, Code 1991, is amended to read as follows:

566A.7 COMMISSION OR BONUS UNLAWFUL.

It shall be unlawful for any organization subject to the provisions of this chapter to pay or offer to pay to, or for any person, firm or corporation to receive directly or indirectly a commission or bonus or rebate or other thing of value, for or in connection with the sale of any interment space, lot or part thereof, in any cemetery described in section 566A.1 of this chapter. The provisions of this section shall not apply to a person regularly employed and supervised by such organization or to a person, firm, corporation, or other entity licensed under chapter 523A or 523E that contracts with the cemetery to sell interment spaces or lots. The conduct of any person, firm, corporation, or other entity described in this section is the direct responsibility of the cemetery.

Sec. 15. Section 14 of this Act, being deemed of immediate importance, is effective upon enactment.

Approved April 14, 1992

CHAPTER 1079

HUMAN SERVICES — FIELD SERVICES ORGANIZATION

S.F. 2342

AN ACT establishing a department of human services' field services organizational structure and providing an effective date.

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

Section 1. NEW SECTION. 217.42 COUNTY CLUSTERS — OFFICES.

1. The organizational structure to deliver the department's field services shall be based upon county clusters. A county cluster shall consist of a single county, or a group of counties which have joined together to serve as a basis for providing field services to persons residing in the county or counties comprising the cluster. The clusters shall be those designated by the department effective March 1, 1992. If it is necessary for the department to significantly modify its field operations or the composition of a designated county cluster, the department shall consult with the affected counties prior to implementing such action. A county may join a different cluster if it is mutually agreeable with the department and it occurs at the beginning of a fiscal year. The county boards of supervisors in a cluster shall advise the department on the selection of the area administrator responsible for the county cluster.

2. The department shall maintain an office in each county. Based on the annual appropriations for field operations, the department shall strive to maintain a full-time presence in each county. If it is not possible to maintain a full-time presence in each county, the department shall provide staff based on its caseweight system to assure the provision of services. The department shall consult with the county boards of supervisors of those counties regarding staffing prior to any modification of office hours.

3. A county or group of counties may voluntarily enter into a chapter 28E agreement with the department to provide funding or staff persons to deliver field services in county cluster and county offices. The agreement shall cover the full fiscal year but may be revised by mutual consent.

Sec. 2. NEW SECTION. 217.43 COUNTY CLUSTER BOARDS.

1. A county cluster board shall be established in each cluster. The purpose of a cluster board is to improve communication and coordination between the department and the counties, advise the department on the placement of field service staff serving the cluster based on criteria of funded client caseweight, client need, utilization of existing space within each of the county offices, and effective service delivery. In addition, the board shall make recommendations to the county boards of supervisors concerning the equitable distribution of support costs of departmental staff.

2. Not more than five cluster board members shall be appointed for one-year terms by each of the county boards of supervisors of the counties comprising the county cluster. The following requirements apply to the appointments made by a county board of supervisors: the membership shall be appointed in accordance with section 69.16, relating to political affiliation, and section 69.16A, relating to gender balance; not more than three members shall be members of the board of supervisors; and appointments shall be made on the basis of interest in public affairs, good judgment, and knowledge and ability in the field of human services. Appointments shall be made a part of the regular proceedings of the board of supervisors and shall be filed with the county auditor and the county cluster administrator. A vacancy on the board shall be filled in the same manner as the original appointment. The boards of supervisors shall develop and agree to other organizational provisions involving the cluster board including reporting requirements.

3. The department shall determine the community in which the county office will be located. The county board of supervisors shall determine the location of the office space for the county office. The county board of supervisors shall make reasonable efforts to colocate

the office with other state and local governmental or private entity offices in order to maintain the offices in a cost-effective location that is convenient to the public.

Sec. 3. SUBCHAPTER CREATED. The Code editor shall codify sections 217.42 and 217.43, as created in this Act, as a subchapter of chapter 217, entitled "Field Services Organization".

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

Approved April 14, 1992

CHAPTER 1080

AGRICULTURAL LAND TENURE STUDIES

H.F. 2209

AN ACT relating to agricultural land tenure studies.

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

Section 1. Section 266.39A, Code 1991, is amended to read as follows:

266.39A AGRICULTURAL RESEARCH.

Iowa state university of science and technology shall conduct continuing agricultural research to provide information about environmental and social impacts of agricultural research on the small or family farm and information about population trends and impact of the trends on Iowa agriculture, in addition to research that may include the categories specified in section 266.39B, subsection 2. The research shall include an agricultural land tenure study conducted every five years to determine the ownership of farmland, ~~by county,~~ and to analyze ~~the~~ ownership trends, using the categories of land ownership defined in chapter 172C. The study shall be conducted on the basis of regions established by the university. A region shall be composed of not more than twenty-three contiguous counties.

Approved April 14, 1992

CHAPTER 1081

REGULATION OF MILK

H.F. 2249

AN ACT relating to the regulation of milk and increasing certain fees.

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

Section 1. Section 194.3, subsection 2, Code 1991, is amended to read as follows:

2. "Milk used for manufacturing purposes" means milk or milk products manufactured into butter, cheese, ungraded dry milk, or other dairy products except milk and milk products as defined in ~~chapter 190~~ the Grade "A" Pasteurized Milk Ordinance provided in section 192.102.

Sec. 2. Section 194.4, unnumbered paragraph 3, Code 1991, is amended to read as follows:

At least ~~four times in every six-month period~~ once within each thirty days a test shall be made of ~~each~~ a producer's milk to determine the existence of evidence of production from mastitic cows. The secretary shall determine and ~~promulgate~~ adopt the standards and methods of testing the milk for this purpose ~~being~~. The secretary shall be guided by recommendations or regulations established by federal agencies regulating ~~in~~ this field.

Sec. 3. Section 194.6, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For the purpose of quality improvement and payment, the following classifications of milk for bacterial estimate are applicable:

Bacterial Estimate Classification	Standard Plate Count or Equivalent
Class 1	Not over ~~300,000~~ 100,000 per Milliliter
Class 2	Not over ~~1,000,000~~ 300,000 per Milliliter
Undergrade	Over ~~1,000,000~~ 300,000 per Milliliter

Sec. 4. Section 194.8, Code 1991, is amended to read as follows:

194.8 UNACCEPTABLE MILK.

Milk acceptable from the standpoint of organoleptic examination, containing no excessive extraneous matter and classified in excess of ~~one million~~ three hundred thousand for bacterial estimate, may be used in the processing and manufacturing of dairy products for human consumption for a period of seven consecutive days.

After a week another quality test must be ~~run~~ performed on ~~this~~ the producer's milk~~, and if the milk has not improved to class 2 or better, similar tests must be made at least one day per week for three successive weeks. If after the fourth weekly test the milk from the producer has not improved to class 2 or better, no plant shall accept milk from this producer for the manufacture of dairy products for human consumption until the secretary has authorized the producer's reinstatement. Any further acceptance of milk from this producer shall be on the basis of testing the first shipment for extraneous matter and bacterial estimate to determine if the milk is class 2 or better~~. If two of the last four consecutive bacterial counts exceed the class 2 standard, the department shall deliver, or require the purchaser to deliver, a written notice to the producer. An additional sample shall be taken at least three days after taking the previous sample, but within twenty-one days following delivery of the notice. The department shall immediately suspend the permit of the producer or immediately institute legal proceedings to restrain production if the class 2 standard is violated according to three of the last five bacterial counts.

Sec. 5. Section 194.9, Code 1991, is amended to read as follows:

194.9 UNLAWFUL MILK.

Milk, which from the standpoint of organoleptic examination is not acceptable, or which contains excessive extraneous matter or which by ~~four weekly~~ three out of five bacterial estimate tests is classified in excess of ~~one million~~ three hundred thousand, or which contains material evidencing production from a mastitic cow, or which contains chemicals, medicines, or radioactive agents deleterious to health, is unlawful for the manufacture of dairy products for human consumption.

Sec. 6. Section 194.12, Code 1991, is amended to read as follows:

194.12 MILK GRADER.

~~Every~~ A creamery, cheese factory ~~and~~, or milk processing plant must employ at least one person who is ~~duly~~ licensed as a grader of milk. A person acting as a milk hauler or a field representative shall also be licensed as a milk grader.

Sec. 7. Section 194.14, Code 1991, is amended to read as follows:

194.14 LICENSE TERM — FEES.

A milk grader's license, unless sooner revoked, is valid until July 1 after date of issuance. The maximum fee for each license is ~~three~~ ten dollars, which shall be paid before the license is issued. Fees collected under this section shall be deposited in the milk fund established in section ~~192.47~~ 192.111.

Sec. 8. Section 194.20, Code Supplement 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 hundred weight. The fee is payable monthly to the department at a time prescribed by the department. ~~A fee imposed by this section shall not be paid on milk by a person administering the inspection pursuant to an inspection contract as provided in section 192.108.~~ Fees collected under this section shall be deposited in the milk fund established in section 192.111.

Approved April 14, 1992

CHAPTER 1082

SCHOOL BUS INSPECTIONS

H.F. 2298

AN ACT relating to school bus inspections and providing for repeal of the Act.

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

Section 1. Section 321.374, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of education shall perform annual safety inspections of school buses manufactured prior to April 1, 1977. A school bus manufactured prior to April 1, 1977, which has been issued an inspection seal of approval under this section shall be used for standby or emergency purposes only. The number of school buses which were manufactured prior to 1977 in use as allowed under this section shall be reduced by fifty percent, rounded up to the nearest whole school bus, by June 30, 1993, and all such school buses shall be eliminated for use by June 30, 1994.

Sec. 2. The portion of section 321.374 enacted in this Act is repealed effective June 30, 1994.

Approved April 14, 1992

CHAPTER 1083

CHILD DAY CARE

H.F. 2322

AN ACT relating to child day care and similar services concerning the state day care advisory committee and statewide resource and referral services.

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

Section 1. Section 237A.1, subsection 14, Code Supplement 1991, is amended to read as follows:

14. "State child day care advisory ~~committee~~ council" means the state child day care advisory ~~committee~~ council established pursuant to sections 237A.21 and 237A.22.

Sec. 2. Section 237A.12, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

Rules relating to fire safety shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child day care advisory ~~committee~~ council. The state fire marshal shall inspect the facilities.

Sec. 3. Section 237A.21, Code 1991, is amended to read as follows:

237A.21 STATE CHILD DAY CARE ADVISORY ~~COMMITTEE~~ COUNCIL.

1. ~~There is established a~~ A state child day care advisory ~~committee to consist~~ council is established consisting of ~~eleven~~ not more than thirty-five members from urban and rural areas across the state. The membership shall include, but is not limited to, all of the following persons or representatives with an interest in child day care: a licensed center, a registered family day care home from a county with a population of less than twenty-two thousand, an unregistered family day care home, a parent of a child in child day care, appropriate governmental agencies, and other members as deemed necessary by the director. The ~~membership consists of three interested citizens, three parents of children served and one provider of preschool, one provider of for-profit day care, one provider of nonprofit day care, one provider of federal head start programs, and one provider of family day care~~ members are eligible for reimbursement of their actual and necessary expenses while engaged in performance of their official duties.

2. Members shall be appointed by the director from a list of names submitted by a nominating committee to consist of one member of the state ~~day care advisory committee~~ council established pursuant to this section, one member of the department's child day care ~~unit of the department~~ staff, three consumers of child day care, and one member of a professional child day care organization. Two names shall be submitted for each appointment. Members shall be appointed for terms of three years but no member shall be appointed to more than two consecutive terms. The state ~~day care advisory committee~~ council shall ~~write~~ develop its own operational policies ~~with~~ which are subject to departmental approval.

3. The membership of the council shall be appointed in a manner so as to provide equitable representation of persons with an interest in child day care and shall include all of the following:

a. Two parents of a child served by a family or group day care home.

b. Two parents of a child served by a licensed center.

c. Two not-for-profit child day care providers.

d. Two for profit child day care providers.

e. Two family day care home providers.

f. Two group day care home providers.

g. One child day care resource and referral service grantee.

h. One nongovernmental child advocacy group representative.

i. One designee of the department of human services or the Iowa department of public health.

j. One designee of the department of education.

k. One head start program provider.

l. Two legislators appointed in a manner so that both major political parties are represented.

Sec. 4. Section 237A.22, Code 1991, is amended to read as follows:

237A.22 DUTIES OF STATE CHILD DAY CARE ADVISORY ~~COMMITTEE~~ COUNCIL.

The state child day care advisory ~~committee~~ council shall do all of the following:

~~1. Consult with and make recommendations to the department in the promulgation of rules under this chapter.~~

~~2. Recommend improvements in the licensing and registration of facilities.~~

~~3. Advise the department on licensing policy, planning, and priorities.~~

1. Consult with and make recommendations to the department concerning policy issues relating to child day care.

2. Advise the department concerning services relating to child day care, including but not limited to any of the following:

a. Resource and referral services.

b. Provider training.

c. Quality improvement.

d. Public-private partnerships.

e. Standards review and development.

3. Assist the department in developing an implementation plan to provide seamless service to recipients of public assistance which includes child day care services. For the purposes of this subsection, "seamless service" means coordination, where possible, of the federal and state requirements which apply to child day care.

4. Advise and provide technical services to the director of the department of education or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

Sec. 5. Section 237A.26, Code 1991, is amended to read as follows:

237A.26 STATEWIDE RESOURCE AND REFERRAL SERVICES.

1. The department shall administer a statewide grant program for child day care resource and referral services. Grants shall only be awarded to community-based nonprofit incorporated agencies and public agencies. Grants shall be awarded to facilitate the establishment of regional resource and referral agencies throughout the state, based upon the distribution of the child population in the state.

2. The department shall provide oversight of and annually evaluate an agency which is awarded a grant to provide resource and referral services to a region.

~~3. The department shall provide technical assistance to child day care facilities in meeting their insurance coverage needs at a reasonable cost.~~

~~4. In consultation with resource and referral agencies, the department shall provide opportunities to child day care facilities for group purchasing of equipment and supplies.~~

~~5~~ 3. An agency which receives a grant to provide resource and referral services shall ~~be encouraged to~~ perform both of the following functions:

a. Organize assistance to family and group day care homes ~~in a three tier approach which concentrates efforts on new providers, moderately experienced providers, and highly experienced providers as three distinct groups~~ utilizing training levels based upon the homes' degrees of experience and interest.

b. Operate in partnership with both public and private interests and coordinate resource and referral services with existing community services.

~~6~~ 4. An agency, to be eligible to receive a grant to provide resource and referral services, must match the grant with financial resources equal to at least twenty-five percent of the amount of the grant. The financial resources may include a private donation, an in-kind contribution, or a public funding source other than a separate state grant for child care service improvement.

~~7~~ 5. An agency, to be eligible to receive a grant to provide resource and referral services, must have a board of directors if the agency is an incorporated nonprofit agency or must have

an advisory board if the agency is a public agency, to oversee the provision of resource and referral services. The board shall include providers, consumers, and other persons interested in the provision or delivery of child day care services.

8 6. An agency which receives a child care resource and referral grant ~~may~~ shall provide all of the following services:

a. Assist families in selecting quality child care. The agency must provide referrals to registered and licensed child day care facilities, and to persons providing care, supervision, or guidance of a child which is not defined as child day care under section 237A.1 and may provide referrals to unregistered providers.

b. Assist child day care providers in adopting appropriate program and business practices to provide quality child care services.

c. Provide information to the public regarding the availability of child day care services in the communities within the agency's region.

d. Actively encourage the development of new and expansion of existing child day care facilities in response to identified community needs.

e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of technical assistance to develop employer-supported child day care programs ~~operated on or near the work site~~.

f. Refer eligible child day care facilities to the federal child care food programs.

g. Loan toys, other equipment, and resource materials to child day care facilities.

~~h. Inform child day care facilities regarding technical assistance available from the department in obtaining insurance coverage at a reasonable cost.~~

~~i. Assist the department in providing child day care facilities with opportunities for group purchasing of equipment and supplies.~~

j h. Administer funding designated within the grant to provide a substitute caregiver program for registered family and group day care homes to provide substitute care in a home when the home provider is ill, on vacation, receiving training, or is otherwise unable to provide the care.

7. The department may contract with an agency receiving a child day care resource and referral grant to perform any of the following functions relating to publicly funded services providing care, supervision, or guidance of a child:

a. Determine an individual's eligibility for the services in accordance with income requirements.

b. Administer a voucher, certificate, or other system for reimbursing an eligible provider of the services.

Approved April 14, 1992

CHAPTER 1084

CIVIL PENALTIES FOR UTILITY VIOLATIONS

H.F. 2326

AN ACT relating to the civil penalties established for violation of utility board statutes, regulations, or orders.

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

Section 1. Section 476.51, Code Supplement 1991, is amended to read as follows:

476.51 CIVIL PENALTY.

A public utility which, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

A public utility which willfully, after written notice by the board of a specific violation, violates ~~a~~ the same provision of this chapter, ~~a~~ the same rule adopted by the board, or ~~a~~ the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not ~~more~~ less than one ~~hundred~~ thousand dollars nor more than ten thousand dollars per violation ~~or one thousand dollars per day of a continuing violation, whichever is greater~~. For the purposes of this section, "willful" means knowing and deliberate, with a specific intent to violate.

Each violation is a separate offense. In the case of a continuing violation, each day a violation continues, after the time specified for compliance in the written notice by the board, is a separate and distinct offense. Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the appropriateness of the penalty in relation to the size of the public utility, the gravity of the violation, and the good faith of the public utility in attempting to achieve compliance following notification of a violation, and any other relevant factors.

The written notice given by the board to a public utility under this section shall specify an appropriate time for compliance.

PARAGRAPH DIVIDED. 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 energy research and development fund and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the division of community action agencies of the department of human rights. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

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.

Approved April 14, 1992

CHAPTER 1085

NOTICE RELATING TO PROPERTY HELD BY BANKS OR FINANCIAL ORGANIZATIONS

H.F. 2403

AN ACT relating to the notice to be given to owners of certain property held by banking or other financial organizations.

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

Section 1. Section 556.2, subsection 1, paragraph e, Code Supplement 1991, is amended to read as follows:

e. Been sent any written correspondence, notice, or information by first class mail regarding the deposit by the banking organization on or after ~~July 1, 1985~~ July 1, 1992, if the correspondence, notice, or information requests an address correction on the face of the envelope, and is not returned to the bank organization for nondelivery, and if the bank organization maintains a record of all returned mail.

Sec. 2. Section 556.2, subsection 2, paragraph e, Code Supplement 1991, is amended to read as follows:

e. Been sent any written correspondence, notice, or information by first class mail regarding the funds or deposits by the financial organization on or after ~~July 1, 1985~~ July 1, 1992, if the correspondence, notice, or information requests an address correction on the face of the envelope, and is not returned to the financial organization for nondelivery, and if the financial organization maintains a record of all returned mail.

Sec. 3. Section 556.2, subsection 3, Code Supplement 1991, is amended to read as follows:

3. Any property described in subsections 1 and 2 which is automatically renewable is matured for purposes of subsections 1 and 2 upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time provided for which consent was given. However, consent to renewal is deemed to have been given if the owner is sent written notice of the renewal by first class mail which requests an address correction on the face of the envelope, the notice is not returned for nondelivery, and the banking or financial organization maintains a record of all returned mail. If at the time period for delivery in section 556.13, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time period for delivery is extended until the time when no penalty or forfeiture would result.

Sec. 4. Section 556.2, subsection 6, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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~~ e" of subsection 1 or "a" through "~~d~~ e" of subsection 2 have occurred during the preceding three calendar years, a notice by certified mail stating in substance the following:

Approved April 14, 1992

CHAPTER 1086

SEXUAL HARASSMENT

S.F. 316

AN ACT to prohibit sexual harassment of state employees, of persons in the care or custody of a state employee or institution, and of persons attending a state educational institution.

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

Section 1. Section 2.11, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Each house of the general assembly shall implement the sexual harassment prohibitions and grievance, violation, and disposition procedures of section 19B.12 for its respective full-time, part-time, and temporary employees, including, but not limited to, interns, clerks, and pages. Each house shall develop and cause to be distributed, at the time of hiring or orientation, a guide that describes for its employees the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures. This section does not supersede the remedies provided under chapter 601A.

Sec. 2. Section 2.42, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 18. To implement the sexual harassment prohibitions and grievance, violation, and disposition procedures of section 19B.12 with respect to full-time, part-time, and temporary central legislative staff agency employees and to develop and distribute, at the time of hiring or orientation, a guide that describes for its employees the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures. This subsection does not supersede the remedies provided under chapter 601A.

Sec. 3. NEW SECTION. 19B.12 SEXUAL HARASSMENT PROHIBITED.

A state employee shall not sexually harass another state employee, a person in the care or custody of the state employee or a state institution, or a person attending a state educational institution. This section applies to full-time, part-time, or temporary employees, to inpatients and outpatients, and to full-time or part-time students.

1. An employee in a supervisory position shall not threaten or insinuate, explicitly or implicitly, that another employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, salary advancement, job assignments, or other terms, conditions, or privileges of employment.

2. An employee shall not discriminate against another state employee, a person in the care or custody of the employee or a state institution, or a person attending a state educational institution based on sex or create an intimidating, hostile, or offensive working environment in a state work, educational, or correctional situation.

3. As used in this section, "sexual harassment" means persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person's care, rehabilitation, education, or training.

"Sexual harassment" may include, but is not limited to, the following:

a. Unsolicited sexual advances by a person toward another person who has clearly communicated the other person's desire not to be the subject of those advances.

b. Sexual advances or propositions made by a person having superior authority toward another person within the workplace or institution.

c. Instances of offensive sexual remarks or speech or graphic sexual displays directed at a person in the workplace or institution, who has clearly communicated the person's objection

to that conduct, and where the person is not free to avoid that conduct due to the requirements of the employment or the confines or operations of the institution.

d. Dress requirements that bear no relation to the person's employment responsibilities or institutional status.

4. The department of personnel for all state agencies, and the state board of regents for its institutions, shall adopt rules and appropriate internal, confidential grievance procedures to implement this section, and shall adopt procedures for determining violations of this section and for ordering appropriate dispositions that may include, but are not limited to, discharge, suspension, or reduction in rank or grade as defined in section 19A.9, subsection 16.

5. The department of personnel shall develop for all state agencies, and all state agencies shall distribute at the time of hiring or orientation, a guide for employees that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

6. The state board of regents shall develop, and direct the institutions under its control to distribute at the time of hiring, registration, admission, or orientation, a guide for employees, students, and patients that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

7. This section does not supersede a provision of a collective bargaining agreement negotiated under chapter 20, or the grievance procedures provisions of chapter 20.

8. This section does not supersede the remedies provided under chapter 601A.

Sec. 4. Section 602.1401, subsection 1, Code Supplement 1991, is amended to read as follows:

1. The supreme court shall establish, and may amend, a personnel system and a pay plan for court employees. The personnel system shall include a designation by position title, classification, and function of each position or class of positions within the department. Reasonable efforts shall be made to accommodate the individual staffing and management practices of the respective clerks of the district court. The personnel system, in the employment of court employees, shall not discriminate on the basis of race, creed, color, sex, national origin, religion, physical disability, or political party preference. The supreme court, in establishing the personnel system, shall implement the comparable worth directives issued by the state court administrator under section 602.1204, subsection 2. The personnel system shall include the prohibitions against sexual harassment of full-time, part-time, and temporary employees set out in section 19B.12, and shall include a grievance procedure for discriminatory harassment. The personnel system shall develop and distribute at the time of hiring or orientation, a guide that describes for employees the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures. This subsection does not supersede the remedies provided under chapter 601A.

Approved April 15, 1992

CHAPTER 1087

AFFORDABLE HEATING PROGRAM

S.F. 2005

AN ACT relating to the Iowa affordable heating program and providing for an effective date.

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

Section 1. Section 601K.103, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. Meet the income guidelines established pursuant to the federal low-income home energy assistance program, with income at or below one hundred ten percent of the federal poverty income guidelines established by the office of management and budget. The division may adjust the income threshold by rule as necessitated by budgetary restrictions.

Sec. 2. Section 601K.103, subsection 3, paragraph a, subparagraph (1), Code 1991, is amended to read as follows:

(1) To be eligible, an applicant must also ~~participate~~ apply and be eligible for participation in the low-income home energy assistance program. A participant's income shall be determined as the amount verified on a low-income home energy assistance program application.

Sec. 3. Section 601K.103, subsection 3, paragraph a, subparagraph (2), subparagraph subdivision (b), Code 1991, is amended to read as follows:

(b) Annual unreimbursed medical expenses, not to exceed two thousand four hundred dollars.

Sec. 4. Section 601K.103, subsection 3, paragraph a, subparagraph (2), Code 1991, is amended by adding the following new subparagraph subdivision:

NEW SUBPARAGRAPH SUBDIVISION. (e) Annual child care costs incurred by a participant due to employment or participation in an academic or job-training program.

Sec. 5. Section 601K.103, subsection 3, paragraph c, subparagraph (2), Code 1991, is amended to read as follows:

(2) Subtracting from the figure determined under subparagraph "b" the federal low-income home energy assistance program ~~grants for which the participant is eligible~~ grant, if a grant is received.

Sec. 6. Section 601K.103, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Any moneys appropriated for the Iowa affordable heating program which are not expended by April 30 of each fiscal year shall be used to fund the low-income energy assistance program.

Sec. 7. 1990 Iowa Acts, chapter 1242, section 7, is amended to read as follows:

SEC. 7. The provisions of 1990 Iowa Acts, House File 2294, creating the affordable heating program advisory council, are repealed by July 1, ~~1992~~ 1993.

Sec. 8. Section 7 of this Act takes effect June 30, 1992.

Approved April 15, 1992

CHAPTER 1088

EXEMPTION FROM PHYSICAL EDUCATION REQUIREMENTS
S.F. 2110

AN ACT exempting twelfth grade students from physical education requirements under certain conditions.

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

Section 1. Section 256.11, subsection 5, paragraph g, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

All students physically able shall be required to participate in physical education activities during each semester they are enrolled in school except as otherwise provided in this paragraph. A minimum of one-eighth unit each semester is required. A twelfth grade student who meets the requirements of this paragraph may be excused from the physical education requirement by the principal of the school in which the student is enrolled if the parent or guardian of the student requests in writing that the student be excused from the physical education requirement. ~~A student who wishes to be excused from the physical education requirement must be enrolled in a cooperative or work-study program or other educational program authorized by the school which requires the student to leave the school premises for specified periods of time during the school day or be seeking to be excused in order to enroll in academic courses not otherwise available to the student.~~ A student who wishes to be excused from the physical education requirement must be seeking to be excused in order to enroll in academic courses not otherwise available to the student, or be enrolled or participating in one of the following:

(1) A cooperative or work-study program or other educational program authorized by the school which requires the student to leave the school premises for specified periods of time during the school day.

(2) An organized and supervised athletic program which requires at least as much participation per week as one-eighth unit of physical education.

Approved April 15, 1992

CHAPTER 1089

ECONOMIC DEVELOPMENT DEPARTMENT – CREDIT CARDS – COMMUNITY BUILDER PROGRAM
S.F. 2217

AN ACT relating to distribution of funds within, payments made by, and payments made to the department of economic development.

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

Section 1. Section 15.108, subsection 9, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. At the director's discretion, accept payment by credit card of any fees, interest, penalties, subscriptions, registrations, purchases, or other payments, or any portion of such payments, which are due or collected by the department. The department may adjust the amount of the payment to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.

Sec. 2. Section 15.308, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The federal home investment partnerships program of the Cranston-Gonzalez National Affordable Housing Act of 1990, Pub. L. No. 101-625.

Approved April 15, 1992

CHAPTER 1090

TITLE GUARANTY PROGRAM

S.F. 2235

AN ACT relating to the requirements of an abstractor participating in the title guaranty program.

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

Section 1. Section 220.91, subsection 5, Code 1991, is amended to read as follows:

5. The participation of abstractors and attorneys shall be in accordance with rules established by the division and adopted by the authority pursuant to chapter 17A. Each participant shall at all times maintain liability coverage in amounts approved by the division. Upon payment of a claim by the division, the division shall be subrogated to the rights of the claimant against all persons relating to the claim.

Additionally, each participating abstractor is required to own or lease, and maintain and use in the preparation of abstracts, an up-to-date abstract title plant including tract indices for real estate for each county in which abstracts are prepared for real property titles guaranteed by the division. The tract indices shall contain a reference to all instruments affecting the real estate which are recorded in the office of the county recorder, and shall commence not less than forty years prior to the date the abstractor commences participation in the title guaranty program. However, a participating attorney providing abstract services continuously from November 12, 1986, to the date of application, either personally or through persons under the attorney's supervision and control is exempt from the requirements of this paragraph.

The division may waive the requirements of this subsection pursuant to an application of an attorney or abstractor which shows that the requirements impose a hardship to the attorney or abstractor and that the waiver clearly is in the public interest or is absolutely necessary to ensure availability of title guaranties throughout the state.

Approved April 15, 1992

CHAPTER 1091

UNIFORM COMMERCIAL CODE – TERMINATION STATEMENTS
S.F. 2255

AN ACT relating to the fee charged for filing termination of financing statements under the uniform commercial code.

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

Section 1. Section 554.9404, subsection 3, Code Supplement 1991, is amended to read as follows:

3. There shall be ~~a ten dollar~~ no fee for filing a termination statement.

Approved April 15, 1992

CHAPTER 1092

SHERIFF'S DUTY TO LEVY – APPLICABILITY TO GARNISHMENTS
H.F. 51

AN ACT relating to the applicability to garnishments of the sheriff's duty to levy.

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

Section 1. Section 626.50, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. This section is not applicable to garnishment proceedings.

Approved April 15, 1992

CHAPTER 1093

JURY SOURCE LISTS
H.F. 2185

AN ACT relating to jury source lists.

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

Section 1. Section 607A.22, Code 1991, is amended to read as follows:

607A.22 USE OF SOURCE LISTS – INFORMATION PROVIDED.

The appointive jury commission or the jury manager shall use ~~all~~ both of the following source lists in preparing grand and petit jury lists:

1. The current voter registration list.
2. The current motor vehicle operators list.
3. ~~Any~~ The appointive jury commission or the jury manager may use any other current comprehensive list of persons residing in the county, including but not limited to the lists of public utility customers, which the appointive jury commission or jury manager determines are useable for the purpose of a juror source list.

The applicable state and local government officials shall furnish, upon request, the appointive jury commission or jury manager with copies of lists necessary for the formulation of source lists at no cost to the commission, manager, or county.

The jury manager or jury commission may request a consolidated source list. A consolidated source list contains all the names and addresses found in either the voter registration list or the motor vehicle operators list, but does not duplicate an individual's name within the consolidated list. State officials shall cooperate with one another to prepare consolidated lists. The jury manager or jury commission may further request that only a randomly chosen portion of the consolidated list be prepared which may consist of either a certain number of names or a certain percentage of all the names in the consolidated list, as specified by the jury manager or jury commission.

Approved April 15, 1992

CHAPTER 1094

PET SHOPS

H.F. 2241

AN ACT relating to the regulation of pet shops.

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

Section 1. Section 162.2, subsection 4, Code 1991, is amended to read as follows:

4. "Pet shop" means an establishment where ~~any~~ a dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale. However, a pet shop does not include an establishment if one of the following applies:

a. The establishment receives less than five hundred dollars from the sale or exchange of vertebrate animals during a twelve-month period.

b. The establishment sells or exchanges less than six animals during a twelve-month period.

Approved April 15, 1992

CHAPTER 1095

PURCHASE OF RECYCLED LUBRICATING AND INDUSTRIAL OILS

H.F. 2275

AN ACT relating to the establishment of a preference for the purchase of recycled lubricating and industrial oils by the department of general services, the state board of regents, the state department of transportation, and the department for the blind.

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

Section 1. NEW SECTION. 18.22 LUBRICATION OIL AND INDUSTRIAL OIL PURCHASES.

The department shall do all of the following:

1. Revise its procedures and specifications for the purchase of lubricating oil and industrial oil to eliminate exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

2. Require that purchases of lubricating oil and industrial oil be made from the seller whose oil product contains the greatest percentage of recycled oil, unless one of the following circumstances regarding a specific oil product containing recycled oil exists:

a. The product is not available within a reasonable period of time or in quantities necessary or in container sizes appropriate to meet a state agency's needs.

b. The product does not meet the performance requirements or standards recommended by the equipment or vehicle manufacturer, including any warranty requirements.

c. The product is available only at a cost greater than one hundred five percent of the cost of comparable virgin oil products.

3. Establish and maintain a preference program for procuring oils containing the maximum content of recycled oil. The preference program shall include but is not limited to all of the following:

a. The inclusion of the preferences for recycled oil products in publications used to solicit bids from suppliers.

b. The provision of a description of the recycled oil procurement program at bidders' conferences.

c. Discussion of the preference program in lubricating oil and industrial oil procurement solicitations or invitations to bid.

d. Efforts to inform industry trade associations about the preference program.

Sec. 2. Section 262.9, subsection 5, Code Supplement 1991, is amended to read as follows:

5. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section 18.18; establish a wastepaper recycling program by January 1, 1990, for all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section 18.20; comply with, and the institutions governed by the board shall also comply with the recycling goal, recycling schedule, and ultimate termination of purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16; ~~and~~ shall, in accordance with the requirements of section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding procurement specifications; and shall comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 18.22.

Sec. 3. Section 307.21, subsection 4, paragraph b, Code Supplement 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 18.22.

Sec. 4. Section 601L.3, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 18.22.

Approved April 15, 1992

CHAPTER 1096

PERSONNEL INTERCHANGE PROGRAM

H.F. 2285

AN ACT relating to the permanent appointment of employees assigned through a personnel interchange program.

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

Section 1. Section 28D.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The period of individual assignment or detail may be terminated if the receiving agency offers a permanent appointment to the employee and both the sending and receiving agencies agree.

Sec. 2. Section 28D.6, subsection 2, Code 1991, is amended to read as follows:

2. Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency. However, if a permanent appointment made by a receiving agency pursuant to section 28D.3, subsection 2A, is subject to chapter 400, section 400.7 shall govern the appointment.

Approved April 15, 1992

CHAPTER 1097

PUBLIC HEALTH DEPARTMENT – MISCELLANEOUS PROVISIONS

H.F. 2325

AN ACT relating to the duties of the Iowa department of public health regarding referrals to mental health institutions for persons requiring substance abuse treatment, the time frames and fees relating to birth certificates, the persons authorized to certify the facts of a birth and provide medical information regarding the birth and the time frame for such certification, certification of freedom from infectious or contagious diseases for cosmetologists and barbers, and voluntary certification of ophthalmic dispensers.

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

Section 1. Section 125.43A, Code 1991, is amended to read as follows:

125.43A PRESCREENING – EXCEPTIONS.

Except in cases of medical emergency or court ordered admissions, a person shall be admitted to a state mental health institute for substance abuse treatment only after a preliminary intake and assessment by a department-licensed treatment facility or a hospital providing care or treatment for substance abusers licensed under chapter 135B and accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the commission, or ~~its~~ by a designee of a department-licensed treatment facility or a hospital other than a state mental health institute, ~~has confirmed~~ which confirms that the admission is appropriate to the person's substance abuse service needs. A county board of supervisors may seek an admission of a patient to a state mental health institute who has not been confirmed for appropriate admission and the county shall be responsible for one hundred percent of the cost of treatment and services of the patient.

Sec. 2. Section 144.13, subsections 1 and 2, Code 1991, are amended to read as follows:

1. A certificate of birth for each live birth which occurs in this state shall be filed with the county registrar of the county in which the birth occurs within ~~five~~ ten days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this chapter. However, when a birth occurs in a moving conveyance, a birth certificate shall be filed in the county in which the child was first removed from the conveyance.

2. When a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file the certificate with the county registrar. The physician in attendance or the person in charge of the institution or the person's designee shall certify to the facts of birth and provide the medical information required by the certificate within ~~three~~ six days after the birth.

Sec. 3. Section 144.13A, Code Supplement 1991, is amended to read as follows:

144.13A REGISTRATION FEE.

The county registrar 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 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. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Sec. 4. Section 147.76, Code 1991, is amended to read as follows:

147.76 RULES ADOPTED.

The examining boards for the various professions shall adopt all necessary and proper rules to implement and interpret this chapter and chapters 147A through 158, except ~~chapters~~ chapter 148D ~~and 153A~~.

Sec. 5. Section 157.3, subsection 1, paragraph a, Code 1991, is amended by striking the paragraph.

Sec. 6. Section 158.3, subsection 1, paragraph a, Code 1991, is amended by striking the paragraph.

Sec. 7. Chapter 153A, Code 1991, is repealed.

Approved April 15, 1992

CHAPTER 1098

LABOR SERVICES DIVISION – MISCELLANEOUS PROVISIONS

H.F. 2390

AN ACT relating to the recovery of interest, court costs, and attorney fees by the labor commissioner, occupational safety and health penalties, elevator inspections, boiler inspection, amusement park permit and inspection fees, 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 88.14, subsections 1, 3, 4, and 9, Code Supplement 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 adopted or issued pursuant to section 88.5, or ~~regulations prescribed~~ rules adopted pursuant to this chapter, may be assessed a civil penalty of ~~not less than five thousand dollars and~~ not more than seventy thousand dollars for each violation, but not less than five thousand dollars for each willful violation.

3. NONSERIOUS VIOLATIONS. Any employer who has received a citation for a 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 rules prescribed pursuant to this chapter and ~~such~~ the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ~~one~~ seven thousand dollars for each ~~such~~ violation.

4. FAILURE TO CORRECT. Any employer who fails to correct a violation for which a citation has been issued under section 88.7, subsection 1, within the period permitted for its correction ~~(which period shall not begin to run until the date of the final order of the appeal board~~

~~in the case of any review proceeding under section 88.8 initiated by the employer in good faith and not solely for delay or avoidance of penalties~~), may be assessed a civil penalty of not more than ~~one~~ seven thousand dollars for each day during which ~~such~~ the failure or violation continues. The period for correction shall not begin until the date of the final order of the appeal board of any review proceeding under section 88.8 initiated by the employer in good faith and not solely for delay or avoidance of penalties.

9. VIOLATION OF POSTING REQUIREMENTS. Any employer who violates any of the posting, reporting, or ~~record-keeping~~ recordkeeping requirements ~~as prescribed~~ under ~~the provisions of~~ this chapter, shall be assessed a civil penalty of up to ~~one~~ seven thousand dollars for each violation.

Sec. 2. Section 88A.4, Code 1991, is amended to read as follows:

88A.4 PERMIT AND INSPECTION FEES.

Annual inspection fees under this chapter shall be as follows:

1. Permit fees.

a. One through ten rides, or devices or concessions, ~~ten~~ twenty dollars.

b. Eleven or more rides, or devices or concessions, ~~twenty~~ thirty dollars.

2. Mechanical and electrical inspection fees for amusement rides and devices.

a. For rides which are designed for seventy-five pounds or less per passenger unit, ~~fifty~~ sixty dollars for each inspection.

b. For rides which are designed for seventy-five pounds or more and for which the manufacturer's recommended assembly time is less than forty work hours, ~~seventy-five~~ ninety dollars for each inspection.

c. For rides for which the manufacturer's recommended assembly time is forty work hours or more, one hundred twenty dollars for each inspection.

3. Electrical inspection of concession booths, and amusement devices fees, ~~twenty-five~~ thirty-five dollars each.

4. Special inspectors authorization fee, ~~two~~ twenty-five dollars each. The special inspectors authorization shall allow a person to perform inspections only on rides, devices, and concession booths of an operator who makes the request for the special inspectors authorization. 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 89.2, subsection 4, Code 1991, is amended to read as follows:

4. "Place of public assembly" means any building or portion of a building designed, intended, and used for occupation by persons for purposes of entertainment, instruction, or amusement and shall include theaters, motion picture theaters, hospitals, places of worship, schools, colleges, and institutions of health and custodial care, but does not include eating and drinking establishments.

Sec. 4. Section 89.4, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Hot water heating boilers used for heating pools or spas where burner input is no greater than eighteen thousand seven hundred seventy-two British thermal units per hour.

Sec. 5. Section 89A.6, subsection 5, Code 1991, is amended to read as follows:

5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, on a form approved by and containing all information required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the owner of the facility has complied with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the facility has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 6. Section 91.4, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 8. Except as provided in chapter 91A, the commissioner may recover interest, court costs, and any attorney fees incurred in recovering any amounts due. The recovery shall only take place after final agency action is taken under chapter 17A, or upon judicial review, after final disposition of the case by the court. Attorney fees recovered in an action brought under the jurisdiction of the commissioner shall be deposited in the general fund of the state. The commissioner is exempt from the payment of any filing fee or other court costs including but not limited to fees paid to county sheriffs.

NEW SUBSECTION. 9. The commissioner may establish rules pursuant to chapter 17A to assess and collect interest on fees, penalties, and other amounts due the division.

Sec. 7. The portion of section 1 of this Act which amends section 88.14, subsection 1, applies retroactively to July 1, 1991, for cases still pending.

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

Approved April 17, 1992

CHAPTER 1099

RENEWABLE FUEL — ETHANOL PRODUCTION

H.F. 2456

AN ACT relating to the production of ethanol, providing for the appropriation and allocation of moneys, providing applicability and effective dates, and providing for the repeal and recodification of provisions of the Act.

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

Section 1. Section 159A.5, subsection 2, Code Supplement 1991, is amended to read as follows:

2. The committee shall monitor conditions, practices, policies, programs, and procedures affecting the production and consumption of renewable ~~fuels~~ fuel.

Sec. 2. Section 159A.5, subsection 5, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Review the distribution of ethanol production incentive payments to qualified persons, pursuant to section 159A.8.

Sec. 3. Section 159A.6, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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~~ committee and approved by the office.

Sec. 4. Section 159A.7, Code Supplement 1991, is amended to read as follows:

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. Moneys in the fund shall be deposited into the renewable fuel activities account or the ethanol production incentive account. 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.

2. Moneys in the ~~fund~~ renewable fuel activities account 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 shall be deposited in the ethanol production incentive account as provided in section 423.24. The moneys shall be allocated to provide financial incentives to support the increased production of ethanol derived from an organic compound, including a photosynthate, as provided in section 159A.8.

~~3~~ 4. Moneys in the fund ~~shall be~~ are subject to an annual audit by the auditor of state. The fund ~~shall be~~ is subject to warrants by the director of revenue and finance, drawn upon the written requisition of the coordinator.

~~4~~ 5. 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~~ accounts, 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~~ accounts.

~~5~~ 6. Section 8.33 ~~shall~~ does not apply to moneys in the ~~fund~~ renewable fuel activities account. Income received by investment of moneys in the account shall remain in that account. Moneys appropriated for a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in section 423.24.

Sec. 5. NEW SECTION. 159A.8 ETHANOL PRODUCTION INCENTIVE PROGRAM.

1. An ethanol production incentive program administered by the office is established. The office shall adopt rules pursuant to chapter 17A necessary to administer this section. The purpose of the program is to provide financial incentives to support the increased production of ethanol derived from an organic compound, including a photosynthate.

2. The office shall certify that a production facility is eligible to participate in the program. In order to receive a certificate, the producer must submit an application, and provide a test claim for one computation period immediately preceding a claim for payment. A test claim shall provide the same information required for a claim for payment under subsection 3. A person applying to be certified under this section must satisfy the following requirements:

a. The production facility is located in this state.

b. The production facility has an annual production capacity of at least five million gallons of ethanol.

c. The production facility begins construction on or after July 1, 1992, or the annual production capacity of the production facility increases by at least fifty percent, but not less than five million gallons, on or after July 1, 1993.

3. A certified producer may participate in the program by submitting a claim to the office for approval in a manner and according to procedures established by the office. The office shall provide a certified ethanol producer with an incentive payment of twenty cents for each qualifying gallon of ethanol produced. The producer shall be paid according to the total number of gallons produced by a new facility or according to the number of gallons produced by an expanded facility which is attributable to the expansion. In order to qualify for the payment, all fermentation, distillation, and dehydration of the ethanol must occur at the facility. The ethanol produced at the facility must be at least ninety-nine percent pure and must be denatured and subsequently blended with gasoline.

4. The office shall approve a claim for an incentive payment. The claim shall at least include the following:

a. The name of the producer.

b. The location of the facility producing ethanol.

c. The gallons of qualifying ethanol which were produced in the calculation period.

d. Whether the producer is a cooperative association organized pursuant to chapter 497, 498, or 499 carrying out purposes of an agricultural association as described in section 499.2.

The office shall verify the accuracy of the claims submitted by a producer. The office may require that a producer submit regular unqualified opinions based upon audits performed by a person certified pursuant to section 116.5. The office shall approve a claim and make an incentive payment within thirty days following receipt of the claim, unless the office notifies the producer otherwise.

5. a. The payment shall be based on the number of gallons of ethanol produced in a computation period. The office shall establish a schedule of computation periods. The computation periods shall be equal divisions within a state fiscal year and measured on a monthly basis. One computation period shall equal three consecutive months in duration. Moneys available for payments during the state fiscal year shall be divided equally according to the computation periods. The office shall allocate moneys in the ethanol production incentive account as follows:

(1) An amount equal to fifty percent of the moneys available in the account shall be reserved for purposes of making incentive payments to claimants which are cooperative associations. As used in this section "cooperative association" means a cooperative association organized pursuant to chapter 497, 498, or 499 carrying out the purposes of an agricultural association as described in section 499.2. All stockholders, shareholders, or members of a cooperative association must hold a legal or equitable interest in land located in this state.

(2) An amount equal to fifty percent of the moneys available in the account shall be reserved for the purpose of making incentive payments to persons who are claimants other than cooperative associations as provided in this subsection.

b. If moneys remain from the amount reserved to satisfy all claims made by cooperative associations at the end of a computation period, the office shall use the remaining moneys to increase payments made to persons other than cooperative associations submitting claims for that computation period, to the extent that the claims of those persons were not completely satisfied. If moneys remain from the amount reserved to satisfy all claims made by persons other than cooperative associations at the end of a computation period, the office shall use the remaining moneys to increase payments made to cooperative associations submitting claims for that computation period, to the extent that the claims of those cooperative associations were not completely satisfied. These remaining moneys shall be paid on a prorated basis according to the proportionate amount of ethanol produced during the computation period. If moneys remain from the amount reserved to satisfy the claims made by all cooperative associations and other persons, the moneys shall be allocated to ensure equal payments to cooperative associations and persons who are not cooperative associations during the remainder of the subsequent computation periods in the state fiscal year.

c. If sufficient moneys are not available to satisfy the claims of all cooperative associations from moneys available for that computation period, the office shall prorate the payments to each cooperative association according to the proportionate amount of ethanol produced by each cooperative association for that computation period. If sufficient moneys are not available to satisfy the claims of all persons other than cooperative associations from moneys available for that computation period, the office shall prorate the payments to each of the persons according to the proportionate amount of ethanol produced by each person for that computation period. Except as provided in paragraph "b", a claimant who has received a prorated payment does not have a claim for the part of the payment which was not received.

d. The office shall begin making payments on and after January 1, 1994. For the fiscal year beginning on July 1, 1993, and ending on June 30, 1994, the fund shall not pay more than three million dollars for incentive payments. For each fiscal year following June 30, 1994, the fund

shall not pay more than four million dollars for incentive payments. A producer is not eligible to receive more than twenty percent of the moneys available for incentive payments during any computation period. A producer is not eligible to receive payments in a state fiscal year after receiving payments based on claims for the production of more than fifteen million gallons of ethanol during the fiscal year.

Sec. 6. Section 423.24, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph after paragraph a, and relettering subsequent paragraphs:

NEW PARAGRAPH. b. Beginning on July 1, 1993, three and one-half percent of the remaining revenue, not to exceed one million dollars per quarter, derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, shall be deposited in the ethanol production incentive account of the renewable fuel fund created in section 159A.7. Moneys deposited according to this paragraph are a continuing appropriation for expenditure under section 159A.8. Moneys deposited during a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in this section.

Sec. 7. Section 497.1, Code 1991, is amended to read as follows:

497.1 PLAN AUTHORIZED.

Any number of persons, not less than five, may associate themselves as a co-operative association, society, company or exchange, for the purpose of conducting any agricultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business on the co-operative plan. For the purposes of this chapter, the words "association", "company", "corporation", "exchange", "society", or "union", shall be construed to mean the same.

Sec. 8. Section 498.2, Code 1991, is amended to read as follows:

498.2 ORGANIZATION.

Any number of persons, not less than five, may associate themselves as a co-operative association, without capital stock, for the purpose of conducting any agricultural, livestock, horticultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business, or the constructing and operating of telephone and high tension electric transmission lines on the co-operative plan and of acting as a co-operative selling agency. Co-operative livestock shipping associations organized under this chapter shall do business with members only.

Sec. 9. Section 499.2, unnumbered paragraph 4, Code 1991, is amended to read as follows:

"Agricultural associations" are those formed to produce, grade, blend, preserve, process, store, warehouse, market, sell, or handle an agricultural product, or a by-product of an agricultural product; to produce ethanol; to purchase, produce, sell, or supply machinery, petroleum products, equipment, fertilizer, supplies, business services, or educational service to or for those engaged as bona fide producers of agricultural products; to finance any such activities; or to engage in any co-operative activity connected with or for any number of these purposes.

Sec. 10. DATE OF APPLICABILITY. Section 159A.7 as amended by this Act, section 159A.8, and sections 159A.5, subsection 5, paragraph "e" and 423.24, subsection 1, paragraph "b", as created in this Act, shall be applicable on and after July 1, 1993. However, the office of renewable fuel and the department of revenue and finance shall adopt rules necessary to implement those sections prior to July 1, 1993. The office shall accept applications and test claims relating to computation periods beginning on July 1, 1993, for purposes of certifying production facilities pursuant to section 159A.8 before January 1, 1994.

Sec. 11. FUTURE REPEALS.

1. Section 159A.7, as amended by this Act, is repealed and the Code editor shall recodify the language in section 159A.7 contained in the 1991 Code Supplement.

2. Section 159A.8, as created in this Act, is repealed.

3. Section 159A.5, subsection 5, paragraph "e", as enacted in this Act, is amended by striking the paragraph.

4. Section 423.24, subsection 1, paragraph "b", as enacted in this Act, is amended by striking the paragraph.

5. Moneys deposited in the ethanol production incentive account of the renewable fuel fund during the state fiscal year beginning July 1, 1997, and ending June 30, 1998, shall be used to satisfy last computation period claims after June 30, 1998, as provided in this Act. Moneys which remain unobligated and unencumbered on July 31, 1998, shall be credited to the road use tax fund as provided in this Act.

6. This section takes effect July 1, 1998.

Approved April 20, 1992

CHAPTER 1100

DEPARTMENT OF TRANSPORTATION – MISCELLANEOUS PROVISIONS

S.F. 2094

AN ACT relating to the regulation of transportation and the placement of special event signs, the recalculation of needs on transferred roads, the maximum speed limits for movement of certain truck trailers, mobile homes, and factory-built structures, and the penalty for failure to maintain adequate records.

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

Section 1. Section 306C.23, Code 1991, is amended to read as follows:

306C.23 SPECIAL EVENT SIGNS.

It is lawful to place a special event sign on private property with permission of the owner or person in charge of the property at any time during the period beginning ~~thirty~~ sixty days prior to the date of the special event to which the sign pertains and ending on the day of the special event. Special event signs shall be removed not later than twenty-four hours following the end of the special event. This section does not authorize placement of a special event sign at a location where it may, because of its size, location, content, coloring, or lighting, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by detracting from the visibility of a traffic-control device or by being confused with an authorized traffic-control device.

Sec. 2. Section 307A.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. Annually recalculate the construction and maintenance needs of roads under the jurisdiction of each county to take into account the needs of a road whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year. The recalculation shall be reported by January 1 of the year following the transfer and shall take effect the following July 1 for the purposes of allocating moneys under sections 312.3 and 312.5.

Sec. 3. Section 312.3, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. "Latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year as recalculated pursuant to section 307A.2, subsection 14A.

Sec. 4. Section 312.5, subsection 4, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the prior year as recalculated pursuant to section 307A.2, subsection 14A.

Sec. 5. Section 321E.10, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department or local authorities may upon application issue annual trip permits for the movement of truck trailers manufactured or assembled in this state that exceed the maximum length specified in section 321.457 and the maximum width specified in section 321.454. Movement of the truck trailers shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state, shall be only on roadways of twenty-four feet or more in width or on four-lane highways, shall be on the most direct route necessary for such movement, and shall display the special plates designated in section 321.57. All truck trailers under permit for such movement shall not contain freight or additional load. ~~Truck trailers under permit for movement shall not exceed forty-five miles an hour or the established speed limit whichever is lower.~~ A vehicle or combination of two or more vehicles inclusive of front and rear bumpers, including towing units, involved in the movement of truck trailers shall not exceed an overall width of ten feet. Vehicles or combinations shall be distinctly marked on both the front and rear of the unit in a manner the director of transportation designates to indicate that the vehicles or combinations are being moved for delivery or transfer purposes only.

Sec. 6. Section 321E.28, subsection 4, Code Supplement 1991, is amended to read as follows:

4. A permit may be issued to allow the movement of a mobile home or factory-built structure on a fully controlled-access, divided, multilaned highway ~~at a speed exceeding forty miles per hour but not exceeding forty-five miles per hour~~.

Sec. 7. NEW SECTION. 326.19A FAILURE TO MAINTAIN RECORDS — PENALTY.

The department may assess a penalty in an amount equal to twenty percent of the amount calculated under section 326.6, subsection 2, paragraph "b", if the audit of the apportioned fleet owner under section 326.19, confirms that the fleet owner has failed to maintain records on all of the following:

1. Verification of miles for the preceding year.
2. Jurisdictional percentages claimed pursuant to section 326.6, subsection 1.
3. Reciprocity agreements to which the department may be a party.

The department shall adopt rules specifying the records and other information required for an audit under section 326.19.

Approved April 21, 1992

CHAPTER 1101

REGISTRATION AND USE OF BOATS

S.F. 2108

AN ACT relating to the registration and use of boats and motorboats.

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

Section 1. Section 106.5, subsection 3, unnumbered paragraph 3, Code 1991, is amended to read as follows:

If a timely application for renewal is made, the applicant shall receive the same registration number allocated to the applicant for the previous registration period. If the application for registration for the biennium is not made before May 1 of each odd-numbered year, the applicant shall be charged a penalty of ~~two~~ five dollars ~~for each six months, or any portion thereof, the applicant is delinquent. Provided that if a registration is not renewed for two consecutive registration periods, the number of the delinquent registration may be assigned to another person, and upon application for registration by the delinquent registrant, the delinquent registrant shall be assigned a new registration number and shall not be charged any penalties.~~

Sec. 2. Section 106.31, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Except as provided in ~~special~~ rules adopted under this chapter, a motorboat shall not be permitted on any artificial lake under the jurisdiction of the commission except the following:

Sec. 3. Section 106.31, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. A motorboat equipped with one or more outboard battery operated electric trolling ~~motor of not more than one and one-half horsepower~~ motors.

Approved April 21, 1992

CHAPTER 1102

COUNTY GENERAL OBLIGATION BONDS FOR WATER SERVICES

S.F. 2119

AN ACT relating to essential county purposes and the use of general obligation bonds for funding of local water services.

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

Section 1. Section 331.441, subsection 2, paragraph b, subparagraph (12), Code 1991, is amended by striking the subparagraph and inserting in lieu thereof the following:

(12) Funding the acquisition, construction, reconstruction, improvement, repair, or equipping of waterworks, water mains and extensions, ponds, reservoirs, capacity, wells, dams, pumping installations, real and personal property, or other facilities available or used for the storage, transportation, or utilization of water.

(a) The county board of supervisors may on its own motion or upon written petition of a water supplier, established under chapter 357A or 504A, designate the territory to be served as a special taxing district. The county's debt service tax levy for county general obligation bonds issued for the purposes set out in this subparagraph shall be levied only against real property within the county which is included within the boundaries of the special taxing district. A property not presently included within the boundaries of the special taxing district may petition to be included in the district subsequent to its establishment.

(b) General obligation bonds for the purposes outlined in this subparagraph are subject to the right of petition for an election as provided in section 331.442, subsection 5, paragraphs "a", "b", and "c", without limitation on the amount of the bond issue or the size of the county, and the board shall include notice of the right of petition in the notice required.

(c) A county and a city entering into a water supplier agreement shall provide in the agreement for a different rate of the county's debt service tax levy against benefited and nonbenefited property.

Approved April 21, 1992

CHAPTER 1103

UNDERGROUND FACILITIES INFORMATION

S.F. 2133

AN ACT relating to requirements for notice to an underground facility operator by a person planning certain excavation activities near the underground facility, establishing procedures, and providing for civil liability and injunctive relief, and providing an effective date.

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

Section 1. Section 480.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

480.1 DEFINITIONS.

1. "Board" means the board of directors of the notification center.

2. "Damage" means any impact with, destruction, impairment, or penetration of, or removal of support from an underground facility, including damage to its protective coating, housing, or device.

3. "Emergency" means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property.

4. "Excavation" means an operation in which a structure or earth, rock, or other material in or on the ground is moved, removed, or compressed, or otherwise displaced by means of any tools, equipment, or explosives and includes, but is not limited to, grading, trenching, tiling, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing, driving, and demolition of structures.

"Excavation" does not include normal farming operations, residential, commercial, or similar gardening, the opening of a grave site in a cemetery, normal activities involved in land surveying pursuant to chapter 114, operations in a solid waste disposal site which has planned for underground facilities, the replacement of an existing traffic sign at its current location and at no more than its current depth, and normal road or highway maintenance which does not change the original grade of the roadway or the ditch.

5. "Excavator" means a person proposing to engage or engaging in excavation.

6. "Normal farming operations" means plowing, cultivation, planting, harvesting, and similar operations routine to most farms, but excludes chisel plowing, sub-soiling, or ripping more than fifteen inches in depth, drain tile excavating, terracing, digging or driving a post in a new location other than replacing a post while repairing a fence in its existing location, and similar operations.

7. "Notification center" means the statewide notification center established in section 480.3.

8. "Operator" means a person owning or operating an underground facility including, but not limited to, public, private, and municipal utilities. An operator does not include a person who owns or otherwise lawfully occupies real property where an underground facility is located only for the use and benefit of the owner or occupant on the property.

9. "Person" means a person as defined in section 4.1, subsection 13.

10. "Underground facility" means an item of personal property owned or leased by the operator which is buried or placed below ground for use in connection with the storage or conveyance of, or the provision of services supplying water, sewage, electronic, telephonic, or telegraphic communications, electric energy, hazardous liquids, or petroleum products including natural gas or other substances, and includes, but is not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to such property but does not include sanitary sewer laterals, storm sewer laterals, and water service lines providing service to abutting private properties.

Sec. 2. NEW SECTION. 480.1A APPLICABILITY – PROHIBITION.

This chapter applies to any excavation unless otherwise provided by law. A person shall not engage in any excavation unless the requirements of this chapter have been satisfied.

Sec. 3. Section 480.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

480.3 NOTIFICATION CENTER ESTABLISHED – PARTICIPATION.

1. a. A statewide notification center is established and shall be organized as a nonprofit corporation pursuant to chapter 504A. The center shall be governed by a board of directors which shall represent and be elected by operators, excavators, and other persons who participate in the center. The board shall, with input from all interested parties, determine the operating procedures and technology needed for a single statewide notification center, and establish a notification process and competitive bidding procedure to select a vendor to provide the notification service. The terms of the agreement for the notification service may be modified from time to time by the board, and the agreement shall be reviewed, with an opportunity to receive new bids, no less frequently than every three years.

b. Upon the selection of a vendor pursuant to paragraph "a", the board shall notify the chairperson of the utilities board in writing of the selection. The board shall submit an annual report to the chairperson of the utilities board including a review of the services provided by the notification center and the vendor.

2. The board shall implement the latest and most cost effective technological improvements for the center in order to provide operators and excavators with the most accurate data available and in a timely manner to allow operators and excavators to perform their responsibilities with the minimum amount of interruptions.

3. Every operator shall participate in and share in the costs of the notification center.

Sec. 4. NEW SECTION. 480.4 REQUIRED NOTICE – LOCATION AND MARKING OF UNDERGROUND FACILITIES – EXCEPTION.

1. Except as otherwise provided in this section, prior to any excavation, an excavator shall contact the notification center and provide notice of the planned excavation. This notice must be given at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays. The notification center shall establish a toll-free telephone number to allow excavators to provide the notice required pursuant to this subsection.

A notice provided pursuant to this subsection shall be verbal and include the following information:

a. The name of the person providing the notice.

b. The precise location of the proposed area of excavation, including the range, township, section, and quarter section, if known.

c. The name and address of the excavator.

d. The excavator's telephone number.

e. The type and extent of the proposed excavation.

f. Whether the discharge of explosives is anticipated.

g. The date and time when excavation is scheduled to begin.

For purposes of the requirements of this section, an excavation commences the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice.

2. The notification center, upon receiving notice from an excavator, shall immediately transmit the information contained in the notice to each operator in the area of the proposed excavation and provide the names of all operators in that area to the excavator. The notification center shall assign an inquiry identification number to each notice and shall maintain a record of each notice for at least six years from the date the notice is received. The notification center shall not assess an operator who requests in writing not to receive a notification of its own excavations for any portion of the costs associated with such excavations.

3. a. (1) An operator who receives notice from the notification center shall mark the horizontal location of the operator's underground facility and the excavator shall use due care in excavating in the marked area to avoid damaging the underground facility. The operator shall complete such locating and marking within forty-eight hours after receiving the notice, excluding Saturdays, Sundays, and legal holidays, unless otherwise agreed by the operator and the excavator. The locating and marking of the underground facilities shall be completed at no cost to the excavator. If, in the opinion of the operator, the planned excavation requires that the precise location of the underground facilities be determined, the excavator, unless otherwise agreed upon between the excavator and the operator, shall hand dig test holes to determine the location of the facilities unless the operator specifies an alternate method.

(2) The marking required under this subsection shall be done in a manner that will last for a minimum of five working days on any nonpermanent surface, or a minimum of ten working days on any permanent surface. If the excavation will continue for any period longer than such periods, the operator shall remark the location of the underground facility upon the request of the excavator. The request shall be made through the notification center.

b. An operator who receives notice from the notification center and who determines that the operator does not have any underground facility located within the proposed area of excavation shall notify the excavator concerning this determination prior to the indicated date of commencement of excavation.

c. For purposes of this chapter, the "horizontal location of any underground facility" is defined as including an area eighteen inches on either side of the underground facility.

4. An excavator is responsible for preserving the markings required in subsection 3 at all times during the excavation. If the markings will be destroyed or otherwise altered during the excavation, the excavator must establish suitable reference points which will enable the excavator to locate the underground facility at all times during the excavation.

5. The operator shall mark the location of any underground facility to conform with the uniform color code established by the American public works association's utility location and coordination council.

6. The only exception to this section shall be when an emergency exists. Under such conditions, excavation operations can begin immediately, provided reasonable precautions are taken to protect the underground facilities. The excavator shall notify the notification center of the excavation as soon as practical.

Sec. 5. NEW SECTION. 480.5 DAMAGE TO UNDERGROUND FACILITY – REPORT TO OPERATOR.

An excavator shall as soon as practical notify the operator when any damage occurs to an underground facility as a result of an excavation. The notice shall include the type of facility damaged and the extent of the damage. If damage occurs, an excavator shall refrain from backfilling in the immediate area of the underground facilities until the damage has been investigated by the operator, unless the operator authorizes otherwise.

If the damage results in an emergency, the excavator shall take all reasonable actions to alleviate the emergency including, but not limited to, the evacuation of the affected area. The excavator shall leave all equipment situated where the equipment was at the time the emergency was created and immediately contact the operator and appropriate authorities and necessary emergency response agencies.

Sec. 6. NEW SECTION. 480.6 CIVIL PENALTIES.

1. A person who violates a provision of this chapter is subject to a civil penalty as follows:

a. For a violation related to natural gas and hazardous liquid pipelines, an amount not to exceed ten thousand dollars for each violation for each day the violation continues, up to a maximum of five hundred thousand dollars.

b. For a violation related to any other underground facility, an amount not to exceed one thousand dollars for each violation for each day the violation continues, up to a maximum of twenty thousand dollars.

2. The attorney general, upon the receipt of a complaint, may institute any legal proceedings necessary to enforce the penalty provisions of this chapter.

3. All amounts collected pursuant to this section shall be remitted to the treasurer of state, who shall deposit the amount in the general fund of the state.

Sec. 7. NEW SECTION. 480.7 INJUNCTION.

Any affected person may make application to the district court for injunctive relief from any violation of this chapter.

Sec. 8. NEW SECTION. 480.8 LOCAL ORDINANCES AND REGULATIONS UNAFFECTED.

This chapter does not affect or impair any local ordinances or other provisions of law requiring permits to be obtained before excavation. However, a permit issued by any governing body does not relieve the excavator from complying with the requirements of this chapter, unless the governing body is the excavator and the governing body and the operator have agreed in writing to waive notification under this chapter. However, such an agreement shall not be considered in the issuance of any required permit.

Sec. 9. Section 479.47, unnumbered paragraph 2, Code 1991, is amended by striking the paragraph.

Sec. 10. Section 479A.26, unnumbered paragraphs 2 and 3, Code 1991, are amended by striking the paragraphs.

Sec. 11. Sections 478.36 and 480.2, Code 1991, are repealed.

Sec. 12. This Act takes effect on January 1, 1993.

Approved April 21, 1992

CHAPTER 1104

MOTOR VEHICLE CERTIFICATES OF TITLE – RECYCLERS

S.F. 2137

AN ACT relating to motor vehicle certificates of title, by eliminating component part reviews, requiring a damage disclosure statement, restricting transfer of certain salvage certificates, defining salvage pools, relating to vehicle recycler license applications, and creating a penalty and providing an effective date.

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

Section 1. Section 321.1, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 95. "Salvage pool" means the business of selling at auction wrecked or salvage vehicles, as defined in section 321.52.

Sec. 2. Section 321.24, unnumbered paragraph 3, Code Supplement 1991, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of notation, and name and address of the secured party.

If the prior certificate of title is from another state and indicates that the vehicle was rebuilt the new certificate of title and the registration receipt shall contain the designation of "REBUILT" stamped or printed on its face together with the name of the state issuing the prior title. The designation of "REBUILT" and the name of the other state shall be retained on all subsequent Iowa certificates of title and registration receipts for the vehicle.

If the prior certificate of title is from another state and indicates that the vehicle was junked, an Iowa junking certificate shall be issued according to section 321.52, subsections 2 and 3. If the prior certificate of title from another state indicates that the vehicle is salvaged and not rebuilt or is a salvage certificate of title, an Iowa salvage certificate of title shall be issued and a "SALVAGE" designation shall be retained on all subsequent Iowa certificates of title and registration receipts for the vehicle, except as provided under section 321.52, subsection 4, paragraph "b". The department shall adopt rules to determine the manner in which other states' designations are to be indicated on Iowa titles.

Sec. 3. Section 321.52, subsection 4, Code Supplement 1991, is amended to read as follows:

4. a. A vehicle rebuilder or a ~~motor vehicle dealer licensed under chapter 322,~~ person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title to the county treasurer of the county of residence of the purchaser or transferee within ~~fourteen~~ fifteen days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. This subsection applies only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of two dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped or printed on the face of the title in a manner prescribed by the department. A salvage certificate of title may be assigned to ~~any person~~ an educational institution, a new motor vehicle dealer licensed under chapter 322, a person engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles for sale as scrap metal, a salvage pool, or an authorized vehicle recycler licensed under chapter 321H. An authorized vehicle recycler licensed under chapter 321H or a new motor vehicle dealer licensed under chapter

322 may assign a salvage certificate of title to any person. A vehicle on which ownership has transferred to an insurer of the vehicle, as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of the vehicle, shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within ~~fourteen~~ fifteen days after the date of assignment of the certificate of title of the vehicle. ~~However, a vehicle that has major damage to four or more component parts as defined in paragraph "b" shall receive a junking certificate of title and shall not thereafter be granted a regular certificate of title.~~

b. When a wrecked or salvage vehicle has been repaired, the owner may apply for a regular certificate of title by paying the appropriate fees and surrendering the salvage certificate of title and a properly executed salvage theft examination certificate. The county treasurer shall issue a regular certificate of title which, ~~commencing September 1, 1988, if the wrecked or salvage vehicle is five model years old or less,~~ shall bear ~~the word "REBUILT"~~ a designation stamped or printed on the face of the title and registration receipt indicating that the vehicle was previously titled on a salvage certificate of title in a form approved by the department. ~~The rebuilt~~ This designation shall be included on every Iowa certificate of title and registration receipt issued thereafter for the vehicle. However, if ownership of a stolen vehicle has been transferred to an insurer organized under the laws of this state or admitted to do business in this state, or if the transfer was the result of a settlement with the owner of the vehicle arising from damage to or the unrecovered theft of the vehicle, and if the insurer certifies to the county treasurer on a form approved by the department that the insurance company has received one or more written estimates which states that the retail cost of repairs ~~to~~ including labor, parts, and other materials of all damage to the vehicle is less than three thousand dollars, the county treasurer shall issue to the insurance company the regular certificate of title and registration receipt without ~~the rebuilt~~ this designation. ~~The county treasurer shall issue a regular certificate of title without the "REBUILT" designation if, before repairs are made, a component parts review has been conducted by a peace officer who has been specially certified and recertified when required by the Iowa law enforcement academy to do salvage theft examinations. The Iowa law enforcement academy shall determine standards for training and certification, conduct training, and may approve alternative training programs which satisfy the academy's standards for training and certification. For the purpose of this section, a wrecked or salvage vehicle shall be considered to have component part damage if there is major damage requiring repairs or replacement of more than two of the vehicle's component parts. A "component part" means the rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip, or such other parts which are critical to the safety of the vehicle as determined by rules adopted by the department. The owner shall pay a fee of thirty-five dollars upon the completion of the prerepair component parts review. The agency performing the examinations shall retain twenty-five dollars of the fee and shall pay five dollars of the fee to the department and five dollars of the fee to the Iowa law enforcement academy to provide for the special training, certification, and recertification of officers as required by this subsection. The peace officer conducting the review shall maintain a record of the review and shall forward a copy of the review to the department. The department shall maintain a record of all reviews. If a vehicle does not have component damage as determined in this subsection, the officer conducting the review shall issue a certificate to the owner to that effect. The certificate shall be surrendered to the county treasurer at the time of application for a regular certificate of title and the treasurer shall forward the certificate to the department.~~

~~The provision of this subsection requiring a component parts review by a peace officer specially certified or recertified by the Iowa law enforcement academy to do salvage theft examinations shall become effective July 1, 1990. Component parts reviews conducted before July 1, 1990, shall be made by peace officers authorized to do so by the state department of transportation or the department of public safety who are qualified, as determined by those agencies, to conduct component parts reviews. The state department of transportation shall adopt~~

~~rules in accordance with chapter 17A to carry out this section, including transition rules allowing for component parts reviews prior to July 1, 1990.~~

~~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.~~

c. A salvage theft examination shall be made by a peace officer who has been specially certified and recertified when required by the Iowa law enforcement academy to do salvage theft examinations. The Iowa law enforcement academy shall determine standards for training and certification, conduct training, and may approve alternative training programs which satisfy the academy's standards for training and certification. The owner of the salvage vehicle shall make the vehicle available for examination at a time and location designated by the peace officer doing the examination. The owner may obtain a permit to drive the vehicle to and from the examination location by submitting a repair affidavit to the agency performing the examination stating that the vehicle is reasonably safe for operation and listing the repairs which have been made to the vehicle. The owner must be present for the examination and have available for inspection the salvage title, bills of sale for all essential parts changed, and the repair affidavit. The examination shall be for the purposes of determining whether the vehicle or repair components have been stolen. The examination is not a safety inspection and a signed salvage theft examination certificate shall not be construed by any court of law to be a certification that the vehicle is safe to be operated. There shall be no cause of action against the peace officer or the agency conducting the examination or the county treasurer for failure to discover or note safety defects. If the vehicle passes the theft examination, the peace officer shall indicate that the vehicle passed examination on the salvage theft examination certificate ~~and, with regard to a vehicle which is required to bear the word "REBUILT" stamped or printed on the face of the title, shall permanently identify the vehicle as "rebuilt" on the driver's door jamb or other area on the vehicle as designated by the department. A removal or alteration of this rebuilt identification is a violation of section 321.92.~~ The ~~repair affidavit,~~ permit, and salvage theft examination certificate shall be on controlled forms prescribed and furnished by the department. The owner shall pay a fee of thirty dollars upon completion of the examination. The agency performing the examinations shall retain twenty dollars of the fee and shall pay five dollars of the fee to the department and five dollars of the fee to the Iowa law enforcement academy to provide for the special training, certification, and recertification of officers as required by this subsection.

The provision of this subsection requiring a salvage theft examination by a peace officer specially certified or recertified by the Iowa law enforcement academy to do salvage theft examinations shall become effective July 1, 1989. Salvage theft examinations conducted before July 1, 1989, shall be made by peace officers authorized to do so by the state department of transportation or the department of public safety who are qualified, as determined by those agencies, to conduct salvage theft examinations. The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section, including transition rules allowing for salvage theft examinations prior to July 1, 1989.

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.

d. For purposes of this subsection a "wrecked or salvage vehicle" means a damaged motor vehicle subject to registration and having a gross vehicle weight rating of less than thirty thousand pounds, for which the cost of repair exceeds fifty percent of the fair market value of the vehicle, as determined in accordance with rules adopted by the department, before it became damaged.

~~e. A person who titled the person's motor vehicle before May 1, 1989, may have a title issued on that motor vehicle to the person without the "REBUILT" designation, if the person can~~

~~show adequate proof that the wrecked or salvage motor vehicle was inspected by a peace officer prior to being repaired prior to September 1, 1988, and show proof through receipts of used parts and photos of the damage to the wrecked or salvage motor vehicle that the motor vehicle did not have major damage requiring repairs or replacement of more than two of the vehicle's component parts. Upon proper application and payment of a two dollar fee, the county treasurer shall issue to the person the title to the person's motor vehicle without the "REBUILT" designation.~~

Sec. 4. NEW SECTION. 321.69 DAMAGE DISCLOSURE STATEMENT.

1. A certificate of title shall not be issued for a motor vehicle unless a damage disclosure statement has been made by the transferor of the vehicle and is furnished with the application for certificate of title. A damage disclosure statement must be provided by the transferor to the transferee in a transfer of ownership of a motor vehicle. The new certificate of title and registration receipt shall state on the face of the title the total cumulative dollar amount of damage reported by owners prior to the owner listed on the front of the title.

2. The damage disclosure statement required by this section shall, at a minimum, state the total retail dollar amount of all damage to the vehicle during the period of the transferor's ownership of the vehicle. For the purposes of this section, "damage" refers to damage to the vehicle caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood, where the cost of repair is three thousand dollars or more per incident, but does not include normal wear and tear, glass damage, mechanical repairs or electrical repairs that have not been caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood. A determination of the amount of damage to a vehicle shall be based on estimates of the retail cost of repairing the vehicle, including labor, parts, and other materials, if the vehicle has not been repaired or on the actual retail cost of repair, including labor, parts, and other materials, if the vehicle has been repaired. Only individual incidents in which the retail cost of repairs is three thousand dollars or more are required to be disclosed by this section. If the vehicle has incurred damage of three thousand dollars or more per incident in more than one incident, the damage amounts must be combined and disclosed as the total of all separate incidents.

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. If the transferor is not a resident of this state the transferee shall not be required to submit a damage disclosure statement from the transferor with the transferee's application for title unless the state of the transferor's residence requires a damage disclosure statement. However, the transferee shall submit a damage disclosure statement with the transferee's application for title indicating whether a salvage or rebuilt title had ever existed for the vehicle, whether the vehicle had incurred prior damage of three thousand dollars or more per incident, and the year, make, and vehicle identification number of the motor vehicle.

4. The department shall retain each damage disclosure statement received and copies shall be available to the public and the attorney general upon request.

5. Authorized vehicle recyclers licensed under chapter 321H and motor vehicle dealers licensed under chapter 322 shall maintain copies of all damage disclosure statements where the recycler or dealer is either the transferor or the transferee for five years following the date of the statement. The copies shall be made available to the department or the attorney general upon request.

6. The damage disclosure statements shall be made on the back of the certificate of title if the title is available to the transferor at the time of sale. If the title is not available at the time of sale or if the face of the transferor's Iowa title contains no indication that the vehicle was previously salvaged or titled as salvaged or rebuilt and the transferor knows or reasonably should know that the vehicle was previously salvaged or titled as salvaged or rebuilt in another state, the transferor shall make the disclosure on a separate disclosure document. The damage disclosure statement forms shall be as approved by the department. The treasurer shall not accept a damage disclosure statement and issue a title unless the back of the title

or separate disclosure document has been fully completed and signed and dated by the transferee and the transferor, if applicable.

7. A person, authorized vehicle recycler licensed under chapter 321H, or motor vehicle dealer licensed under chapter 322 shall not be liable to a subsequent owner of a vehicle because a prior owner gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had previously been damaged and repaired or had been titled on a salvage or rebuilt certificate of title unless the person, recycler, or dealer knew or reasonably should have known that the prior owner gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had been damaged and repaired or had been titled on a salvage or rebuilt certificate of title.

8. This section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than nine model years old, vehicles with titles stating the vehicle is salvage or rebuilt, motorcycles, motorized bicycles, and special mobile equipment. The section does apply to motor homes.

9. A person who knowingly makes a false damage disclosure statement commits a fraudulent practice. Failure of a person, authorized vehicle recycler licensed under chapter 321H, or motor vehicle dealer licensed under chapter 322, to comply with any duty imposed by this section constitutes a violation of section 714.16, subsection 2, paragraph "a".

10. The department shall adopt rules as necessary to implement this section.

Sec. 5. Section 321H.4, subsection 2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The applicant shall specify which business or businesses, as enumerated in subsection 1, the applicant is applying for a license to engage in. An applicant shall have or demonstrate that the applicant will have the facilities and equipment necessary to engage in the business or businesses for which the applicant is applying for a license. The license shall specify which business or businesses the applicant has been authorized to engage in.

Sec. 6. Section 4 of this Act takes effect January 1, 1993. If, after the department has made a reasonable effort to implement section 4 of this Act by January 1, 1993, the department cannot do so, the department may extend the effective date of section 4 of this Act until March 1, 1993. All other sections of this Act take effect July 1, 1992.

Approved April 21, 1992

CHAPTER 1105

TREASURER OF STATE – LINKED INVESTMENT PROGRAMS

S.F. 2213

AN ACT providing for the linked investment for tomorrow Act, by providing for certificates of deposit placed in eligible lending institutions, and a rural small business transfer linked investment loan program, providing for the deposit of state moneys in lending institutions, and providing retroactive applicability and effective dates.

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

Section 1. Section 12.36, subsections 2 and 3, Code 1991, are amended to read as follows:

2. Upon acceptance of the linked investment loan package or any portion of the package, the ~~state~~ treasurer of state shall place certificates of deposit with the eligible lending institution at a rate not more than three percent below the current market rate. After July 1, 1992, the treasurer of state shall not place a certificate of deposit with an eligible lending institution pursuant to this division, unless the certificate of deposit earns a rate of interest of at least two percent. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked investment loan package.

3. The eligible lending institution shall enter into an investment agreement with the treasurer of state, which shall include requirements necessary to carry out this division. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked investment, and shall include provisions for the certificates of deposit to be placed for one-year maturities that may be renewed for ~~five~~ eight additional one-year periods. Interest shall be paid at the times determined by the treasurer of state.

Sec. 2. NEW SECTION. 12.40 RURAL SMALL BUSINESS TRANSFER LINKED INVESTMENT LOAN PROGRAM.

1. As used in this section, "rural small business" means an existing rural small business, for which local competition does not exist in the principal realm of business activity of that business, and the loss of which will work a hardship on the rural community. A rural small business may include a grocery store, drug store, gasoline station, convenience store, hardware business, or farm supply store. A rural small business does not include a new business.

2. The treasurer of state shall adopt rules consistent with this division to implement a rural small business transfer linked investment loan program to further the following purposes:

a. To promote the business prosperity and economic welfare of Iowa through promoting the prosperity and economic welfare of rural Iowa.

b. To maintain and expand existing employment opportunities and the provision of retail goods on a local level in small rural communities by assisting in the transfer of ownership of retail-oriented businesses where, in the absence of sufficient financial assistance, the businesses may close.

3. Upon the placement of linked investment moneys with an eligible lending institution, the institution is required to lend money to a person pursuant to rules adopted by the treasurer of state for the transfer of a rural small business. The rural small business must be located in a city with a population of five thousand or less. 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.

4. The transfer of the rural small business must be by purchase, lease-purchase, or contract of sale. The purchase must be for a portion of the business which is essential to its continued viability, including real estate where the business is located, fixtures attached to the real estate, equipment relied upon by the business, and inventory for sale by the business.

5. The eligible lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible borrower. The lending institution shall forward to the treasurer of state all information or any certification relating to the loan required and in a manner prescribed by this division and rules which shall be adopted by the treasurer of state.

6. A borrower and the seller of the rural small business shall not be within the third degree of consanguinity or affinity.

7. The maximum loan amount that a borrower may receive under this program shall not be more than fifty thousand dollars.

8. Not more than one-third of the amount of the percentage authorized in section 12.34 may be used for purposes of supporting this program and the main street linked investment loan program under section 12.51.

Sec. 3. Section 12.51, subsection 6, Code Supplement 1991, is amended to read as follows:

6. ~~No~~ Not more than one-third of the amount authorized in section 12.34 may be used for purposes of this program and the rural small business transfer linked investment loan program under section 12.40.

Sec. 4. APPLICABILITY AND EFFECTIVE DATES.

1. Section 12.36, subsection 3, as amended by this Act, applies retroactively to investment agreements executed before the effective date of this Act which have not expired.

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

Approved April 21, 1992

CHAPTER 1106

CAMPUS SECURITY AND SEXUAL ABUSE POLICIES

H.F. 2028

AN ACT requiring institutions of higher education to establish policies relating to sexual abuse and providing for the act's applicability.

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

Section 1. Section 261.9, subsection 5, Code Supplement 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. Which develops and implements a written policy, which is disseminated during student registration or orientation, addressing the following four areas relating to sexual abuse:

(1) Counseling.

(2) Campus security.

(3) Education, including prevention, protection, and the rights and duties of students and employees of the institution.

(4) Facilitating the accurate and prompt reporting of sexual abuse to the duly constituted law enforcement authorities.

NEW PARAGRAPH. h. Which files a copy of the annual report required by the federal Student Right-To-Know and Campus Security Act, Pub. L. No. 101-542, with the division of criminal and juvenile justice planning of the department of human rights, along with a copy of the written policy developed pursuant to paragraph "g".

Sec. 2. Section 262.9, Code 1991,* is amended by adding the following new subsections:

NEW SUBSECTION. 27. Develop and implement a written policy, which is disseminated

*Code Supplement 1991 probably intended

during registration or orientation, addressing the following four areas relating to sexual abuse:

a. Counseling.

b. Campus security.

c. Education, including prevention, protection, and the rights and duties of students and employees of the institution.

d. Facilitating the accurate and prompt reporting of sexual abuse to the duly constituted law enforcement authorities.

NEW SUBSECTION. 28. File a copy of the annual report required by the federal Student Right-To-Know and Campus Security Act, Pub. L. No. 101-542, with the division of criminal and juvenile justice planning of the department of human rights, along with a copy of the written policy developed pursuant to subsection 27.

Sec. 3. Section 280A.23, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 19. Develop and implement a written policy, which is disseminated during student registration or orientation, addressing the following four areas relating to sexual abuse:

(a) Counseling.

(b) Campus security.

(c) Education, including prevention, protection, and the rights and duties of students and employees of the community college.

(d) Facilitating the accurate and prompt reporting of sexual abuse to the duly constituted law enforcement authorities.

NEW SUBSECTION. 20. File a copy of the annual report required by the federal Student Right-To-Know and Campus Security Act, Pub. L. No. 101-542, with the division of criminal and juvenile justice planning of the department of human rights, along with a copy of the written policy developed pursuant to subsection 19.

Sec. 4. APPLICABILITY DATE.

1. Accredited private institutions, the state board of regents institutions of higher learning, and community colleges receiving state funding or tuition grants shall file a copy of the annual report required by the federal Student Right-To-Know and Campus Security Act, Pub. L. No. 101-542, along with a copy of the written policy developed pursuant to section 261.9, subsection 5, paragraph "g", section 262.9, subsection 27, and section 280A.23, subsection 19, with the division of criminal and juvenile justice planning of the department of human rights beginning September 1, 1992, and each year thereafter.

Approved April 21, 1992

CHAPTER 1107

PROTECTION OF BATS

H.F. 2080

AN ACT to include bats as protected nongame species, and providing an exception.

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

Section 1. Section 109.42, Code 1991, is amended to read as follows:

109.42 NONGAME PROTECTED.

Protected nongame species include wild fish, wild birds, wild bats, wild reptiles, and wild amphibians, ~~and a product,~~ an egg, ~~or offspring of them~~ a nest in current use, ~~and~~ a dead body or part of a dead body, and a product made from part of a body of a wild fish, wild bird, wild bat, wild reptile, or wild amphibian. However, nongame does not include game, fish that may be taken pursuant to regulations established under the Code or departmental rule, fur-bearing animals, turtles, or frogs, as defined in this chapter. The commission shall designate by rule those species of nongame which by their abundance or habits are declared a nuisance, and these species shall not be protected. Rules adopted shall include, but are not limited to, a provision that states that any bat, except for the Indiana bat, which is found within a building that is occupied by human beings is not a protected nongame species.

Approved April 21, 1992

CHAPTER 1108

SOIL AND WATER CONSERVATION RESOURCE PLANS

H.F. 2112

AN ACT providing for the filing of soil and water resource conservation plans.

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

Section 1. Section 467A.7, subsection 20, paragraph b, Code 1991, is amended to read as follows:

b. The title page of the district plan and a notification stating where the plan may be reviewed shall be filed with the recorder in the county in which the district is located ~~and shall be filed with the division as part of the state soil and water resource conservation plan~~, and ~~amended or~~ updated as necessary, after the committee approves ~~the district plan~~ and ~~after~~ the administrator of the division signs the district plan. The commissioners shall provide notice of the filing and may provide a copy of the approved district plan to the county board of supervisors in the county where the district is located. The district plan shall be filed with the division as part of the state soil and water resource conservation plan provided in section 467A.4.

Approved April 21, 1992

CHAPTER 1109

CHILD DAY CARE REGULATION – EXCEPTION
H.F. 2224

AN ACT excepting from child day care regulation certain programs for school age children administered by political subdivisions.

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

Section 1. Section 237A.1, subsection 4, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

Approved April 21, 1992

CHAPTER 1110

POSTSECONDARY ENROLLMENT OPTIONS
H.F. 2247

AN ACT modifying eligibility requirements within the postsecondary enrollment options Act, including students identified as gifted and talented children.

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

Section 1. Section 261C.2, Code 1991, is amended to read as follows:

261C.2 POLICY.

It is the policy of this state to promote rigorous academic or vocational-technical pursuits and to provide a wider variety of options to high school pupils by enabling ninth and tenth grade pupils who have been identified as gifted and talented, and eleventh and twelfth grade pupils, to enroll ~~part time~~ part-time in nonsectarian courses in eligible postsecondary institutions of higher learning in this state.

Sec. 2. Section 261C.3, subsection 2, Code Supplement 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 a ninth or tenth grade pupil who is identified according to the school district's gifted and talented criteria and procedures, pursuant to section 257.43, as a gifted and talented child, or 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 school district in which the nonpublic school of attendance is located for state foundation aid purposes.

Sec. 3. Section 261C.4, Code Supplement 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~~ attends. 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. 4. Section 261C.9, Code 1991, is repealed.

Approved April 21, 1992

CHAPTER 1111

ENVIRONMENTAL PROTECTION VIOLATIONS

H.F. 2299

AN ACT relating to the establishment and assessment of civil and criminal penalties including the establishment of a criminal penalty for knowingly making a false statement, representation, or certification in a comprehensive plan to operate a sanitary disposal project.

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

Section 1. Section 455B.109, subsections 1 and 2, Code 1991, are amended to read as follows:

1. The commission ~~may~~ shall establish, by rule, a schedule or range of civil penalties which may be administratively assessed. The schedule shall provide procedures and criteria for the administrative assessment of penalties of not more than ~~one~~ ten thousand dollars for ~~minor~~ violations of this chapter or rules, permits or orders adopted or issued under this chapter. In adopting a schedule or range of penalties and in proposing or assessing a penalty, the commission and director shall consider among other relevant factors the following:

a. The costs saved or likely to be saved by noncompliance by the violator.

b. The gravity of the violation.

c. The degree of culpability of the violator.

d. The maximum penalty authorized for that violation under this chapter. Penalties may be administratively assessed only after an opportunity for a contested case hearing which may be combined with a hearing on the merits of the alleged violation. ~~Major violations, violations~~ Violations not fitting within the schedule, or violations which the commission determines should be referred to the attorney general for legal action shall not be governed by the schedule established under this subsection.

2. ~~If~~ When the commission establishes a schedule for ~~minor~~ violations, the commission shall provide, by rule, a procedure for the screening of alleged violations to determine which cases may be appropriate for the administrative assessment of penalties. However, the screening procedure shall not limit the discretion of the department to refer any case to the attorney general for legal action.

Sec. 2. NEW SECTION. 455B.316 PENALTY.

A person who knowingly makes a false statement or representation in a plan filed pursuant to section 455B.306 is guilty of a serious misdemeanor.

Approved April 21, 1992

CHAPTER 1112

AGRICULTURAL CHEMICALS

S.F. 446

AN ACT relating to agricultural chemicals, by regulating the use of chemicals in irrigation distribution systems, providing for fees, providing for penalties, and providing for an effective date and date of applicability.

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

Section 1. Section 206.2, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 30. "Chemigation" means the application of a chemical to land or plants, if the chemical is injected into water used in an irrigation distribution system as provided in rules adopted by the department.

Sec. 2. Section 206.5, subsection 6, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

6. A commercial, private, or public applicator shall not apply a pesticide as part of chemigation without first complying with the certification requirements of section 206A.5. The applicator shall pay the certification fee required in section 206A.5 in addition to the fee required in this section.

Sec. 3. Section 206.22, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A penalty imposed pursuant to this section shall be in addition to and not in lieu of any penalty which may be imposed upon a person pursuant to section 206A.11.

Sec. 4. NEW SECTION. 206A.1 DEFINITIONS.

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

1. "Applicator" means a person applying chemicals by chemigation.

2. "Chemical" means a fertilizer as defined in section 200.3 or a pesticide or plant growth regulator as defined in section 206.2.

3. "Chemigation" means the application of a chemical to land or plants, if the pesticide is injected into water used in an irrigation distribution system as provided in rules adopted by the department.

4. "Chemigation permit" means a permit issued by the department authorizing a person to apply a chemical to land or plants, if the chemical is injected into water used in an irrigation distribution system. A chemigation permit includes a permit or a renewal of a permit as provided in section 206A.2.

5. "Commercial applicator" means the same as defined in section 206.2.

6. "Farming" means the same as defined in section 172C.1.

7. "Injection location" means a site where a chemical is applied through an irrigation distribution system.

8. "Irrigation distribution system" means a mechanism containing a conduit, including but not limited to a hose or pipe, which connects directly to a water source of groundwater or surface water through which water is drawn and applied for purposes of farming.

10. "Permit holder" means the person issued a permit pursuant to section 206A.2.

11. "Pesticide" means the same as defined in section 206.2.

12. "Restricted use pesticide" means the same as defined in section 206.2.

Sec. 5. NEW SECTION. 206A.2 CHEMIGATION PERMIT.

1. Land shall not be subject to chemigation, unless a chemigation permit is issued by the department. The permit shall be issued to the titleholder of the land or the person responsible for the day-to-day management of the land. The chemigation permit shall expire one year from the date of its issuance. A person shall not install a new injection location unless the

injection location is subject to a chemigation permit. The department shall establish procedures for the review and approval of applications for chemigation permits. The department may approve an application for a new permit only upon inspection of the irrigation distribution system. The department may approve an application and issue a chemigation permit, if the irrigation distribution system complies with the requirements of this chapter, and the applicator is certified pursuant to section 206A.5. The department must approve or disapprove the application in a timely manner but not later than ninety days after the application is filed. The department shall disapprove an application for good cause as provided in subsection 4.

2. The department shall publish and distribute forms for applications for chemigation permits. The rules shall specify information required to be contained in the application. An application shall be submitted according to procedures which shall be adopted by the department. An application shall at least include all of the following:

a. The name and address of the person seeking the permit.

b. The location of land subject to chemigation.

c. A description of the irrigation distribution system and information regarding each injection location.

d. The name of each chemical to be injected in the chemigation process.

3. The department shall deny an application for a chemigation permit, and shall suspend or revoke a chemigation permit, for good cause. As used in this section, "good cause" means that the department has evidence of any of the following:

a. The applicant committed fraud or deceit in seeking to obtain a chemigation permit.

b. The applicant or permit holder refused an inspection pursuant to section 206A.3.

c. The permit holder has authorized an applicator to inject a chemical within an irrigation distribution system, if the applicator was not certified pursuant to section 206A.5.

d. Land described in an application or subject to a permit has been applied with a chemical in violation of this chapter.

e. The permit holder failed to post a notice warning the public that a chemical was applied in an irrigation distribution system pursuant to section 206A.6.

f. A report of contamination or suspected contamination was not filed by the permit holder or an applicator pursuant to section 206A.7.

g. The permit holder failed to comply with a plan of cleanup or recovery as provided in section 206A.7.

4. The department shall establish fees for reviewing applications and renewing permits. The fee for reviewing an application for a chemigation permit shall not exceed ninety dollars. The fee for renewing a chemigation permit shall not exceed seventy-five dollars. The fees shall be deposited into the chemigation fund established pursuant to section 206A.10.

5. A permit shall be conditioned upon the right of the department to inspect the land subject to chemigation and the irrigation distribution system pursuant to section 206A.3.

Sec. 6. NEW SECTION. 206A.3 INSPECTIONS.

1. The department shall conduct areawide, selective, and periodic inspections of irrigation distribution systems used for chemigation in order to ensure compliance with this chapter or rules adopted by the department pursuant to this chapter. The department shall inspect land which the department believes has been subjected to chemigation in violation of this chapter. The department shall make reasonable efforts to obtain consent from the titleholder of the land, permit holder, or an authorized representative, including a person responsible for managing the day-to-day operations of the land. The district court in Polk county or in the county where the land is located shall upon probable cause issue a search warrant to the department to carry out the inspection. The department may be issued a warrant before or after making reasonable efforts to obtain consent for an inspection. The department is not required to obtain consent or be issued a warrant if emergency conditions require immediate action by the department.

2. A person shall not refuse entry or access to the department as a condition of an inspection under this section, if the person is presented with appropriate credentials and a search warrant. A person shall not obstruct, interfere, or hamper with the inspection.

3. Upon request, the department shall provide a report of the inspection to the titleholder, permit holder, or authorized representative. The report shall detail findings of the department relating to compliance with this chapter.

4. The entry by the department upon land subject to an inspection as provided by this section shall not be considered to be trespass and damages shall not be recoverable based on the entry or damage to crops caused by the inspection.

Sec. 7. NEW SECTION. 206A.4 IRRIGATION DISTRIBUTION SYSTEMS.

1. The department shall establish, by rule, requirements, procedures, and standards relating to the operation of irrigation distribution systems to prevent the contamination of water supplies caused by chemigation. The rules shall specify the types of equipment used in irrigation distribution systems and design standards for such equipment. The department may establish different standards for different irrigation distribution systems. The rules shall provide for the installation, operation, and maintenance of irrigation pipes. The rules shall also provide for the installation, operation, and maintenance of equipment serving the following purposes:

a. To check the performance of the system.

b. To ensure that chemicals drain away from a source water supply.

c. To monitor the injection of chemicals into an irrigation distribution system.

d. To protect a water supply from contamination.

2. The rules adopted under this section shall not impose an unduly severe burden on a person without substantially contributing to the prevention of water contamination.

Sec. 8. NEW SECTION. 206A.5 CHEMIGATION APPLICATOR CERTIFICATION REQUIREMENTS.

1. An applicator shall choose between a one-year certification for which the applicator shall pay a seventy-five dollar fee or a three-year certification for which the applicator shall pay a two hundred twenty-five dollar fee. Fees collected pursuant to this section shall be deposited into the chemigation fund. The applicator shall pay the certification fee required in this section in addition to any fee required in section 206.5.

2. The applicator shall be examined prior to initial certification. In addition, the applicator shall be reexamined every three years following initial certification before the applicator is eligible for a renewal of certification. The department shall adopt, by rule, requirements for the examination, reexamination, and certification of applicants. Examinations and reexaminations under this chapter shall be held in conjunction with those required pursuant to section 206.5. The secretary shall also adopt by rule, the criteria for allowing the selection of a written or oral examination by a person requiring certification.

3. The department may suspend or revoke a certificate issued under this section, if an applicator does any of the following:

a. Applies chemicals by chemigation in violation of section 206A.4.

b. Applies chemicals by chemigation by use of equipment or a device that the applicator knows is defective, if such use violates requirements of this chapter, including rules adopted by the department.

c. Fails to report contamination of a water supply as provided in section 206A.7 which results from chemigation, if the contamination is known to the applicator, or should have been known to an applicator trained to perform similar functions.

d. Violates a provision of this chapter or rule adopted by the department pursuant to this chapter.

Sec. 9. NEW SECTION. 206A.6 NOTICE OF CHEMICAL USE REQUIRED.

A permit holder shall post a notice warning the public that chemicals are applied in an irrigation distribution system, and that land is being applied with chemicals by means of

chemigation. The notice shall name any restricted use pesticide applied in the irrigation distribution system. The notice shall be posted on the land subject to chemigation in a manner and according to procedures adopted by departmental rule.

Sec. 10. NEW SECTION. 206A.7 CONTAMINATION REPORT.

A permit holder or an applicator certified pursuant to section 206A.5 shall report an actual or suspected case of contamination related to the use of chemigation on land serviced by an irrigation distribution system. The report shall be made promptly to the department according to rules which shall be adopted by the department. The department shall initiate an investigation of the report within forty-eight hours of the report. The department shall take all actions necessary to protect the public. The department shall establish a plan of cleanup and recovery. The plan shall be carried out by the permit holder under the supervision of the department.

Sec. 11. NEW SECTION. 206A.7A EXCEPTIONS — ENCLOSED FACILITIES.

Sections 206A.2 and 206A.5 shall not apply to a person otherwise required to obtain a permit or be certified, to the extent that the person is a titleholder of land enclosed within a facility serviced by an irrigation distribution system, is responsible for the day-to-day management of the facility, or is an applicator within the facility.

Sec. 12. NEW SECTION. 206A.8 COOPERATION BY OTHER AGENCIES.

The department of natural resources shall cooperate with the department of agriculture and land stewardship in adopting rules required pursuant to this chapter. The department of natural resources shall also cooperate with the department of agriculture and land stewardship in enforcing provisions of this chapter and rules adopted pursuant to this chapter.

Sec. 13. NEW SECTION. 206A.9 REMEDIES — DISCIPLINARY ACTION AND INJUNCTIVE RELIEF.

1. The department may initiate disciplinary action against a person under this section by doing any of the following:

a. Referring any case of a violation pursuant to this chapter to the county attorney in the county where the violation occurs or to the attorney general.

b. Suspending or revoking a chemigation permit issued pursuant to section 206A.2.

c. Suspending or revoking a certificate issued pursuant to section 206A.5.

The department shall not initiate disciplinary action until the department provides at least ten days' notice to a person of a violation committed by the person. The notice shall be delivered by personal service or by certified mail. Acceptance of the notice does not constitute evidence of a violation. The department shall make every reasonable effort to obtain voluntary compliance.

The county attorney may initiate a prosecution under this section regardless of notice received by the department. If the county attorney does not initiate prosecution within thirty days after receiving the department's referral, the department shall notify the attorney general who shall initiate the prosecution. Voluntary compliance shall not preclude the department, a county attorney, or the attorney general from carrying out disciplinary action under this section.

2. Prosecution may be waived, if the waiver is conditioned upon compliance by the violator with a schedule for curing the violation. The schedule must be approved by the department and by the county attorney or attorney general if one of them has been asked to prosecute the case. If the violation is cured pursuant to the schedule, no prosecution shall be initiated based on that violation.

3. The department may bring an action in district court in the county where a violation is occurring to enjoin a person from actions which may threaten the public safety. The department, acting as petitioner in the action, shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, that irreparable damage or injury will result if the action is brought at law, or that unique or special circumstances exist.

Sec. 14. NEW SECTION. 206A.10 CHEMIGATION FUND.

1. A chemigation fund is created in the state treasury under the control of the secretary. The fund is composed of moneys deposited from the following sources:

a. Collected and dedicated to the fund under this chapter, including fees dedicated to the fund pursuant to section 206A.2 and 206A.5.

b. Appropriated to the fund by the general assembly.

c. Accepted for deposit into the fund by the secretary from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

2. Moneys deposited into the fund shall be used to administer and enforce this chapter.

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 secretary or an authorized representative of the secretary.

4. All interest earned on proceeds in the fund shall remain in the fund. Section 8.33 does not apply to moneys in the fund.

Sec. 15. NEW SECTION. 206A.11 PENALTIES.

1. a. A person required to obtain a chemigation permit pursuant to section 206A.2 who fails to obtain or retain the permit is subject to a civil penalty not to exceed two hundred fifty dollars.

b. A person who applies chemicals without obtaining or retaining a certification as required pursuant to section 206A.5 is subject to a civil penalty not to exceed two hundred fifty dollars.

c. A person who willfully tampers with or destroys equipment required pursuant to section 206A.4 used to protect water supplies from chemigation is subject to a civil penalty not to exceed three hundred dollars, if the tampering or destruction causes contamination or threatens to cause contamination of a water supply.

d. A person who fails to report contamination or suspected contamination of a water supply as required pursuant to section 206A.7 is subject to a civil penalty not to exceed one thousand dollars.

e. A person who fails to erect a notice or destroy a notice as required pursuant to section 206A.6 is subject to a civil penalty not to exceed one hundred dollars.

f. A person who fails to file a report required in section 206A.7 is subject to a civil penalty not to exceed one hundred dollars.

2. Each day that a violation continues constitutes a separate offense. The department shall not consider a day that an offense continues as a separate violation if the offense is beyond the control of the person to cure.

3. Moneys collected from civil penalties shall be deposited into the general fund of the state.

4. The penalties provided in this section are separate and cumulative. The penalties are in addition to and not in lieu of penalties imposed by provisions in other chapters, including chapter 206.

Sec. 16. EFFECTIVE DATE AND DATE OF APPLICABILITY.

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

2. The department of agriculture and land stewardship shall adopt rules to administer this Act as soon as practicable.

3. A person is not required to comply with this Act until on and after January 1, 1994. A person may apply for a permit and become certified before January 1, 1994.

Approved April 22, 1992

CHAPTER 1113

PROPERTY TAX EXEMPTION FOR NONPROFIT ENTITY

S.F. 531

AN ACT relating to the refund of property taxes paid by a nonprofit entity providing services to the blind and providing an effective date.

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

Section 1. Notwithstanding any other provision of law, a county board of supervisors shall abate the property taxes due and payable or refund the property taxes, if paid, which were due and payable in the fiscal year beginning July 1, 1989, of a nonprofit entity which provides services to the blind and is exempt from federal income taxation if that nonprofit entity failed to apply for a property tax exemption prior to July 1, 1988, because the closing on the purchase of the property occurred in July 1988, and the exemption would have been granted if the entity had applied and the closing had occurred prior to July 1, 1988. This section is repealed August 15, 1992.

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

Approved April 22, 1992

CHAPTER 1114

INVENTION DEVELOPMENT SERVICES

S.F. 2189

AN ACT relating to invention development services, providing for fees, and making penalties applicable.

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

Section 1. FINDINGS. The general assembly finds and declares all of the following:

1. Some members of the general public, commonly referred to as inventors, are engaged in the pursuit of creating original concepts which may be rendered into an artistic, educational, or technological expression, including works, compositions, designs, machines, manufacturing or engineering techniques, analyses, or processes.

2. These achievements or improvements often benefit the public welfare and are fostered by copyright, patent, and trademark laws which protect the property rights of inventors.

3. Inventors committing time and capital in this process are convinced of the commercial potential of their inventions, but often do not have the resources or expertise necessary to develop, manufacture, or market the inventions.

4. Inventors do not generally earn a livelihood from developing, manufacturing, promoting, or marketing inventions; manufacturing or marketing products; marketing designs; publishing or exhibiting works or compositions; or owning, operating, or controlling commercial enterprises.

5. There is a significant number of other persons, sometimes referred to as invention developers, who profit from the eagerness of inventors to expend substantial sums for services represented as important to exploit the commercial value of inventions.

6. Invention developers' services are generally offered for sums ranging from five hundred to eight thousand dollars and either a percentage of the income that may be derived from the sale or marketing of an invention or a partial ownership interest in the invention.

7. Inventors generally play a passive role in the development, promotion, publishing, exhibition, manufacture, marketing, or sale of their inventions after executing a contract with an invention developer, and usually do little more than receive periodic reports issued by the invention developer.

8. An extremely small number of inventors realize profits from inventions, regardless of the services purchased from invention developers.

9. Invention development services are frequently connected to sales practices and business methods which are fraudulent or deceitful, and may impose financial hardship upon persons residing in this state.

10. Existing legal provisions protecting inventors are inadequate to prevent these abuses.

11. The invention development services field has a significant impact upon the economy and well-being of this state and its local communities, and the provisions of this Act regulating the activities of investment developers are necessary for the public welfare.

Sec. 2. NEW SECTION. 523G.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Invention Development Services Act".

Sec. 3. NEW SECTION. 523G.2 PURPOSE OF THE CHAPTER.

The general assembly declares that the purpose of this chapter is to safeguard the public against fraud, deceit, imposition, and financial hardship, and to foster and encourage competition, fair dealing, and prosperity in the field of invention development services by prohibiting or restricting deceptive practices, misleading advertising, onerous contract terms, harmful financial practices, and other unfair, dishonest, deceptive, destructive, unscrupulous, fraudulent, or discriminatory practices which threaten the public welfare.

Sec. 4. NEW SECTION. 523G.3 DEFINITIONS.

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

1. "Business record" means a record maintained by an invention developer relating to invention development services, including but not limited to contracts, files, accounts, books, papers, photographs, and audio or visual tapes.

2. "Commissioner" means the commissioner of insurance or a person designated by the commissioner to act on the commissioner's behalf.

3. "Contract" means an agreement between an invention developer and a customer under which the invention developer promises to perform invention development services for the customer.

4. "Customer" means a person who is solicited by, inquires about, seeks the services of, or enters into a contract with an invention developer.

5. "Deceptive practice" means communicating a false or fraudulent statement, providing false pretense, making a false promise or misleading statement, misrepresenting a fact, omitting a material fact, or failing to make all disclosures required by this chapter.

6. "Fee" means a payment made by a customer to an invention developer, including reimbursements for expenditures made or costs incurred by the invention developer. However, "fee" does not include a payment made from a portion of the income received by the customer which resulted from invention development services performed by the invention developer.

7. "Invention" means an original concept which may be rendered into an artistic, educational, or technological expression, including works, compositions, designs, machines, manufacturing or engineering techniques, analyses, or processes.

8. "Invention developer" means a person who performs invention development services in this state or offers, through any means of communication, to perform invention development services in this state. However, an invention developer does not include the following:

a. A person licensed by a state or the United States to render legal advice, if the person acts within the scope of the license. However, if the person is a corporation, all of its stockholders or members must be licensed. If the person is a partnership, all of its partners must be licensed.

b. A department or agency of a federal or state government.

c. A political subdivision.

d. A nonprofit organization registered pursuant to state law.

e. A charitable, scientific, educational, or religious organization registered pursuant to state law.

f. A person who does not charge a fee for invention development services.

g. A person who provides researching, marketing, surveying, or other kinds of consulting services to professional manufacturers, marketers, publishers, or others purchasing such services as an adjunct to their traditional commercial enterprises.

9. "Invention development services" or "services" means acts required, promised to be performed, or actually performed by an invention developer for a customer pursuant to a contract which involves facilitating the development, promotion, licensing, publishing, exhibiting, or marketing of an invention.

Sec. 5. NEW SECTION. 523G.4 INITIAL DISCLOSURES.

1. If an invention developer contemplates entering into a contract or if the invention developer contemplates performance of a phase covered in a contract, the invention developer shall notify the customer by a written statement. The invention developer shall deliver to the customer the written notice together with a copy of each contract or a written summary of the general terms of each contract, including the total cost or consideration required from the customer, before the customer first executes the contract.

2. The invention developer shall make a written disclosure to the customer of the information required in this section. The disclosure shall be made in either the first written communication from the invention developer to a specific customer or at the first meeting between the invention developer and a customer. The written disclosure shall contain all of the following:

a. The median fee based on fees charged to all customers who have executed contracts with the invention developer in the preceding six months, excluding customers who have executed a contract in the preceding thirty days.

b. A single statement setting forth both of the following:

(1) The total number of customers who have executed contracts with the invention developer, except that the number need not reflect those customers who have executed contracts within the preceding thirty days.

(2) The number of customers who have received from the invention developer's services an amount of money in excess of the amount of money paid by those customers to the invention developer pursuant to a contract. The amount received by a customer reported on the statement shall only include income earned from the successful development, promotion, licensing, publishing, exhibiting, or marketing of the customer's invention pursuant to the contract executed between the invention developer and the customer.

c. A notice appearing in substantially the following form:

WARNING

The following disclosure is required by section 523G.4 of the Iowa Code:

The person you are dealing with is an invention developer regulated under chapter 523G of the Iowa Code. Unless an invention developer is an attorney licensed to practice in this state, the invention developer is prohibited from providing you legal advice concerning patent, copyright, or trademark law or to advise you of whether your creation, idea, or invention may be patentable or may be protected under the patent, copyright, or trademark laws of the United States or any other law. A registered patent agent may give advice as to patentability and protection available under the patent laws.

A patent, copyright, or trademark protection cannot be acquired for you by the invention developer. Your potential patent rights may be adversely affected by any attempt to commercialize your idea or invention before a patent application covering it is filed. Nonconfidential disclosures of your creation, idea, or invention may also trigger a one-year statutory deadline for filing a patent application in the United States, after which you would be banned from

receiving any patent protection in the United States, and would prevent you from obtaining valid patent rights in countries whose law provides that patent applications must be filed before there is a public disclosure.

Your failure to identify and investigate existing patents, trademarks, or registered copyrights may place you in jeopardy of infringing the copyright, patent, or trademark rights of other persons if you proceed to make, use, or sell your creation, idea, or invention.

If you assign even a partial interest in the invention to the invention developer, the invention developer may have the right to assign or license its interest in the invention, or make, use, and sell the creation, idea, or invention without your consent and may not have to share the profits with you.

d. A copy of a current registration certificate issued pursuant to section 523G.10.

Sec. 6. NEW SECTION. 523G.5 CONTRACTS.

1. A contract shall set forth information required in this section in at least ten point type.

2. The contract shall describe fully and in detail the services that the invention developer contracts to perform for the customer.

3. The contract shall state the following information:

a. If the invention developer contracts to construct one or more prototypes, models, or devices embodying the invention of the customer, the total number of prototypes to be constructed and whether the invention developer contracts to sell or distribute such prototypes, models, or devices.

b. If an oral or written estimate of customer earnings is made, the estimate and the data upon which it is based.

c. A single statement setting forth both of the following:

(1) The total number of customers who have executed contracts with the invention developer, except that the number need not reflect those customers who have contracted within the preceding thirty days.

(2) The number of customers who have received from the invention developer's services an amount of money in excess of the amount of money paid by those customers to the invention developer pursuant to a contract. The amount received by a customer reported on the statement shall only include payments for services performed by the invention developer involving the development, promotion, licensing, publishing, exhibiting, or marketing of the customer's invention pursuant to their contract.

d. The expected date of completion of the invention development services.

e. The extent to which the terms of the contract effectuate or make possible the purchase by the invention developer of an interest in the title to an invention.

f. A statement explaining that the invention developer is required to maintain all records and correspondence relating to the invention development services performed for that customer for a period not less than three years after expiration of the contract.

g. A statement explaining that the records and correspondence required to be maintained pursuant to section 523G.8 shall be made available to the customer or representative for review and copying at the expense of the customer on the premises of the invention developer during normal business hours upon seven days' written notice from the date of delivery sent by certified mail.

h. The name of the person contracting to perform the invention development services, all names under which the person is doing or has done business as an invention developer during the previous ten years, the names of all parent and subsidiary entities to the person, and the names of all entities that have a contractual obligation to perform invention development services for the person.

i. The principal business address of the invention developer and the name and address of its agent in this state authorized to receive service of process in this state.

4. a. The customer has an unconditional right to cancel a contract for invention development services at any time before the third business day following the date the customer receives an executed copy of the contract.

b. The customer must notify the invention developer of a cancellation by written notice delivered personally or by certified mail. A notice delivered personally must be delivered to the invention developer's place of business by the end of the third business day following the date that the contract was executed, and the cancellation shall take effect upon delivery. Upon delivery of the personal notice, the invention developer shall return a receipt to the customer acknowledging receipt of the cancellation. A notice delivered by certified mail must be mailed by midnight of the third day following the date that the contract was executed, and the cancellation shall become effective upon the date the receipt is signed. A notice of cancellation may take any form which indicates that the customer no longer intends to be bound by the contract.

c. Within ten business days after receipt of the notice of cancellation, the invention developer shall deliver to the customer, personally or by certified mail, all moneys paid, any note or other evidence of indebtedness, and all materials provided by the customer. The invention developer may condition payment upon a receipt by the customer acknowledging personal delivery.

5. The following shall be included in the contract:

a. A disclosure statement in substantially the following form shall appear in boldface type and be located conspicuously on a cover sheet that contains no other writing:

NOTICE

The following disclosure is required by section 523G.5 of the Iowa Code and is expressly made a part of this contract:

You have the right to cancel this contract for any reason at any time within three (3) business days from the date you and the invention developer sign the contract and you receive a fully executed copy. To exercise this option you may use certified mail or personally deliver to this invention developer written notice of your cancellation. The method and time for notification is set forth in this contract immediately above the place for your signature. The invention developer must return by certified mail or personal delivery, within ten business days after receipt of the cancellation notice, all money paid and all materials provided either by you or by another party on your behalf.

Unless the invention developer is an attorney, the invention developer is prohibited from giving you legal advice concerning patent, copyright, or trademark law, whether your creation, idea, or invention may be patentable, or protected under the patent, copyright, or trademark laws of the United States or any other law. A registered patent agent may give advice as to patentability and protection available under the patent laws.

A patent, copyright, or trademark protection will not be acquired for you by the invention developer or by this contract. Your potential patent rights may be adversely affected by any attempt to commercialize your idea or invention before a patent application covering it is filed. Nonconfidential disclosures of your idea or invention may also trigger certain statutory deadlines for filing a patent application in the United States and would prevent you from obtaining valid patent rights in countries whose law provides that patent applications must be filed before there is a public disclosure. Your failure to identify and investigate existing patents, trademarks, or registered copyrights may place you in jeopardy of infringing the copyright, patent, or trademark rights of other persons if you proceed to make, use, or sell your idea or invention.

b. A disclosure statement in substantially the following form shall appear in ten point boldface type immediately above the place where the customer is to sign:

ATTENTION!
(READ CAREFULLY)

You have three (3) business days during which you may cancel this contract for any reason. You must deliver written notice of the cancellation by certified mail or personally to the invention developer. This opportunity to cancel the contract will expire on the last date that you are allowed to mail or deliver notice. If you choose to use certified mail to deliver your notice, it must be placed in the United States mail addressed to (insert name of invention developer), at (insert address of invention developer's place of business) with first class postage

prepaid before midnight of (insert proper date). If you choose to personally deliver your notice to the invention developer, it must be delivered by the end of the normal business day on (insert proper date). You are advised to obtain a written statement from the invention developer acknowledging receipt.

Sec. 7. NEW SECTION. 523G.6 EVIDENCE OF FINANCIAL RESPONSIBILITY.

1. An invention developer shall maintain as security evidence of financial responsibility as approved by the commissioner. The security shall be either a bond or cash deposit in an amount which is equal to the greater of either ten percent of the invention developer's gross income from the invention development business in this state during the invention developer's preceding fiscal year, or twenty-five thousand dollars. The commissioner shall approve the security before the invention developer renders or offers to render invention development services in this state. The invention developer shall have ninety days beginning on the first day of the invention developer's new fiscal year to change the security as necessary to conform to the requirements of this subsection.

2. A surety who issues a bond must be approved by the commissioner. A copy of the bond shall be filed in a manner and according to procedures approved by the commissioner. A cash deposit shall be filed with the treasurer of state in a manner and according to procedures approved by the treasurer of state in consultation with the commissioner. The treasurer of state shall not refund a deposit until sixty days following either the date that the invention developer has ceased doing business in the state or a bond has been filed with the commissioner in compliance with this section.

3. The security shall be in favor of the state for the benefit of any person entering into a contract with and damaged by an invention developer, if the damages are caused by one of the following:

a. A failure by the invention developer to perform the terms of the contract.

b. The insolvency of the invention developer or the cessation of the invention developer's business.

c. The intentional violation of a provision of this chapter by the invention developer.

A person claiming against the security may maintain an action at law against the invention developer. An action against a bond may also include the surety. The aggregate liability of the surety to all persons for all breaches of conditions of the bond shall not exceed the amount of the bond.

Sec. 8. NEW SECTION. 523G.7 NEGOTIABLE INSTRUMENTS.

An invention developer shall not take a negotiable instrument from a customer as part of a contract, unless the negotiable instrument is a check constituting evidence of the customer's obligation. A person in possession of a negotiable instrument is not a holder in due course as defined in section 554.3302, if the person takes a negotiable instrument from a customer in violation of this section.

Sec. 9. NEW SECTION. 523G.8 RECORDS AND CORRESPONDENCE.

An invention developer shall maintain all records and correspondence relating to performance of each invention development contract for not less than three years after expiration of the contract.

Sec. 10. NEW SECTION. 523G.9 COMPLIANCE WITH OTHER LAWS, VIOLATIONS AND PENALTIES.

1. The provisions of this chapter are not exclusive and do not relieve persons or a contract from compliance with other applicable law.

2. A contract which fails to comply with the applicable provisions of this chapter is unenforceable against the customer as contrary to public policy, unless the invention developer proves all of the following:

a. The noncompliance resulted from an error.

b. The invention developer followed reasonable procedures adopted to avoid such errors.

c. The invention developer promptly made an appropriate correction upon discovery of the noncompliance.

3. A contract executed by an invention developer is unenforceable against the customer, if the invention developer used deceptive practices, with an intent to cause reliance, regardless of whether the customer was actually misled, deceived, or damaged.

4. A provision of a contract which waives a provision of this chapter is contrary to public policy and is void and unenforceable.

5. A person may bring a civil action against an invention developer that uses a deceptive practice. The person may be awarded damages together with costs and disbursements, including reasonable attorney fees. The court in its discretion may increase the award of damages to an amount not to exceed three times the damages or two thousand five hundred dollars, whichever is greater.

6. Failure to make an initial disclosure required by section 523G.4 shall render any contract subsequently entered into between the customer and the invention developer voidable by the customer.

7. A violation of this chapter or a rule adopted by the commissioner pursuant to this chapter is a violation of section 714.16. The remedies and penalties provided by section 714.16, including but not limited to provisions relating to injunctive relief and penalties, apply to violations of this chapter.

Sec. 11. NEW SECTION. 523G.10 REGISTRATION STATEMENT.

1. An invention developer shall file a registration statement with the commissioner not later than May 1 of each year. The registration statement shall contain all of the following information:

a. The name and address of the invention developer.

b. The name and address of each owner, officer, or other official of the invention developer's business. However, if the invention developer is a corporation, the registration statement shall contain the names and addresses of the chief executive officer and the members of the board of directors.

c. A description of the invention development services offered.

d. A copy of each form of contract used by the invention developer.

e. A copy of the invention developer's most recent financial statement, including balance sheets and related statements of income of the invention developer, prepared in accordance with generally accepted accounting principles, audited by a certified public accountant, and dated not more than twelve months prior to the date of the application.

f. The total number of customers who have contracted with the invention developer in this state during the invention developer's preceding fiscal year.

g. The invention developer's gross income from the invention development business in this state during the invention developer's preceding fiscal year.

h. The number of customers who have received from the invention developer's services an amount of money in excess of the amount of money paid by those customers to the invention developer pursuant to a contract. The amount received by a customer reported on the statement shall only include income earned from the successful development, promotion, licensing, publishing, exhibiting, or marketing of the customer's invention pursuant to the contract executed between the invention developer and the customer.

2. The invention developer shall submit an annual fee to the commissioner in the amount of two hundred fifty dollars. The fees shall be deposited into the general fund of the state.

3. The invention developer shall submit a copy of the surety bond or proof of cash deposit as required by section 523G.6.

4. The commissioner shall issue a certificate of compliance to invention developers that have complied with registration requirements of this section.

Sec. 12. NEW SECTION. 523G.11 POWERS AND DUTIES OF THE COMMISSIONER.

The commissioner shall administer and enforce the provisions of this chapter and may do all of the following:

1. Adopt rules necessary to administer this chapter in accordance with chapter 17A.

2. Investigate the business and business records of invention developers and conduct necessary investigative procedures.

3. Administer oaths and affirmations, subpoena witnesses, receive evidence, and require the production of business records relating to an investigation or proceedings.

4. Apply to the district court for issuance of an order requiring a person's appearance before the commissioner, if the person has refused to obey a subpoena issued by the commissioner. 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.

5. Issue an order directed at an invention developer to cease and desist from engaging in an act which is in violation of this chapter or a rule adopted by the commissioner. The order shall be based on an investigation which provides reasonable evidence of a violation.

Sec. 13. CONDITION TO ENACTMENT OF CERTAIN PROVISIONS.

Sections 523G.6, 523G.10, and 523G.11 of this Act, regarding duties and authority of the insurance commissioner, shall only be implemented if and when the general assembly makes an appropriation of at least ten thousand dollars and provides for the retention of one part-time clerk for a total of at least one-half full-time equivalent position devoted to the insurance division of the department of commerce for the implementation of the sections.

Approved April 22, 1992

CHAPTER 1115

RESIDENCY REQUIREMENT FOR CLERKS OF DISTRICT COURT

S.F. 2233

AN ACT relating to the residency requirement for clerks of the district court.

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

Section 1. Section 602.1215, subsection 1, Code 1991, is amended to read as follows:

1. The district judges of each judicial election district shall by majority vote appoint persons to serve as clerks of the district court, one for each county within the judicial election district. A person does not qualify for appointment to the office of clerk of the district court unless the person is at the time of application a resident of the ~~county in which the vacancy exists~~ state. Within three months of appointment the clerk of the district court must establish residence and physically reside in the county. A clerk of the district court may be removed from office for cause by a majority vote of the district judges of the judicial election district. Before removal, the clerk of the district court shall be notified of the cause for removal.

Approved April 22, 1992

CHAPTER 1116

ELECTION OF JUDICIAL NOMINATING COMMISSIONERS
S.F. 2265

AN ACT relating to elections of judicial nominating commissioners.

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

Section 1. Section 46.7, Code 1991, is amended to read as follows:

46.7 ELIGIBILITY TO VOTE.

To be eligible to vote in elections of judicial nominating commissioners, a member of the bar must be eligible to practice and must be a resident of the state of Iowa and of the appropriate congressional district or judicial election district as shown by the member's most recent filing with the supreme court for the purposes of showing compliance with the court's continuing legal education requirements, or for members of the bar eligible to practice who are not required to file such compliance, any paper on file by July 1 with the clerk of the supreme court, for the purpose of establishing eligibility to vote under this section, which the court determines to show the requisite residency requirements. A judge who has been admitted to the bar of the state of Iowa shall be considered a member of the bar.

Approved April 22, 1992

CHAPTER 1117

INSURANCE REGULATION
S.F. 2286

AN ACT relating to insurance regulation, including the financial supervision and solvency oversight of insurance companies by the commissioner of insurance and accreditation of the division of insurance as an approved insurance regulator by the national association of insurance commissioners, and providing penalties and an effective date.

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

Section 1. Section 507.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

507.1 PURPOSE — DEFINITIONS.

1. The purpose of this chapter is to provide an effective and efficient system for examining the activities, operations, financial condition, and affairs of all persons transacting the business of insurance in this state and all persons otherwise subject to the jurisdiction of the commissioner. The chapter is intended to enable the commissioner to adopt a flexible system of examinations which directs resources as deemed appropriate and necessary for the administration of the insurance and insurance-related laws of this state.

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

a. "Commissioner" means the commissioner of insurance of this state.

b. "Company" means any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory, or taxing authority of the commissioner.

c. "Division" means the division of insurance of the department of commerce.

d. "Examiner" means any individual or firm authorized by the commissioner to conduct an examination pursuant to this chapter.

e. "Insurer" includes all companies or associations organized under chapter 508, 511, 512A, 512B, 514, 514B, 515, 515C, or 518A, associations subject to chapters 518 and 520, and companies or associations admitted or seeking to be admitted to this state under any of those chapters.

f. "Person" means any individual, aggregation of individuals, trust, association, partnership, or corporation or an affiliate of any of these.

Sec. 2. Section 507.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

507.2 AUTHORITY, SCOPE, AND SCHEDULING OF EXAMINATIONS.

1. The commissioner or any of the commissioner's examiners may conduct an examination under this chapter of any company as often as the commissioner deems appropriate, but at a minimum, shall conduct an examination of any domestic insurer licensed in this state no less than once every five years. In scheduling and determining the nature, scope, and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the examiners' handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this section.

2. For purposes of completing an examination of any company pursuant to this chapter, the commissioner may examine or investigate any person, or the business of any person, insofar as the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company.

3. In lieu of an examination under this chapter of any foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the regulatory authority for insurance for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports shall only be accepted if the regulatory authority was at the time of the examination accredited under the national association of insurance commissioners' financial regulation standards and accreditation program or the examination is performed under the supervision of an accredited regulatory authority or with the participation of one or more examiners who are employed by the accredited state and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with standards and procedures required by their insurance department.

Sec. 3. Section 507.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

507.3 CONDUCT OF EXAMINATIONS.

1. Upon determining that an examination should be conducted, the commissioner or the commissioner's designee may issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The commissioner may also employ other guidelines as the commissioner deems appropriate.

2. A company or person from whom information is sought and its officers, directors, and agents shall provide to the examiners appointed under subsection 1, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, and any or all computer or other recordings relating to the property, assets, business, and affairs of the company being examined. The officers, directors, employees, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees, or agents, to submit to examinations or to comply with any reasonable written request of the examiners is grounds for suspension or revocation of, or nonrenewal of, any license or authority held by the company to engage in the business of insurance or other business subject to the commissioner's jurisdiction. Should a company decline or refuse to submit to an examination

as provided in this chapter, the commissioner shall immediately revoke its certificate of authority, and if the company is organized under the laws of this state, the commissioner shall report the commissioner's action to the attorney general, who shall immediately apply to the district court for the appointment of a receiver to administer the final affairs of the company.

3. The commissioner or any of the commissioner's examiners may issue subpoenas, administer oaths, and examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

4. When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.

5. This chapter does not limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are deemed to be prima facie evidence in any legal or regulatory action.

Sec. 4. Section 507.6, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

507.6 CONFLICT OF INTEREST.

1. An examiner shall not be appointed by the commissioner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being any of the following:

a. A policyholder or claimant under an insurance policy.

b. A grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business.

c. An investment owner in shares of regulated diversified investment companies.

d. A settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed.

2. Notwithstanding the requirements of subsection 1, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though the persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

Sec. 5. Section 507.10, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

507.10 EXAMINATION REPORTS.

1. GENERAL DESCRIPTION. All examination reports shall be comprised only of facts appearing upon the books, records, or other documents of the company, its agents, or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from the facts.

2. FILING OF EXAMINATION REPORT. No later than sixty days following completion of the examination, the examiner in charge shall file with the division a verified written report of examination under oath. Upon receipt of the verified report and after administrative review, the division shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report.

3. ADOPTION OF REPORT ON EXAMINATION. Within twenty days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order which does one of the following:

a. Adopts the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law or a rule or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation.

b. Rejects the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling pursuant to subsection 1 above.

c. Calls for an investigatory hearing with no less than twenty days notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

4. ORDERS AND PROCEDURES.

a. All orders entered pursuant to subsection 3, paragraph "a", shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work papers, and any written submissions or rebuttals. Any such order is a final administrative decision and may be appealed pursuant to chapter 17A, and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within thirty days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

b. Any hearing conducted under subsection 3, paragraph "c", by the commissioner or an authorized representative, shall be conducted as a nonadversarial, confidential, investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or indicated as a result of the commissioner's review of relevant work papers or by the written submission or rebuttal of the company. Within twenty days of the conclusion of any such hearing, the commissioner shall enter an order pursuant to subsection 3, paragraph "a".

(1) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the company limited to the examiner's work papers which tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or a representative acting on the commissioner's behalf may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the division of insurance, the company, or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or a representative acting on the commissioner's behalf shall be under oath and preserved for the record.

This section does not require the division of insurance to disclose any information or records which would indicate or show the existence of any investigation or activity of a criminal justice agency.

(2) The hearing shall proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter the company and the division may present testimony relevant to the investigation. Cross-examination shall be conducted only by the commissioner or the commissioner's representative. The company and the division shall be permitted to make closing statements and may be represented by counsel.

5. PUBLICATION AND USE.

a. Upon the adoption of the preliminary examination report under subsection 3, paragraph "a", the commissioner shall hold the content of the final examination report as private and confidential information not subject to disclosure and it is not a public record under chapter 22, for a period of twenty days except to the extent provided in subsection 2. After the twenty-day period has elapsed, the commissioner may open the final report for public inspection so long as no court of competent jurisdiction has stayed its publication.

b. The commissioner is not prevented from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the report, to an insurance department of any other state or country, or to law enforcement officials of this or any other state or an agency of the federal government at any time, so long as such agency or office receiving the report, or matters relating to the report, agrees in writing to maintain the confidentiality of the report or such matters in a manner consistent with this chapter.

c. If the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceeding or action as provided by law.

Sec. 6. Section 507.14, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A preliminary report~~, preliminary or final,~~ of an examination of a domestic or foreign insurer, and all notes, work papers, or other documents related to an examination of an insurer are not public records under chapter 22 except when sought by the insurer to whom they relate, ~~or~~ an insurance regulator of another state, or the national association of insurance commissioners, and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

Sec. 7. Section 507.17, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

507.17 IMMUNITY FROM LIABILITY.

1. A cause of action does not arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representative, or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this chapter.

2. A cause of action does not arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative, or an examiner pursuant to an examination made under this chapter, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

3. This section does not abrogate or modify in any way any common law or statutory privilege or immunity enjoyed by any person identified in subsection 1.

4. A person identified in subsection 1 is entitled to an award of attorney's fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this chapter and the party bringing the action was not substantially justified in doing so. For purposes of this section, a proceeding is substantially justified if the proceeding has a reasonable basis in law or fact at the time that it is initiated.

Sec. 8. Section 507C.1, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The purpose of this chapter is the protection of the interests of ~~insured~~ insureds, claimants, creditors, and the public, with minimum interference with the normal prerogatives of the owners and managers of insurers, through all of the following:

Sec. 9. Section 507C.1, subsection 4, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Providing for a comprehensive scheme for the rehabilitation and liquidation of insurance companies and those subject to this chapter as part of the regulation of the business of insurance, the insurance industry, and insurers in this state. Proceedings in cases of insurer insolvency and delinquency are deemed an integral aspect of the business of insurance and are of vital public interest and concern.

Sec. 10. Section 507C.2, subsections 9, 10, 11, and 13, Code 1991, are amended to read as follows:

9. "General assets" means all real, personal, or other property, ~~real or personal~~, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, "general assets" includes all property or its proceeds in excess of the amount necessary to discharge the sum or sums secured by the property or its proceeds. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

10. "Guaranty association" means the Iowa insurance guaranty association created in chapter 515B, the Iowa life and health insurance guaranty association created in chapter 508C, and any other similar entity either presently existing or to be created by the general assembly for the payment of claims of insolvent insurers. "Foreign guaranty association" means a similar entity presently existing in or to be created in the future by the legislature of any other state.

11. "Insolvency" or "insolvent" means ~~either~~ any of the following:

a. For an insurer issuing only assessable fire insurance policies, either of the following:

(1) The inability to pay any obligation within thirty days after it becomes payable.

(2) If an assessment is made, the inability to pay the assessment within thirty days following the date specified in the first assessment notice issued after the date of loss.

b. For ~~an~~ any other insurer that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:

(1) Any capital and surplus required by law for its organization.

(2) The total par or stated value of its authorized and issued capital stock.

~~b~~ c. As to an insurer licensed to do business in this state as of July 1, 1984, which does not meet the standard established under paragraph "~~a~~ b", the term "insolvency" or "insolvent" shall mean, for a period not to exceed three years from July 1, 1984, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the commissioner under provisions of the insurance law.

For purposes of this subsection "liabilities" ~~shall include~~ includes but is not ~~be~~ limited to reserves required by statute or by the division's rules or specific requirements imposed by the commissioner upon a company at the time of or subsequent to admission.

13. "Preferred claim" means a claim with respect to which the terms of this chapter ~~grant~~ accord priority of payment from the general assets of the insurer.

Sec. 11. Section 507C.4, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. In an action on or incident to a reinsurance contract, if the person served is a reinsurer who has at any time written a policy of reinsurance for an insurer against which a ~~rehabilitation or liquidation order is in effect when the action is commenced~~ delinquency proceeding has been instituted, or is an agent or broker of or for the reinsurer and the action results from or is incident to the relationship with the reinsurer.

Sec. 12. Section 507C.4, subsection 3, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. In an action if the person served is or was at the time of the institution of the delinquency proceeding against the insurer holding assets which are the subject of the proceeding and in which the receiver claims an interest on behalf of the insurer.

NEW PARAGRAPH. e. If the person served is obligated to the insurer in any way whatsoever, in an action on or incident to the obligation.

Sec. 13. NEW SECTION. 507C.8A CONDITION ON RELEASE FROM DELINQUENCY PROCEEDINGS.

An insurer subject to a delinquency proceeding shall not be released from the delinquency proceeding unless the proceeding is converted into a rehabilitation or liquidation proceeding; shall not be permitted to solicit or accept new business, or request or accept the restoration of any suspended or revoked license or certificate of authority; and shall not be returned to the control of the insurer's shareholders or private management, or have any of the insurer's

assets returned to the control of its shareholders or private management, until all payments of or on account of the insurer's contractual obligations by all guaranty associations, along with all expenses of such obligations and interest on all such payments and expenses, have been repaid to the guaranty association or a plan of repayment by the insurer is approved by the guaranty association.

Sec. 14. Section 507C.11, Code 1991, is amended to read as follows:

507C.11 CONFIDENTIALITY OF HEARINGS.

Notwithstanding chapter 22, in all administrative proceedings pursuant to sections 507C.9 and 507C.10 all records and documents pertaining to or a part of the record of the proceedings are confidential except as is necessary to obtain compliance with a proceeding. However, the records may be released if either of the following occurs:

1. The insurer requests that the records be made public.

2. After a hearing on the issue with the parties to the proceeding, the court orders that the records be made public. Until such court order, the clerk of court shall hold all papers filed in a confidential file.

Sec. 15. Section 507C.13, subsection 2, Code 1991, is amended to read as follows:

2. An order issued under this section ~~shall require~~ requires accounting to the court by the rehabilitator. Accountings shall be at intervals the court ~~specified~~ specifies in the order. Each accounting must include a report concerning the rehabilitator's opinion as to whether a plan pursuant to section 507C.14, subsection 4, will be prepared. If the rehabilitator includes in any accounting that such a plan is likely, the accounting shall also include a proposed timetable for the preparation and implementation of the plan.

Sec. 16. Section 507C.14, Code 1991, is amended by adding the following new subsection following subsection 2, and renumbering the remaining subsections:

NEW SUBSECTION. 2A. The rehabilitator, with the approval of the court, may appoint an advisory committee of policyholders, claimants, or other creditors including guaranty associations, should the rehabilitator deem it to be necessary. Each member of the advisory committee shall be reimbursed for necessary travel and actual expenses incurred in fulfilling the duties of the advisory committee. The rehabilitator shall not appoint any other committee related to proceedings pursuant to this chapter.

Sec. 17. Section 507C.15, subsections 1 and 2, Code 1991, are amended to read as follows:

1. A court in this state, before which an action or proceeding in which the insurer is a party or is obligated to defend a party is pending when a rehabilitation order against the insurer is entered, shall stay the action or proceeding for ninety days and any additional time as necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take action respecting the pending litigation as necessary in the interests of justice and for the protection of creditors, policyholders, and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over that litigation for stays whenever necessary to protect the estate of the insurer.

2. A statute of limitations or defense of laches shall not run in an action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting or denying that petition. An action by or against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty days after the order of rehabilitation is entered or the petition is denied. The rehabilitator, upon the issuance of an order for rehabilitation pursuant to section 507C.13, may institute an action or proceeding on behalf of the insurer based upon a cause of action for which the period of limitation has not expired at the time of the filing of the petition for an order to rehabilitate. The action or proceeding by the rehabilitator may be instituted within one year or a longer period if provided by applicable law, of the issuance of the order for rehabilitation.

Sec. 18. Section 507C.16, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the payment of obligations pursuant to a policy issued by the insurer is suspended in substantial part for a period of six months at any time after the appointment of the rehabilitator, and the rehabilitator has not filed an application for a plan pursuant to section 507C.14, subsection 4, the rehabilitator shall petition the court for an order of liquidation on grounds of insolvency.

Sec. 19. Section 507C.18, Code 1991, is amended to read as follows:

507C.18 LIQUIDATION ORDERS.

1. An order to liquidate the business of a domestic insurer shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the insurer and to administer them under the general supervision of the court. The liquidator ~~shall be~~ is vested with the title to the property, contracts, and rights of action and the books and records of the insurer ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of the court and the recorder of deeds of the county in which its principal office or place or business is located, or, in the case of real estate with the recorder of deeds of the county where the property is located, ~~shall be~~ is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

2. Upon issuance of the order, the rights and liabilities of an insurer and of its creditors, policyholders, shareholders, members, and other persons interested in its estate shall become fixed as of the date of entry of the order of liquidation, except as provided in sections 507C.19 and 507C.37.

3. An order to liquidate the business of an alien insurer domiciled in this state ~~shall~~ must be in the same terms and have the same legal effect as an order to liquidate a domestic insurer, except that the assets and the business in the United States shall be the only assets and business included in the order.

4. At the time of petitioning for an order of liquidation, or at any time thereafter, the commissioner, after making appropriate findings of an insurer's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

5. An order issued under this section shall require accounting to the court by the liquidator. Accountings, at a minimum, must include all funds received or disbursed by the liquidator during the current period. An accounting shall be ~~at intervals specified in the~~ filed within one year of the liquidation order and at such other times as the court may require.

6. a. Within five days of the effective date of this section or, if later, within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the continued performance of the defendant company's policy claims obligations, including the duty to defend insureds under liability insurance policies, during the pendency of an appeal. The plan shall provide for the continued performance and payment of policy claims obligations in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant company's financial condition will not, in the judgment of the commissioner, support the full performance of all policy claims obligations during the appeal pendency period, the plan may prefer the claims of certain policyholders and claimants over creditors and interested parties as well as other policyholders and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such policyholders and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. No action shall lie against the commissioner or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

b. The appeal pendency plan shall not supersede or affect the obligations of any insurance guaranty association.

c. Any such plans shall provide for equitable adjustments to be made by the liquidator to any distributions of assets to guaranty associations, in the event that the liquidator pays claims from assets of the estate, which would otherwise be the obligations of any particular guaranty association but for the appeal of the order of liquidation, such that all guaranty associations equally benefit on a pro rata basis from the assets of the estate. If an order of liquidation is set aside upon an appeal, the company shall not be released from delinquency proceedings unless and until all funds advanced by a guaranty association, including reasonable administrative expenses in connection therewith relating to obligations of the company, shall be repaid in full, together with interest at the judgment rate of interest, or unless an arrangement for repayment thereof has been made with the consent of all applicable guaranty associations.

Sec. 20. Section 507C.21, subsection 1, paragraph j, Code 1991, is amended to read as follows:

j. Borrow money on the security of the insurer's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this paragraph shall be repaid as an administrative expense and have priority over any other class 1 claims under the priority of distribution established in section 507C.42.

Sec. 21. Section 507C.21, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. w. Audit the books and records of all agents of the insurer which relate to the business of the insurer.

Sec. 22. Section 507C.22, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. Notice to agents of the insurer and potential claimants who are policyholders under subsection 1, where applicable, shall include notice that coverage by state guaranty associations may be available for all or part of policy benefits in accordance with applicable state guaranty laws.

b. The liquidator shall promptly provide to the guaranty associations such information concerning the identities and addresses of the policyholders and their policy coverages as may be within the liquidator's possession or control, and otherwise cooperate with guaranty associations to assist them in providing to the policyholders timely notice of the guaranty associations' coverage of policy benefits including, as applicable, coverage of claims and continuation or termination of coverage.

Sec. 23. Section 507C.23, subsection 2, Code 1991, is amended to read as follows:

2. An agent failing to ~~give notice or file a report of compliance~~ provide information as required in subsection 1 may be subject to payment of a penalty of not more than one thousand dollars and may have the agent's license suspended. The penalty is to be imposed only after a hearing held by the commissioner.

Sec. 24. Section 507C.24, subsections 1 and 2, Code 1991, are amended to read as follows:

1. After the issuance of an order appointing a liquidator of a domestic insurer or of an alien insurer domiciled in this state, action at law or equity shall not be brought against the insurer or liquidator in this state or elsewhere, nor shall existing actions be maintained or further presented after issuance of the order. The courts of this state shall give full faith and credit to injunctions against the liquidator or the insurer or the continuation of existing actions against the liquidator or the insurer, when the injunctions are included in an order to liquidate an insurer issued pursuant to corresponding provisions in other states. Whenever in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend, at the expense of the estate of the insurer, an action in which the liquidator intervenes under this section.

2. Within two years or such additional time as applicable law may permit, the liquidator may after the issuance of an order for liquidation institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation

fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. ~~Where~~ If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or ~~where~~ if in a proceeding, judicial or otherwise, a period of limitation is fixed in the proceeding or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and ~~where in any case~~ if the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the insurer, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

Sec. 25. Section 507C.27, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A person receiving any property from the insurer or any benefit of the insurer which is a fraudulent transfer under subsection 1 is personally liable for the property or benefit and shall account to the liquidator.

Sec. 26. Section 507C.30, subsection 2, Code 1991, is amended by adding the following new paragraph following paragraph b and relettering the remaining paragraphs:

NEW PARAGRAPH. c. The obligation of the insurer is owed to the affiliate of such person, or any other entity or association other than the person.

Sec. 27. Section 507C.34, subsection 1, Code 1991, is amended to read as follows:

1. Within one hundred twenty days of a final determination of insolvency under this chapter as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets to a guaranty association or foreign guaranty association having obligations because of the insolvency. An application and disbursement of assets shall be made from time to time as assets become available. If the liquidator determines that there are insufficient assets to disburse, the application required by this section shall be considered satisfied by a filing by the liquidator stating the reasons for this determination.

Sec. 28. Section 507C.40, Code 1991, is amended to read as follows:

507C.40 CLAIMS OF SURETY.

If a creditor, whose claim against an insurer is secured in whole or in part, by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name. ~~The surety~~ and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the ~~surety~~ other person in the creditor's name to the extent that the ~~surety~~ other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the ~~surety~~ other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the insurer's estate to the creditor ~~equals~~ equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the ~~surety~~ other person. As used in this section, ~~"surety"~~ "other person" is not intended to apply to a guaranty association or foreign guaranty association.

Sec. 29. Section 507C.42, subsections 1, 2, 3, 4, and 5, Code 1991, are amended to read as follows:

1. CLASS 1. The costs and expenses of administration, including but not limited to the following:

a. The actual and necessary costs of preserving or recovering the assets of the insurer.

b. Compensation for all authorized services rendered in the liquidation.

c. Necessary filing fees.

d. The fees and mileage payable to witnesses.

e. ~~Reasonable~~ Authorized reasonable attorney's fees and other professional services rendered in the liquidation.

f. The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

2. CLASS 2. ~~Debts due~~ Reasonable compensation to employees for services performed to the extent that they do not exceed ~~one thousand dollars~~ two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if the rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

3. CLASS 3. Claims under policies, including claims of the federal or any state or local government, for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and claims of a guaranty association or foreign guaranty association. Claims under nonassessable policies for unearned premium. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

4. CLASS 4. ~~Claims under nonassessable policies for unearned premium or other premium~~ Premium refunds, ~~and~~ claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.

5. CLASS 5. Claims of the federal or any state or local government except those under class 3. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under subsection 8.

Sec. 30. Section 507C.45, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding any other provision of this chapter, funds as identified in subsection 1, with the approval of the court, shall be made available to the commissioner for use in the detection and prevention of future insolvencies. The commissioner shall hold these funds and shall pay without interest, except as provided in section 507C.42, to the person entitled to the funds or the person's legal representative upon proof satisfactory to the commissioner of the person's right to the funds. The funds shall be held by the commissioner for a period of two years at which time the rights and duties to the unclaimed funds shall vest in the commissioner.

Sec. 31. Section 507C.46, subsection 2, Code 1991, is amended to read as follows:

2. Any other person may apply to the court at any time for an order under subsection 1. If the application is denied, the applicant shall pay the costs and expenses ~~including reasonable attorney's fee~~ of the liquidator in resisting the application including a reasonable attorney's fee.

Sec. 32. Section 507C.52, subsection 1, Code 1991, is amended to read as follows:

1. Except as to special deposits and security on secured claims under section 507C.53, subsection 3, the domiciliary liquidator of an insurer domiciled in a reciprocal state shall be vested with the title to the assets, property, contracts, ~~and~~ rights of action, agents' balances, books, accounts, and other records of the insurer located in this state. The date of vesting is the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting ~~shall be~~ is the date of entry of the order directing possession to be taken. The domiciliary liquidator may immediately recover balances due from agents and obtain possession of the books, accounts, and other records of the insurer located in this state. ~~Subject to section 507C.53, the domiciliary liquidator may also recover all other assets of the insurer located in this state.~~ The domiciliary liquidator may also have the right to recover all other assets of the insurer located in this state, subject to section 507C.53.

Sec. 33. Section 507C.55, subsection 2, Code 1991, is amended to read as follows:

2. Claims belonging to claimants residing in reciprocal states shall be proved either in the liquidation proceeding in this state as provided in this chapter or in ancillary proceedings in the reciprocal states, if a claim filing procedure is established in the ancillary proceeding. If notice of the claims and opportunity to appear and be heard is afforded the domiciliary liquidator of this state as provided in section 507C.56, subsection 2, with respect to ancillary proceedings, the final allowance of claims by the courts in ancillary proceedings in reciprocal states shall be conclusive as to amount and as to priority against special deposits or other security located in such ancillary states, but shall not be conclusive with respect to priorities against general assets under section 507C.42.

Sec. 34. Section 507C.56, subsections 1 and 2, Code 1991, are amended to read as follows:

1. ~~In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state~~ Promptly after the appointment of the commissioner as ancillary receiver for an insurer not domiciled in this state, the commissioner shall determine whether there are claimants residing in this state who are not protected by guaranty funds and whether the protection of such claimants requires the establishing of a claim filing procedure in the ancillary proceeding. If a claim filing procedure is established, claimants against the insurer who reside within this state may file claims either with the ancillary receiver in this state, or with the domiciliary liquidator. Claims shall be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

2. Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state, or in ancillary proceedings in this state, provided a claim filing procedure is established in the ancillary proceeding. If a claimant elects to prove the claim in this state, the claimant shall file the claim with the liquidator in the manner provided in sections 507C.35 and 507C.36. The ancillary receiver shall make a recommendation to the court as under section 507C.43. The ancillary receiver shall also arrange a date for hearing if necessary under section 507C.39 and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least forty days prior to the date set for hearing. Within thirty days after the giving of the notice, if the domiciliary liquidator gives notice in writing either by certified mail or by personal service to the ancillary receiver and to the claimant of an intention to contest the claim, the domiciliary liquidator is entitled to appear or to be represented in a proceeding in this state involving the adjudication of the claim.

Sec. 35. Section 510A.1, Code Supplement 1991, is amended to read as follows:

510A.1 SHORT TITLE.

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

Sec. 36. Section 510A.2, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

510A.2 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established by the national association of insurance commissioners.

2. "Control" or "controlled" has the meaning ascribed in section 521A.1, subsection 3.

3. "Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a producer.

4. "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

5. "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.

6. "Licensed insurer" or "insurer" means any person duly licensed to transact a property and casualty insurance business in this state. The following are not licensed property and casualty insurers for the purposes of this chapter:

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

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

c. All captive insurers. For the purposes of this chapter, captive insurers are insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks of any group and association members and any affiliates.

7. "Producer" means an insurance broker or brokers or any other person when, for any compensation, commission, or other thing of value, the person acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person.

Sec. 37. Section 510A.3, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

510A.3 APPLICABILITY.

This chapter applies to licensed insurers as defined in section 510A.2, either domiciled in this state or domiciled in a state that is not an accredited state and having a substantially similar law. All provisions of the insurance holding company Act, to the extent those provisions are not superseded by this chapter, continue to apply to all persons associated with holding companies subject to this chapter.

Sec. 38. Section 510A.4, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

510A.4 MINIMUM STANDARDS.

1. APPLICABILITY OF SECTION.

a. This section applies if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the preceding year.

b. Notwithstanding paragraph "a", this section does not apply if both of the following apply:

(1) The controlling producer does all of the following:

(a) Places insurance only with the controlled insurer, or only with the controlled insurer and members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary, and receives no compensation based upon the amount of premiums written in connection with such insurance.

(b) Accepts insurance placements only from nonaffiliated subproducers and not directly from insureds.

(2) The controlled insurer, except for insurance business written through a residual market facility, accepts insurance business only from the controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

2. REQUIRED CONTRACT PROVISIONS. A controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between the controlling producer and the controlled insurer specifying the responsibilities of each party which has been approved by the board of directors of the controlled insurer and filed with the commissioner. The contract must contain, at a minimum, the following provisions:

a. The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination.

b. The controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer.

c. The controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments of premiums collected shall be remitted no later than ninety days after the effective date of any policy placed with the controlled insurer under this contract.

d. All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the federal reserve system, in accordance with the provisions of the insurance law as applicable. However, funds of a controlling producer not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction.

e. The controlling producer shall maintain separately identifiable records of business written for the controlled insurer.

f. The contract shall not be assigned in whole or in part by the controlling producer.

g. The controlled insurer shall provide the controlling producer with its underwriting standards, rules, and procedures manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer.

h. The rates and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees. The rates of the commissions, charges, and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this paragraph and paragraph "g" of this subsection, "comparable business" includes the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business.

i. If the contract provides that the controlling producer, on insurance business placed with the controlled insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to subsection 4, paragraph "a".

j. A limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer which would exceed the limit. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached.

k. The controlling producer may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains 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.

3. AUDIT COMMITTEE. 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 other independent loss reserve specialist acceptable to the commissioner, to review the adequacy of the insurer's loss reserves.

4. REPORTING REQUIREMENTS.

a. In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or 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 year-end on business placed by the producer, including incurred but not reported losses.

b. 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 percentage paid to noncontrolling producers for placements of the same kinds of insurance.

Sec. 39. NEW SECTION. 510A.5 DISCLOSURE.

The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer; except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has notified or will notify the insured.

Sec. 40. Section 521A.5, subsection 3, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the commissioner has received notice of the declaration of the dividend or distribution and has not disapproved such payment within the period, or at the time the commissioner has approved the payment within the thirty-day period.

For purposes of this subsection, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the lesser of ten percent of the insurer's surplus related to policyholders as of the thirty-first day of December next preceding, or the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the twelve-month period ending the thirty-first day of December next preceding, but does not include pro rata distributions of any class of the insurer's own securities. In determining whether a dividend or distribution is extraordinary, an insurer may carry forward net income or gain from operations from the previous two calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income or gain from operations from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediately preceding calendar years.

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval of the dividend or distribution and the declaration does not confer any rights upon shareholders until the commissioner has approved the payment of the dividend or distribution or the commissioner has not disapproved the payment within the thirty-day period as provided in this subsection.

Sec. 41. The commissioner of insurance shall conduct a study relating to the issues involved with compulsory proof of financial responsibility for all operators of motor vehicles in this state. The study shall include an analysis of the impact of requiring such coverage, including the number of additional operators acquiring coverage, the effect on premium costs to consumers, the impact on expenses which would be incurred by insurance carriers as a result of losses paid under such policies, and other related issues.

The commissioner of insurance shall conduct at least one public hearing in each of the five new congressional districts during the 1992 legislative interim concerning the issue of compulsory proof of financial responsibility for all operators of motor vehicles in this state. The

commissioner shall provide adequate notice of such hearings and encourage participation by all citizens in this state. The commissioner shall make an accurate record or summary of each meeting and provide a complete report to the general assembly no later than January 20, 1993, concerning the proceedings.

Sec. 42. Section 507.13, Code 1991, is repealed.

Sec. 43. Section 40 of this Act, as it amends section 521A.5, subsection 3, Code Supplement 1991, is effective October 31, 1993.

Approved April 22, 1992

CHAPTER 1118

CITIES SUBJECT TO CIVIL SERVICE
S.F. 2293

AN ACT relating to cities subject to civil service.

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

Section 1. Section 400.1, Code 1991, is amended to read as follows:

400.1 APPOINTMENT OF COMMISSION.

In cities having a population of eight thousand or over, having a paid fire department or a paid police department, the mayor, one year after each regular municipal election, with the approval of the council, shall appoint three civil service commissioners who shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the fourth year, and one until the first Monday in April of the sixth year after such appointment, whose successors shall be appointed for a term of six years.

For the purpose of determining the population of a city under this section, the federal census conducted in 1980 shall be used. This paragraph is void effective July 1, 2001.

Approved April 22, 1992

CHAPTER 1119

HEALTH CARE COVERAGE FOR WELL-BABY CARE
H.F. 2158

AN ACT relating to group accident and sickness insurance, group nonprofit health service plans, and prepaid group plans of health maintenance organizations by mandating inclusion of newborn infant coverage for treatment, including routine well-baby care, under certain circumstances.

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

Section 1. NEW SECTION. 514H.7A COMMISSIONER'S AUTHORITY.

1. Upon the commissioner's determination under section 514H.7, subsection 1, paragraph "b", to include well-baby care in basic benefit coverage policies, the commissioner shall do all of the following:

a. With all due diligence adopt by rule requirements for the general provision of coverage for benefits for routine well-baby care.

b. Adopt by rule the time period, as determined by the commissioner to be appropriate, for which well-baby care shall be provided.

c. Apply the requirement for coverage to all appropriate entities providing group or employee health care benefits under the jurisdiction of the commissioner.

2. In determining the requirements under subsection 1 the commissioner shall consider all of the following:

a. The costs versus corresponding benefits of such coverage.

b. Normally anticipated health problems and recommended routine preventive care.

c. Continuity of coverage for any congenital defects and birth abnormalties,* injuries, or illnesses arising within the well-baby coverage period.

Approved April 22, 1992

CHAPTER 1120

WORKERS' COMPENSATION DISPUTES REGARDING HEALTH SERVICE CHARGES

H.F. 2165

AN ACT relating to disputes regarding health service charges in workers' compensation cases.

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

Section 1. Section 85.27, unnumbered paragraph 3, Code 1991, is amended to read as follows:

~~Charges~~ Notwithstanding section 85.26, subsection 4, charges believed to be excessive or unnecessary may be referred by the employer, insurance carrier, or health service provider to the industrial commissioner for determination, and the commissioner may~~, in connection therewith,~~ utilize the procedures provided in sections 86.38 and 86.39, or set by rule, and conduct such inquiry as the commissioner ~~shall deem~~ deems necessary. Any health service provider charges not in dispute shall be paid directly to the health service provider prior to utilization of procedures provided in sections 86.38 and 86.39 or set by rule. ~~Any institution or person~~ A health service provider rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the industrial commissioner and shall not recover in law or equity any amount in excess of ~~that~~ charges set by the commissioner. When a dispute under chapter 85 regarding reasonableness of a fee for medical services arises between a health service provider and an employer or insurance carrier, the health service provider, employer, or insurance carrier shall not seek payment from the injured employee.

Approved April 22, 1992

*According to enrolled Act

CHAPTER 1121

DENTISTRY

H.F. 2389

AN ACT relating to professions regulated by the board of dental examiners.

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

Section 1. NEW SECTION. 153.15A DENTAL HYGIENISTS – LICENSE REQUIREMENTS, LICENSE RENEWAL.

1. In addition to requirements adopted by rule by the board, in order to obtain a license as a dental hygienist, an applicant shall present evidence to the board of both of the following:

a. That the applicant possesses a degree or certificate of graduation from a college, university, or institution of higher education, accredited by a national agency recognized by the council on postsecondary accreditation or the United States department of education, in a program of dental hygiene with a minimum of two academic years of curriculum.

b. That the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

2. In order to renew a license as a dental hygienist, a licensee shall furnish evidence of valid annual certification for cardiopulmonary resuscitation which shall be credited toward the licensee's continuing education requirement.

Sec. 2. Section 153.33, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. To adopt rules regarding infection control in dental practice which are consistent with standards of the federal Occupational Safety and Health Act of 1970, 29 U.S.C. § 651-678, and recommendations of the centers for disease control.

Approved April 22, 1992

CHAPTER 1122

HANDICAPPED PARKING VIOLATIONS

H.F. 2408

AN ACT increasing the penalty for improper use of a handicapped identification device.

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

Section 1. Section 321.236, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine payable to the city clerk or clerk of the district court, if authorized by ordinance. The fine shall not exceed five dollars except for snow route parking violations in which case the fine shall not exceed twenty-five dollars. The fine may be increased up to ten dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred, if authorized by ordinance. Violations of section 321L.4, subsection 2, may be charged and collected upon a simple notice of a ~~twenty-five~~ fifty dollar fine payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 2. Section 321L.4, subsection 2, Code 1991, is amended to read as follows:

2. The use of a handicapped parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by a motor vehicle not displaying a handicapped identification device; by a motor vehicle displaying such a device but not being used by a handicapped person, as an operator or passenger; or by a motor vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a handicapped identification device which is a misdemeanor for which a fine shall be imposed upon the owner, operator, or lessee of the motor vehicle or the purchaser of the handicapped identification device. The fine for each violation shall be ~~twenty-five~~ fifty dollars. Proof of conviction of two or more violations involving improper use of a handicapped identification device is grounds for revocation by the court or the department of the holder's privilege to possess or use the device.

Sec. 3. Section 805.8, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars. The scheduled fine for a parking violation of section 321.236 increases in an amount up to ten dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 111.38 or 321.362 the scheduled fine is ten dollars. For a parking violation under section 321L.4, subsection 2, the scheduled fine is ~~twenty-five~~ fifty dollars.

Approved April 22, 1992

CHAPTER 1123

STATE MANDATES

H.F. 2463

AN ACT relating to state mandates.

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

Section 1. Section 25B.3, subsection 2, Code 1991, is amended to read as follows:

2. "State mandate" means a statutory requirement ~~enacted after January 1, 1984,~~ or appropriation which requires a political subdivision of the state to establish, expand, or modify its activities in a manner which necessitates additional annual expenditures of local revenue of at least one hundred thousand dollars, or additional expenditures of local revenue within five years of enactment of five hundred thousand dollars or more, excluding an order issued by a court of this state.

Sec. 2. Section 25B.5, Code 1991, is amended to read as follows:

25B.5 ESTIMATION — PROCEDURES.

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

2. If a bill or joint resolution ~~contains~~ may include a state mandate, a copy of the prepared draft shall be sent to the legislative fiscal bureau which shall determine if the bill or joint

resolution contains a state mandate. If the bill or joint resolution contains a state mandate and is still eligible for consideration during the legislative session for which the bill or joint resolution was drafted, the legislative fiscal bureau shall prepare an estimate of the amount of costs imposed.

3. If a bill or joint resolution containing a state mandate is enacted, unless the estimate already on file with the house of origin is sufficient, the legislative fiscal bureau shall prepare a final estimate of additional local revenue expenditures required by the state mandate and file the estimate with the secretary of state for inclusion with the official copy of the bill or resolution to which it applies. A notation of the filing of the estimate shall be made in the Acts of the general assembly published pursuant to chapter 14.

Sec. 3. Section 14.10, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A notation of the filing of an estimate of a state mandate prepared by the legislative fiscal bureau pursuant to section 25B.5 shall be included in the session laws with the text of an enacted bill or joint resolution containing the state mandate.

Approved April 22, 1992

CHAPTER 1124

JUVENILE COURT

S.F. 2040

AN ACT relating to changing the title "juvenile court referee" to "associate juvenile judge" and to the appeal of associate juvenile judge orders, findings, and decisions.

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

Section 1. Section 125.75A, Code 1991, is amended to read as follows:

125.75A INVOLUNTARY COMMITMENT OR TREATMENT OF MINORS — JURISDICTION.

The juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary commitment or treatment is filed under section 125.75. In proceedings under this division concerning a minor's involuntary commitment or treatment, the ~~terms~~ term "court", "judge", ~~"referee",~~ or "clerk" mean the juvenile court, judge, ~~referee,~~ or clerk.

Sec. 2. Section 229.6A, subsection 1, Code 1991, is amended to read as follows:

1. Notwithstanding section 229.11, the juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for involuntary admission is filed under section 229.6 or for whom an application for voluntary admission is made under section 229.2, subsection 1, to which the minor objects. In proceedings under this chapter concerning a minor, notwithstanding section 229.11, the ~~terms~~ term "court", "judge", ~~"referee",~~ or "clerk" mean the juvenile court, judge, ~~referee,~~ or clerk.

Sec. 3. Section 331.754, subsection 2, Code 1991, is amended to read as follows:

2. The acting county attorney shall receive a reasonable compensation as determined by the board for services rendered in proceedings before a judicial magistrate or rendered on behalf of a county officer or employee. If the proceedings are held before a district associate judge or a district judge, the judge shall determine a reasonable compensation for the acting county attorney. If the proceedings are held before ~~a juvenile court referee~~ an associate juvenile judge or a judicial hospitalization referee, the acting county attorney shall be compensated

at a rate approved by the judge who appointed the associate juvenile judge or referee. The compensation shall be paid from funds to be appropriated to the office of county attorney by the board.

Sec. 4. Section 602.7103, Code 1991, is amended to read as follows:

602.7103 ~~REFEREE~~ ASSOCIATE JUVENILE JUDGE — PROCEDURE.

1. The chief judge may appoint and may remove for cause with due process ~~a juvenile court referee~~ an associate juvenile judge. The ~~referee~~ associate juvenile judge shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.

2. The ~~referee~~ associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings and to issue orders, findings, and decisions as the judge of the juvenile court, except that the ~~referee~~ associate juvenile judge shall not issue warrants. However, the appointing judge may limit the ~~referee's~~ exercise of juvenile court jurisdiction by the associate juvenile judge.

3. The parties to a termination of parental rights proceeding heard by ~~the referee~~ an associate juvenile judge are entitled to ~~a review by the judge of the juvenile court of~~ appeal the ~~referee's~~ order, finding, or decision of an associate juvenile judge, ~~if the review is requested within ten days after the entry of the referee's order, finding, or decision~~ in the manner of an appeal from orders, findings, or decisions of district court judges. The parties to any other proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, to the district court. ~~A request for review~~ An appeal does not automatically stay the ~~referee's~~ order, finding, or decision of an associate juvenile judge. ~~The review is on the record only.~~

Approved April 23, 1992

CHAPTER 1125

PROFESSIONAL LICENSING BOARDS — DISCIPLINARY HEARINGS

S.F. 2148

AN ACT relating to the cost of disciplinary hearings conducted by professional licensing boards, and providing an effective date.

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

Section 1. Section 258A.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A board created pursuant to chapter 114, 116, 117, 117B, 118, 118A, 135E, 147, 154A, or 169 may charge a fee not to exceed seventy-five dollars for conducting a disciplinary hearing pursuant to this chapter which results in disciplinary action taken against the licensee by the board, and in addition to the fee, may recover from a licensee the costs for the following procedures and associated personnel:

a. Transcript.

b. Witness fees and expenses.

c. Depositions.

d. Medical examination fees incurred relating to a person licensed under chapter 135E, 147, 154A, or 169.

The department of agriculture and land stewardship, the department of commerce, and the Iowa department of public health shall each adopt rules pursuant to chapter 17A which provide for the allocation of fees and costs collected pursuant to this section to the board under

its jurisdiction collecting the fees and costs. The fees and costs shall be considered repayment receipts as defined in section 8.2.

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

Approved April 23, 1992

CHAPTER 1126

TREASURER OF STATE – ACCEPTANCE OF CREDIT CARD PAYMENTS
S.F. 2198

AN ACT relating to authorization of state departments' acceptance of payments by credit card.

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

Section 1. Section 12.21, Code 1991, is amended to read as follows:

12.21 ACCEPTING CREDIT CARD PAYMENTS.

The treasurer of state may enter into an agreement with a financial institution to provide credit card receipt processing for state departments which are authorized by the treasurer of state to accept payment by credit card. A department which accepts credit card payments ~~may~~ shall adjust its fees to reflect the cost of processing as determined by the treasurer of state. A fee may be charged by a department for using the credit card payment method notwithstanding any other provision of the Code setting specific fees. The treasurer of state shall adopt rules to implement this section.

Approved April 23, 1992

CHAPTER 1127

NONPUBLIC SCHOOLS – VOCATIONAL EDUCATION
S.F. 2236

AN ACT to exempt nonpublic schools from the regular vocational education standards for grades seven through twelve.

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

Section 1. Section 256.11, subsection 4, Code Supplement 1991, is amended to read as follows:

4. The following shall be taught in grades seven and eight: English-language arts; social studies; mathematics; science; health; human growth and development, family, consumer, career, and technology education; physical education; music; and visual art. The health curriculum shall include the characteristics of sexually transmitted diseases and acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the program in grades seven and eight. However, this subsection shall not apply to the teaching of family, consumer, career, and technology education ~~are not required to be taught~~ in nonpublic schools ~~which do not offer vocational education programs~~.

Sec. 2. Section 256.11, subsection 5, paragraph h, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A minimum of three sequential units in at least four of the following six vocational service areas: agriculture, business or office occupations, health occupations, ~~consumer and~~ family and consumer sciences or home economics occupations, industrial technology or trade and industrial education, and marketing education. Instruction shall be competency-based, articulated with postsecondary programs of study, and include field, laboratory, or on-the-job training. Each sequential unit shall include instruction in a minimum set of competencies established by the department of education that relate to the following: new and emerging technologies; job-seeking, job-adaptability, and other employment, self-employment and entrepreneurial skills that reflect current industry standards and labor-market needs; and reinforcement of basic academic skills. The instructional programs shall also comply with the provisions of chapter 258 relating to vocational education. However, this ~~subsection~~ paragraph does not apply to the teaching of vocational education in nonpublic schools ~~which do not offer vocational education programs~~.

Sec. 3. NEW SECTION. 256.11B VOCATIONAL EDUCATION INSTRUCTION — NONPUBLIC SCHOOLS.

A nonpublic school which provides an educational program that includes grades nine through twelve shall offer and teach five units of occupational education subjects, which may include, but are not limited to, programs, services, and activities which prepare students for employment in business or office occupations, trade and industrial occupations, consumer and family sciences or home economics occupations, agriculture occupations, marketing occupations, and health occupations. By July 1, 1993, instruction shall be competency-based, articulated with postsecondary programs of study, and may include field, laboratory, or on-the-job training.

Approved April 23, 1992

CHAPTER 1128

MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES DIVISION — PUBLIC HOUSING UNIT

S.F. 2294

AN ACT authorizing the administrator of the division of mental health, mental retardation, and developmental disabilities of the department of human services to establish a public housing unit within a bureau of the division.

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

Section 1. Section 225C.4, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing to persons with mental illness, mental retardation, or a developmental disability in accordance with section 225C.45.

Sec. 2. NEW SECTION. 225C.45 PUBLIC HOUSING UNIT.

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing to persons with mental illness, mental retardation, or a developmental disability.

2. In implementing the public housing unit, the division may do all of the following:

a. Prepare, implement, and operate housing projects and provide for the construction, improvement, extension, alteration, or repair of a housing project under the division's jurisdiction.

b. Develop and implement studies, conduct analyses, and engage in research concerning housing and housing needs. The information obtained from these activities shall be made available to the public and to the building, housing, and supply industries.

c. Cooperate with the Iowa finance authority and participate in any of the authority's programs. Use any funds obtained pursuant to subsection 1 to participate in the authority's programs. The division shall comply with rules adopted by the authority as the rules apply to the housing activities of the division.

3. In accepting contributions, grants, or other financial assistance from the federal government relating to a housing activity of the division, including construction, operation, or maintenance, or in managing a housing project or undertaking constructed or owned by the federal government, the division may do any of the following:

a. Comply with federally required conditions or enter into contracts or agreements as may be necessary, convenient, or desirable.

b. Take any other action necessary or desirable in order to secure the financial aid or cooperation of the federal government.

c. Include in a contract with the federal government for financial assistance any provision which the federal government may require as a condition of the assistance that is consistent with the provisions of this section.

4. The division shall not proceed with a housing project pursuant to this section, unless both of the following conditions are met:

a. A study for a report which includes recommendations concerning the housing available within a community is publicly issued by the division. The study shall be included in the division's recommendations for a housing project.

b. The division's recommendations are approved by a majority of the city council or board of supervisors with jurisdiction over the geographic area affected by the recommendations.

5. Property acquired or held pursuant to this section is public property used for essential public purposes and is declared to be exempt from any tax or special assessment of the state or any state public body as defined in section 403A.2. In lieu of taxes on the property, the division may agree to make payments to the state or a state public body, including but not limited to the division, as the division finds necessary to maintain the purpose of providing low-cost housing in accordance with this section.

6. Any property owned or held by the division pursuant to this section is exempt from levy and sale by execution. An execution or other judicial process shall not be issued against the property and a judgment against the division shall not be a lien or charge against the property. However, the provisions of this subsection shall not apply to or limit the right of the federal government to pursue any remedies available under this section. The provisions of this subsection shall also not apply to or limit the right of an obligee to take either of the following actions:

a. Foreclose or otherwise enforce a mortgage or other security executed or issued pursuant to this section.

b. Pursue remedies for the enforcement of a pledge or lien on rents, fees, or revenues.

7. In any contract with the federal government to provide annual payments to the division, the division may obligate itself to convey to the federal government possession of or title to the housing project in the event of a substantial default as defined in the contract and with respect to the covenant or conditions to which the division is subject. The obligation shall be specifically enforceable and shall not constitute a mortgage. The contract may also provide that in the event of a conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the housing project and funds in accordance with the terms of the contract. However, the contract shall require that, as soon as is practicable after the federal government is satisfied that all defaults with respect to the housing project are

cured and the housing project will be operated in accordance with the terms of the contract, the federal government shall reconvey the housing project to the division.

8. The division shall not undertake a housing project pursuant to this section until a public hearing has been held. At the hearing, the division shall notify the public of the proposed project's name, location, number of living units proposed, and approximate cost. Notice of the public hearing shall be published at least once in a newspaper of general circulation at least fifteen days prior to the date set for the hearing.

Sec. 3. HOUSING PROGRAMS STUDY REQUESTED. The legislative council is requested to establish a committee for the 1992 interim to study federal, state, and local housing programs. The interim study shall include existing housing programs and consider funding streams, including expanded federal funding available through the federal Cranston-Gonzalez National Affordable Housing Act of 1990, Pub. L. No. 101-625. The committee shall give attention to existing housing and housing planning, in developing its recommendations to the legislative council and the general assembly.

Approved April 23, 1992

CHAPTER 1129

UNFAIR AND DISCRIMINATORY PRACTICES IN HOUSING

S.F. 2301

AN ACT relating to unfair and discriminatory practices in housing and subjecting violators to civil actions and existing criminal penalties.

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

Section 1. Section 601A.2, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Covered multifamily dwelling" means any of the following:

a. A building consisting of four or more dwelling units if the building has one or more elevators.

b. The ground floor units of a building consisting of four or more units.

Sec. 2. Section 601A.2, subsection 8, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Familial status" also means a person who is pregnant or who is in the process of securing legal custody of an individual who has not attained the age of eighteen years.

Sec. 3. Section 601A.2, subsection 12, Code Supplement 1991, is amended to read as follows:

12. "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in sections 601A.6, 601A.7, 601A.8, 601A.8A, 601A.9, 601A.10, ~~and~~ 601A.11, and 601A.11A.

Sec. 4. Section 601A.8, unnumbered paragraph 1 and subsections 1 and 2, Code 1991, are amended to read as follows:

It shall be an unfair or discriminatory practice for any person, owner, or person acting for an owner, of rights to housing or real property, with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will:

1. To refuse to sell, rent, lease, assign, ~~or~~ sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion or interest therein, to any person because of the race, color, creed, sex, religion, national origin, disability, or familial status of such person.

2. To discriminate against any person because of the person's race, color, creed, sex, religion, national origin, disability, or familial status, in the terms, conditions or privileges of the sale, rental, lease assignment or sublease of any real property or housing accommodation or any part, portion or interest ~~therein~~ in the real property or housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation.

For purposes of this section, "person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

Sec. 5. Section 601A.11A, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

601A.11A INTERFERENCE, COERCION, OR INTIMIDATION — ENFORCEMENT BY CIVIL ACTION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, on account of the person having exercised or enjoyed, or on account of the person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 601A.8, 601A.8A, or 601A.15A.

Sec. 6. Section 601A.12, unnumbered paragraph 1 and subsections 1, 2, and 3, Code Supplement 1991, are amended to read as follows:

The provisions of ~~section~~ sections 601A.8 and 601A.8A shall not apply to:

1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, when ~~such~~ the qualifications are related to a bona fide religious purpose unless the religious institution owns or operates property for a commercial purpose or membership in the religion is restricted on account of race, color, or national origin.

2. The rental or leasing of a ~~housing accommodation~~ dwelling in a building which contains housing accommodations for not more than two families living independently of each other, if the owner ~~or members of the owner's family reside~~ resides in one of ~~such~~ the housing accommodations.

3. The rental or leasing of less than four rooms within a single ~~housing accommodation~~ dwelling by the occupant or owner of ~~such housing accommodation~~ the dwelling, if the occupant or owner ~~or members of that person's family reside~~ resides in the ~~accommodation~~ dwelling.

Sec. 7. Section 601A.12, subsection 4, Code Supplement 1991, is amended by striking the subsection.

Sec. 8. Section 601A.12, subsection 5, unnumbered paragraph 1 and paragraph a, Code Supplement 1991, are amended to read as follows:

~~Housing accommodations~~ Dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the state or federal program that the commission determines to be consistent with determinations made by the secretary of housing and urban development, and housing for older persons. As used in this subsection, "housing for older persons" means housing communities consisting of ~~accommodations~~ dwellings intended for either of the following:

a. For 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~~ the persons and the housing facility must publish and adhere to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

Sec. 9. Section 601A.12, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The exceptions to the requirements of sections 601A.8 and 601A.8A provided for dwellings specified in subsection 6 does not apply to advertising related to those dwellings.

Sec. 10. Section 601A.12A, Code Supplement 1991, is amended to read as follows:

601A.12A ADDITIONAL HOUSING EXCEPTION.

~~Section~~ Sections 601A.8 and 601A.8A ~~does~~ do 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. 11. Section 601A.15A, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. When the commission has reasonable cause to believe that a respondent has breached a mediation agreement, the commission shall refer this matter to an assistant attorney general with a recommendation that a civil action be filed for the enforcement of the agreement. The assistant attorney general may commence a civil action in the appropriate district court not later than the expiration of ninety days after referral of the breach.

Sec. 12. Section 601A.15A, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 12. This section applies only to the following:

a. Complaints which allege a violation of the prohibitions contained in section 601A.8 or 601A.8A.

b. Complaints which allege a violation of section 601A.11 or 601A.11A arising out of alleged violations of the prohibitions contained in section 601A.8 or 601A.8A.

NEW SUBSECTION. 13. If a provision of section 601A.15A applies under the terms of section 601A.15A, subsection 12, and the provision of section 601A.15A conflicts with a provision of section 601A.15 then the provision contained within section 601A.15A shall prevail. Similarly, if a provision of section 601A.16A or 601A.17A conflicts with a provision of section 601A.16 or 601A.17, then the provision contained in section 601A.16A or 601A.17A shall prevail.

Sec. 13. Section 601A.16A, subsection 1, paragraph b, Code Supplement 1991, is amended to read as follows:

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~~ 601A.15A, subsection 5, or in the case of the commission, not later than twenty days after the date the determination was issued.

Sec. 14. Section 601A.16A, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The election to have the charges of a complaint decided in a civil action as provided in paragraph "a" is only available if one of the following is alleged:

(1) It is alleged that there has been a violation of section 601A.8 or 601A.8A.

(2) It is alleged that there has been a violation of section 601A.11 or 601A.11A arising out of an alleged violation of the prohibitions contained in section 601A.8 or 601A.8A.

Sec. 15. Section 601A.17, subsection 10, Code 1991, is amended to read as follows:

10. If no proceeding to obtain judicial review is instituted within thirty days from the ~~service~~ issuance of an order of the commission under section 601A.15 or 601A.15A, the commission may obtain an order of the court for the enforcement of ~~such~~ the order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

Sec. 16. Section 601A.17A, subsection 1, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Venue for an action under this section is in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged discriminatory housing or real estate practice occurred.

Sec. 17. Section 601A.17A, subsection 2, Code Supplement 1991, is amended to read as follows:

2. A commission order under section 601A.15A, subsection 11, ~~does~~ and a commission order that has been substantially affirmed by judicial review, do 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.

Sec. 18. Section 601A.20, subsection 1, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. This chapter does not affect:

a. A reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling.

b. Tenancy of an individual that would constitute a direct threat to the health or safety of other individuals or tenancy that would result in substantial physical damage to the property of others.

Approved April 23, 1992

CHAPTER 1130

EXTENDED SCHOOL PROGRAMS

H.F. 646

AN ACT to permit school districts to provide educational programs to persons who are beyond the age prescribed as the school age.

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

Section 1. Section 282.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Persons between five and twenty-one years of age are of school age. A board may establish and maintain evening schools or an educational program under section 282.1A for residents of the corporation regardless of age and for which no tuition need be charged. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under section 282.7, subsection 1 or subsections 1 and 3, shall be charged tuition as provided in section 282.24, subsection 2.

Sec. 2. NEW SECTION. 282.1A EXTENDED SCHOOL PROGRAMS.

1. A board of directors of a public school district may, subject to the approval of the department of education, provide an extended school program for residents of the district who are over the maximum school age established in section 282.1, who do not possess a high school diploma or a high school equivalency diploma under chapter 259A, and who are currently enrolled in an education program in the district. The educational program may be separate from or integrated into the regular school program. Residents attending the program shall be included in the district's basic enrollment and shall attend on a tuition-free basis. A district may also provide services to nonresidents under this section, and those persons shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person as provided in section 282.6.

2. A district which wishes to provide an extended school program, in addition to meeting any requirements set by the department, shall establish all of the following prior to obtaining approval for the program:

a. There is an identified presence of resident persons who are over the maximum established school age, who do not possess a high school diploma or a high school equivalency diploma under chapter 259A.

b. The provision of services to these additional persons will not substantially interfere with the educational programming provided to students of school age.

c. The provision of services will not require additional or new facilities to meet the needs of the identified populations.

3. The department shall make recommendations for, and the state board of education shall adopt, rules which provide for the administration of extended school programs.

Approved April 23, 1992

CHAPTER 1131

SAILBOARDS FOR WINDSURFING

H.F. 2010

AN ACT relating to windsurfing by defining a sailboard and exempting sailboards from certain registration and equipment requirements.

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

Section 1. Section 106.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 24A. "Sailboard" means a windsurfing vessel with a mount for a sail, a daggerboard, and a small skeg.

Sec. 2. Section 106.6A, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A sailboard. However, the registration decal shall be attached to the bottom surface of the bow.

Sec. 3. Section 106.9, subsection 6, Code 1991, is amended to read as follows:

6. Every vessel shall carry at least one life preserver, life belt, ring buoy or other device, of the sort prescribed by the rules of the commission, for each passenger, so placed as to be readily accessible. This does not apply to a vessel which is a racing shell used in the sport of sculling or to a sailboard while used for windsurfing.

Approved April 23, 1992

CHAPTER 1132

LIFE-SUSTAINING PROCEDURES

H.F. 2207

AN ACT conforming provisions of the life-sustaining procedures Act to the durable power of attorney for health care law and providing an effective date.

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

Section 1. Section 144A.2, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. "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.

Sec. 2. Section 144A.2, subsection 5, Code 1991, is amended to read as follows:

5. "Life-sustaining procedure" means any medical procedure, treatment or intervention which meets both of the following requirements:

a. Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.

b. When applied to a patient in a terminal condition, would serve only to prolong the dying process.

"Life-sustaining procedure" does not include the provision of ~~sustenance~~ nutrition or hydration except when required to be provided parenterally or through intubation or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

Sec. 3. Section 144A.2, subsection 8, Code 1991, is amended to read as follows:

8. "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery.

Sec. 4. Section 144A.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

144A.3 DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES.

1. A competent adult may execute a declaration at any time directing that life-sustaining procedures be withheld or withdrawn. The declaration shall be given operative effect only if the declarant's condition is determined to be terminal and the declarant is not able to make treatment decisions.

2. The declaration must be signed by the declarant or another person acting on behalf of the declarant at the direction of the declarant, must contain the date of its execution, and must be witnessed or acknowledged by one of the following methods:

a. Is signed by at least two individuals who, in the presence of each other and the declarant, witnessed the signing of the declaration by the declarant or by another person acting on behalf of the declarant at the declarant's direction. At least one of the witnesses shall be an individual who is not a relative of the declarant by blood, marriage, or adoption within the third degree of consanguinity. The following individuals shall not be witnesses for a declaration:

(1) A health care provider attending the declarant on the date of execution.

(2) An employee of a health care provider attending the declarant on the date of execution.

(3) An individual who is less than eighteen years of age.

b. Is acknowledged before a notarial officer within this state.

3. It is the responsibility of the declarant to provide the declarant's attending physician or health care provider with the declaration. An attending physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.

4. A declaration 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 declaration or similar document is consistent with the laws of this state.

5. A declaration executed pursuant to this chapter may, but need not, be in the following form:

DECLARATION

If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures. If I am unable to participate in my health care decisions, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

Sec. 5. NEW SECTION. 144A.12 APPLICATION TO EXISTING DECLARATIONS.

A declaration executed prior to the effective date of this Act shall remain valid and shall be given effect in accordance with the then-applicable provisions of this chapter. If a declaration executed prior to the effective date of this Act includes a provision which would not have been given effect under this chapter prior to the effective date of this Act but which would be given effect under this Act, then the provision shall be given effect in accordance with this Act.

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

Approved April 23, 1992

CHAPTER 1133

ENDANGERED SPECIES

H.F. 2274

AN ACT relating to the protection of endangered species by the department of natural resources.

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

Section 1. Section 109A.5, unnumbered paragraph 1 and subsections 2, 3, and 4, Code 1991, are amended to read as follows:

Except as otherwise provided in this chapter or by rule, a person shall not take, possess, transport, import, export, process, sell or offer for sale, buy or offer to buy, nor shall a common or contract carrier transport or receive for shipment, any species of fish, plants, or wildlife appearing on the following lists which shall be adopted by rule of the commission:

2. The United States list of endangered or threatened native fish and wildlife as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, ~~1974~~ 1991.

3. The United States list of endangered or threatened plants as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, ~~1974~~ 1991.

4. The United States list of endangered or threatened foreign fish and wildlife as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, ~~1974~~ 1991.

Sec. 2. Section 109A.5, subsection 5, Code 1991, is amended by striking the subsection.

Sec. 3. Section 109A.9, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

109A.9 EXEMPTIONS.

A species of fish, plant, or wildlife appearing on any of the lists of endangered species or threatened species which enters the state from another state or from outside the territorial limits of the United States may enter, be transported, possessed, and sold in accordance with rules adopted by the commission.

Approved April 23, 1992

CHAPTER 1134

FRANCHISE AGREEMENTS

H.F. 2362

AN ACT relating to franchise agreements and their enforcement by establishing certain duties and limitations on franchisors, providing certain exemptions, and establishing a civil cause of action.

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

Section 1. NEW SECTION. 523H.1 DEFINITIONS.

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

1. "Affiliate" means a person controlling, controlled by, or under common control with another person, every officer or director of such a person, and every person occupying a similar status or performing similar functions.

2. "Business day" means a day other than a Saturday, Sunday, or federal holiday.

3. a. "Franchise" means either of the following:

(1) An oral or written agreement, either express or implied, which provides all of the following:

(a) Grants the right to distribute goods or provide services under a marketing plan prescribed or suggested in substantial part by the franchisor.

(b) Requires payment of a franchise fee to a franchisor or its affiliate.

(c) Allows the franchise business to be substantially associated with a trademark, service mark, trade name, logotype, advertisement, or other commercial symbol of or designating the franchisor or its affiliate.

(2) A master franchise.

b. "Franchise" does not include any business that is operated under a lease or license on the premises of the lessor or licensor as long as such business is incidental to the business conducted by the lessor or licensor on such premises, including, without limitation, leased departments, licensed departments, and concessions and the leased or licensed department operates only under the trademark, trade name, service mark, or other commercial symbol designating the lessor or licensor.

c. "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. § 2801 et seq. The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. "Franchise" also does not include a contract entered into by any person regulated under chapter 117, 123, 322, 322A, 322B, 322C, 322D, 322F, or 522, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

4. "Franchise fee" means a direct or indirect payment to purchase or operate a franchise. Franchise fee does not include any of the following:

a. Payment of a reasonable service charge to the issuer of a credit card by an establishment accepting the credit card.

b. Payment to a trading stamp company by a person issuing trading stamps in connection with a retail sale.

c. An agreement to purchase at a bona fide wholesale price a reasonable quantity of tangible goods for resale.

d. The purchase or agreement to purchase, at a fair market value, any fixtures, equipment, leasehold improvements, real property, supplies, or other materials reasonably necessary to enter into or continue a business.

e. Payments by a purchaser pursuant to a bona fide loan from a seller to the purchaser.

f. Payment of rent which reflects payment for the economic value of leased real or personal property.

g. The purchase or agreement to purchase promotional or demonstration supplies, materials, or equipment furnished at fair market value and not intended for resale.

5. "Franchisee" means a person to whom a franchise is granted. Franchisee includes the following:

a. A subfranchisor with regard to its relationship with a franchisor.

b. A subfranchisee with regard to its relationship with a subfranchisor.

6. "Franchisor" means a person who grants a franchise or master franchise, or an affiliate of such a person. Franchisor includes a subfranchisor with regard to its relationship with a franchisee, unless stated otherwise in this chapter.

7. "Marketing plan" means a plan or system concerning a material aspect of conducting business. Indicia of a marketing plan include any of the following:

a. Price specification, special pricing systems, or discount plans.

b. Sales or display equipment or merchandising devices.

c. Sales techniques.

d. Promotional or advertising materials or cooperative advertising.

e. Training regarding the promotion, operation, or management of the business.

f. Operational, managerial, technical, or financial guidelines or assistance.

8. "Master franchise" means an agreement by which a person pays a franchisor for the right to sell or negotiate the sale of franchises.

9. "Offer" or "offer to sell" means every attempt to offer or to dispose of, or solicitation of an offer to buy, a franchise or interest in a franchise for value.

10. "Person" means a person as defined in section 4.1, subsection 13.

11. "Sale" or "sell" means every contract or agreement of sale of, contract to sell or disposition of, a franchise or interest in a franchise for value.

12. "Subfranchise" means an agreement by which a person pays a franchisor for the right to sell or negotiate the sale of franchises.

13. "Subfranchisee" means a person who is granted a franchise from a subfranchisor.

14. "Subfranchisor" means a person who is granted a master franchise.

Sec. 2. NEW SECTION. 523H.2 APPLICABILITY.

This chapter applies to a new or existing franchise that is operated in the state of Iowa. For purposes of this chapter, the franchise is operated in this state only if the premises from which the franchise is operated is physically located in this state. For purposes of this chapter, a franchise including marketing rights in or to this state, is deemed to be operated in this state only if the franchisee's principal business office is physically located in this state. This chapter does not apply to a franchise solely because an agreement relating to the franchise provides that the agreement is subject to or governed by the laws of this state. The provisions of this chapter do not apply to any existing or future contracts between Iowa franchisors and out-of-state franchisees.

Sec. 3. NEW SECTION. 523H.3 JURISDICTION AND NONJUDICIAL RESOLUTION OF DISPUTES.

1. A provision in a franchise agreement restricting jurisdiction to a forum outside this state is void with respect to a claim otherwise enforceable under this chapter.

2. A civil action or proceeding arising out of a franchise may be commenced wherever jurisdiction over the parties or subject matter exists, even if the agreement limits actions or proceedings to a designated jurisdiction.

3. Parties to a franchise may agree to independent arbitration, mediation, or other nonjudicial resolution of an existing or future dispute.

4. Venue for a civil action commenced under this chapter shall be determined in accordance with chapter 616.

Sec. 4. NEW SECTION. 523H.4 WAIVERS VOID.

A condition, stipulation, or provision requiring a franchisee to waive compliance with or relieving a person of a duty or liability imposed by or a right provided by this chapter or a rule or order under this chapter is void. This section shall not affect the settlement of disputes, claims, or civil lawsuits arising or brought pursuant to this chapter.

Sec. 5. NEW SECTION. 523H.5 TRANSFER OF FRANCHISE.

1. A franchisee may transfer the franchised business and franchise to a transferee, provided that the transferee satisfies the reasonable current qualifications of the franchisor for new franchisees. For the purposes of this section, a reasonable current qualification for a new franchisee is a qualification based upon a legitimate business reason. If the proposed transferee does not meet the reasonable current qualifications of the franchisor, the franchisor may refuse to permit the transfer, provided that the refusal of the franchisor to consent to the transfer is not arbitrary or capricious when compared to the actions of the franchisor in other similar circumstances.

2. Except as otherwise provided in this section, a franchisor may exercise a right of first refusal contained in a franchise agreement after receipt of a proposal from the franchisee to transfer the franchise.

3. A franchisor may require as a condition of a transfer any of the following:

a. That the transferee successfully complete a reasonable training program.

b. That a reasonable transfer fee be paid to reimburse the franchisor for the franchisor's reasonable and actual expenses directly attributable to the transfer.

c. That the franchisee pay or make provision reasonably acceptable to the franchisor to pay any amount due the franchisor or the franchisor's affiliate.

4. A franchisor shall not withhold consent to a franchisee making a public offering of the franchisee's securities without good cause, provided the franchisee or the owners of the franchise retain control of more than fifty percent of the voting power in the franchise.

5. A franchisee may transfer the franchisee's interest in the franchise, for the unexpired term of the franchise agreement, and a franchisor shall not require the franchisee or the transferee to enter into a new or different franchise agreement as a condition of the transfer.

6. A franchisee shall give the franchisor no less than sixty days' written notice of a transfer which is subject to the provisions of this section, and on request from the franchisor shall provide in writing the ownership interests of all persons holding or claiming an equitable or beneficial interest in the franchise subsequent to the transfer or the franchisee, as appropriate. A franchisee shall not circumvent the intended effect of a contractual provision governing the transfer of the franchise or an interest in the franchise by means of a management agreement, lease, profit-sharing agreement, conditional assignment, or other similar device.

7. A franchisor shall not transfer its interest in a franchise unless the franchisor makes reasonable provision for the performance of the franchisor's obligations under the franchise agreement by the transferee. A franchisor shall provide the franchisee notice of a proposed transfer of the franchisor's interest in the franchise at the time the disclosure is required of the franchisor under applicable securities laws, if interests in the franchisor are publicly traded, or if not publicly traded, at the time such disclosure would be required if the interests in the franchisor were publicly traded.

8. A transfer by a franchisee is deemed to be approved sixty days after the franchisee submits the request for consent to the transfer unless the franchisor withholds consent to the transfer as evidenced in writing, specifying the reason or reasons for withholding the consent. The written notice must be delivered to the franchisee prior to the expiration of the sixty-day period. Any such notice is privileged and is not actionable based upon a claim of defamation.

9. A franchisor shall not discriminate against a proposed transferee of a franchise on the basis of race, color, national origin, sex, or physical handicap.

10. A franchisor, as a condition to a transfer of a franchise, shall not obligate a franchisee to undertake obligations or relinquish any rights unrelated to the franchise proposed to be transferred, or to enter into a release of claims broader than a similar release of claims by the franchisor against the franchisee which is entered into by the franchisor.

11. A franchisor, after a transfer of a franchise, shall not seek to enforce any covenant of the transferred franchise against the transferor which prohibits the transferor from engaging in any lawful occupation or enterprise. However, this subsection does not prohibit the franchisor from enforcing a contractual covenant against the transferor not to exploit the franchisor's trade secrets or intellectual property rights, unless otherwise agreed to by the parties.

12. For purposes of this section, "transfer" means any change in ownership or control of a franchise, franchised business, or a franchisee.

13. The following occurrences shall not be considered transfers requiring the consent of the franchisor under a franchise agreement, and shall not result in the imposition of any penalties or make applicable any right of first refusal by the franchisor:

a. The succession of ownership of a franchise upon the death or disability of a franchisee, or of an owner of a franchise, to the franchisee's spouse, child or children, or a partner of the franchisee unless the successor fails to meet the then current reasonable qualifications of the franchisor for franchisees and the enforcement of the reasonable current qualifications is not arbitrary or capricious when compared to actions of the franchisor in other similar circumstances.

b. The succession of a spouse, child, partner, or other owner as operating manager upon the death or disability of the operating manager, unless the successor fails to meet the then current reasonable qualifications of the franchisor for an operating manager, and enforcement of the reasonable current qualifications is not arbitrary or capricious when compared to actions of the franchisor in other similar circumstances.

c. Incorporation of a proprietorship franchisee, provided that such incorporation does not prohibit a franchisor from requiring a personal guaranty by the franchisee of obligations related to the franchise.

d. A transfer within an existing ownership group of a franchise provided that more than fifty percent of the franchise is held by persons who meet the franchisor's reasonable current qualifications for franchisees. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious when compared to actions of the franchisor in other similar circumstances.

e. A transfer of less than a controlling interest in the franchise to the franchisee's spouse or child or children, provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious when compared to actions of the franchisor in other similar circumstances.

f. A transfer of less than a controlling interest in the franchise of an employee stock ownership plan, or employee incentive plan, provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications for

franchisees. If less than fifty percent would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious when compared to actions of the franchisor in other similar circumstances.

g. A grant or retention of a security interest in the franchised business or its assets, or an ownership interest in the franchisee, provided the security agreement establishes an obligation on the part of the secured party enforceable by the franchisor to give the franchisor notice of the secured party's intent to foreclose on the collateral simultaneously with notice to the franchisee, and a reasonable opportunity to redeem the interests of the secured party and recover the secured party's interest in the franchise or franchised business by paying the secured obligation.

14. A franchisor shall not interfere or attempt to interfere with any disposition of an interest in a franchise or franchised business as described in subsection 13, paragraphs "a" through "g".

Sec. 6. NEW SECTION. 523H.6 ENCROACHMENT.

1. Notwithstanding the terms, provisions, or conditions of an agreement or franchise, if a franchisor seeks to establish a new outlet, company-owned store, or carry-out store within an unreasonable proximity of an existing franchisee, the existing franchisee, at the option of the franchisor, shall have either a right of first refusal with respect to the proposed new outlet, company-owned store, or carry-out store or a right to compensation for market share diverted by the new outlet. For the purposes of this section, "unreasonable proximity" as applied to a food establishment franchisor or food service establishment franchisor, including outlets and carry-out stores as defined by section 137A.1, subsection 2, and section 137B.2, subsection 6, includes but is not limited to the shortest distance as measured by the following methods:

a. A three-mile radius, using a straight line measurement, from the center of an already existing franchise.

b. A circular radius, using a straight line measurement, from an existing franchise business which comprises a population of thirty thousand or greater.

2. With respect to a right of first refusal, the parties shall in good faith seek to establish a mutually agreeable price and terms. If the parties are unable to agree, each party shall appoint an independent appraiser. If the independent appraisers are unable to agree upon a price and terms, the independent appraisers shall name a third appraiser to determine the price and terms upon which the right of first refusal may be exercised. The determination of the independent appraiser shall be final and binding, and subject to judicial review under chapter 679A.

If two or more existing franchises are located within an unreasonable proximity to the proposed outlet, the closest franchisee shall have the first right of first refusal, and if declined, the right of first refusal shall pass to the next closest franchisee.

3. If the franchisor does not offer a right of first refusal, the franchisor shall compensate existing franchisees for market share diverted by the opening of the new outlet. If the franchisor and existing franchisees cannot agree upon the proper amount of such compensation, each party shall appoint an independent appraiser. If the independent appraisers are unable to agree, the independent appraisers shall appoint a third appraiser who shall establish the level of compensation. The determination of the independent appraiser shall be final and binding, and subject to judicial review under chapter 679A.

4. The court may grant a permanent or preliminary injunction to prevent injury or threatened injury from the violation or threatened violation of this section.

Sec. 7. NEW SECTION. 523H.7 TERMINATION.

1. Except as otherwise provided by this chapter, a franchisor shall not terminate a franchise prior to the expiration of its term except for good cause. For purposes of this section, "good cause" is cause based upon a legitimate business reason. "Good cause" includes the failure of the franchisee to comply with any material lawful requirement of the franchise agreement, provided that the termination by the franchisor is not arbitrary or capricious when compared to the actions of the franchisor in other similar circumstances.

2. Prior to termination of a franchise for good cause, a franchisor shall provide a franchisee with written notice stating the basis for the proposed termination. After service of written notice, the franchisee shall have a reasonable period of time to cure the default, which in no event shall be less than thirty days or more than ninety days.

3. Notwithstanding subsection 2, a franchisor may terminate a franchisee upon written notice and without an opportunity to cure if any of the following apply:

a. The franchisee or the business to which the franchise relates is declared bankrupt or judicially determined to be insolvent.

b. The franchisee voluntarily abandons the franchise by failing to operate the business for five consecutive business days during which the franchisee is required to operate the business under the terms of the franchise, or any shorter period after which it is not unreasonable under the facts and circumstances for the franchisor to conclude that the franchisee does not intend to continue to operate the franchise, unless the failure to operate is due to circumstances beyond the control of the franchisee.

c. The franchisor and franchisee agree in writing to terminate the franchise.

d. The franchisee knowingly makes any material misrepresentations or knowingly omits to state any material facts relating to the acquisition or ownership or operation of the franchise business.

e. The franchisee repeatedly fails to comply with the same material provision of a franchise agreement, when the enforcement of the material provision by the franchisor is not arbitrary or capricious when compared to the franchisor in other similar circumstances.

f. The franchised business or business premises of the franchisee are lawfully seized, taken over, or foreclosed by a government authority or official.

g. The franchisee is convicted of a felony or any other criminal misconduct which materially and adversely affects the operation, maintenance, or goodwill of the franchise in the relevant market.

h. The franchisee operates the franchised business in a manner that imminently endangers the public health and safety.

Sec. 8. NEW SECTION. 523H.8 NONRENEWAL OF A FRANCHISE.

A franchisor shall not refuse to renew a franchise unless both of the following apply:

1. The franchisee has been notified of the franchisor's intent not to renew at least six months prior to the expiration date or any extension of the franchise agreement.

2. Any of the following circumstances exist:

a. Good cause exists as defined in section 523H.7, provided that the refusal of the franchisor to renew is not arbitrary or capricious when compared to the actions of the franchisor in other similar circumstances.

b. The franchisor and franchisee agree not to renew the franchise, provided that upon the expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchise not to compete with the franchisor or franchisees of the franchisor.

c. The franchisor completely withdraws from directly or indirectly distributing its products or services in the geographic market served by the franchisee, provided that upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchisee not to compete with the franchisor or franchisees of the franchisor.

Sec. 9. NEW SECTION. 523H.9 FRANCHISEE'S RIGHT TO ASSOCIATE.

A franchisor shall not restrict a franchisee from associating with other franchisees or from participating in a trade association, and shall not retaliate against a franchisee for engaging in these activities.

Sec. 10. NEW SECTION. 523H.10 DUTY OF GOOD FAITH.

A franchise imposes on the parties a duty of good faith in performance and enforcement of the franchise agreement. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

Sec. 11. NEW SECTION. 523H.11 REPURCHASE OF ASSETS.

A franchisor shall not prohibit a franchisee from, or enforce a prohibition against a franchisee, engaging in any lawful business at any location after a termination or refusal to renew by a franchisor, unless it is one which relies on a substantially similar marketing program as the terminated or nonrenewed franchise or unless the franchisor offers in writing no later than ten business days before expiration of the franchise to purchase the assets of the franchised business for its fair market value as a going concern. The value of the assets shall not include the goodwill of the business attributable to the trademark licensed to the franchisee in the franchise agreement. The offer may be conditioned upon the ascertainment of a fair market value by an impartial appraiser.

Sec. 12. NEW SECTION. 523H.12 INDEPENDENT SOURCING.

1. Except as provided in subsection 2, a franchisor shall allow a franchisee to obtain equipment, fixtures, supplies, and services used in the establishment and operation of the franchised business from sources of the franchisee's choosing, provided that such goods and services meet standards as to their nature and quality promulgated by the franchisor.

2. Subsection 1 of this section does not apply to reasonable quantities of inventory goods or services, including display and sample items, that the franchisor requires the franchisee to obtain from the franchisor or its affiliate, but only if the goods or services are central to the franchised business and either are actually manufactured or produced by the franchisor or its affiliate, or incorporate a trade secret owned by the franchisor or its affiliate.

Sec. 13. NEW SECTION. 523H.13 PRIVATE CIVIL ACTION.

A person who violates a provision of this chapter or order issued under this chapter is liable for damages caused by the violation, including, but not limited to, costs and reasonable attorneys' and experts' fees, and subject to other appropriate relief including injunctive and other equitable relief.

Sec. 14. NEW SECTION. 523H.14 CHOICE OF LAW.

A condition, stipulation, or provision requiring the application of the law of another state in lieu of this chapter is void.

Sec. 15. NEW SECTION. 523H.15 CONSTRUCTION WITH OTHER LAW.

This chapter does not limit any liability that may exist under another statute or at common law. Prior law governs all actions based on facts occurring before the effective date of this Act.

Sec. 16. NEW SECTION. 523H.16 CONSTRUCTION.

This chapter shall be liberally construed to effectuate its purposes.

Sec. 17. NEW SECTION. 523H.17 SEVERABILITY.

If any provision or clause of this chapter or any application of this chapter to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Approved April 23, 1992

CHAPTER 1135

SCHOOLS — MISCELLANEOUS PROVISIONS

H.F. 2384

AN ACT relating to methods by which students may attend instruction in other than the students' public school district of residence; by making changes in the requirement relating to the offering and charging of tuition for drivers education; by making changes in the transportation and athletic participation provisions under open enrollment; making changes in other athletic participation requirements; making changes in the method by which the amount of phase II and phase III moneys transferred between districts engaged in whole grade sharing are calculated; changing the date by which phase III plans must be submitted to the department of education; changing the reporting requirements and testing requirements of some students receiving competent private instruction who are also enrolled in a public school district under dual enrollment or in a home school assistance program; modifying rules relating to parental notice and presence during questioning in sexual abuse investigations; making other related changes; and providing an effective date.

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

Section 1. Section 256.46, Code 1991, is amended to read as follows:

256.46 RULES FOR PARTICIPATION IN EXTRACURRICULAR ACTIVITIES BY CERTAIN CHILDREN.

The state board shall adopt rules that permit a child who does not meet the residence requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or a similar circumstance: the child has been adopted; the child is placed under foster or shelter care; the child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship; the child is or has been a foreign exchange student; the child has been placed in a juvenile correctional facility; the child is a ward of the court or the state; ~~or~~ the child is a participant in a substance abuse or mental health program; or the child is enrolled in an accredited nonpublic high school because the child's district of residence has entered into a whole grade sharing agreement for the pupil's grade with another district.

Sec. 2. Section 282.6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Every school shall be free of tuition to all actual residents between the ages of five and twenty-one years and to resident honorably discharged soldiers, sailors, and marines, as many months after becoming twenty-one years of age as they have spent in the military or naval service of the United States before they became twenty-one, provided, however, fees may be charged covering instructional costs for a summer school or drivers education program. The board of education may, in a hardship case, exempt a student from payment of the above fees. Every person, however, who shall attend any school after graduation from a four-year course in an approved high school or its equivalent shall be charged a sufficient tuition fee to cover the cost of the instruction received by such person.

Sec. 3. Section 282.18, subsection 11, Code Supplement 1991, is amended to read as follows:

11. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. ~~A~~ However, a receiving district ~~shall not~~ may send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district, if the boards of both the sending and receiving districts agree to this arrangement. If the pupil meets the economic eligibility requirements established by the department and state board of education, the sending district is responsible for providing

transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the pupil to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a pupil to a contiguous receiving district under this subsection may withhold from the district cost per pupil amount, that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.

Sec. 4. Section 282.18, subsection 15, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

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 ineligible to participate in interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrollment in the district except that the pupil may participate immediately in an interscholastic sport if the district of residence and the other school district jointly participate in the sport, if 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. 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 also eligible to participate immediately 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. For purposes of this subsection, "school days of enrollment" do not include enrollment in summer school.

Sec. 5. Section 282.18, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Notwithstanding the general limitations contained in this section, in appeals to the state board from decisions of school boards relating to student transfers under open enrollment, the state board shall exercise broad discretion to achieve just and equitable results which are in the best interest of the affected child or children.

Sec. 6. Section 294A.9, unnumbered paragraph 3, Code 1991, is amended to read as follows:

If a school district has discontinued grades under section 282.7, subsection 1, or students attend school in another school district, under an agreement with the board of the other school district, the board of directors of the district of residence either shall transmit the phase II moneys allocated to the district for those students based upon the full-time equivalent attendance of those students to the board of the school district of attendance of the students or shall transmit to the board of the school district of attendance of the students a portion of the phase II moneys allocated to the district of residence based upon an agreement between the board of the resident district and the board of the district of attendance.

Sec. 7. Section 294A.14, unnumbered paragraph 3, Code 1991, is amended to read as follows:

If a school district has discontinued grades under section 282.7, subsection 1, or students attend school in another school district, under an agreement with the board of the other school district, the board of directors of the district of residence either shall transmit the phase III

moneys allocated to the district for those students based upon the full-time equivalent attendance of those students to the board of the school district of attendance of the students or shall transmit to the board of the school district of attendance of the students a portion of the phase III moneys allocated to the district of residence based upon an agreement between the board of the resident district and the board of the district of attendance.

Sec. 8. Section 294A.16, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A plan adopted by the board of directors of a school district or area education agency shall be submitted to the department of education not later than ~~March~~ April 15 of a school year for that school year for a school district, and not later than June 15 of a school year for that school year for an area education agency. Amendments to multiple year plans may be submitted annually.

Sec. 9. Section 299.4, Code Supplement 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 is of compulsory attendance age, who places the child under competent private instruction under ~~chapter 299A~~ either section 299A.2 or 299A.3, not in an accredited school or a home school assistance program operated by a public or accredited nonpublic 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 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 subjects covered, lesson plans, and time spent on the areas of study.

Sec. 10. Section 299A.2, Code Supplement 1991, is amended to read as follows:

299A.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, a home school assistance program which provides 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 299A.3 through 299A.7 do not apply to competent private instruction provided by a licensed practitioner under this section. However, the reporting requirement contained in section 299A.3, subsection 1, shall apply to competent private instruction provided by licensed practitioners that is not part of a home school assistance program offered through an accredited nonpublic school or public school district.

Sec. 11. Section 299A.6, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

If the results of 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 a different form of the same evaluation, or another

evaluation from the approved list of tests or assessment tools recognized by the department of education, 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 299A.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.

Sec. 12. 1991 Iowa Acts, chapter 201, section 2, is amended to read as follows:

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~~ 1993, which require local school districts to ~~immediately~~ notify the parent, guardian, or legal custodian of a child in prekindergarten through sixth grade, who is the alleged victim of sexual abuse or who is a potential or actual witness in the investigation of an allegation of sexual abuse pursuant to a report initiated under section 280.17, that the child is ~~being questioned as provided under section 280.17 and permit~~ to be interviewed. The notice shall include the right of the child's parent, guardian, or legal custodian to ~~be present during the questioning~~ observe and hear the interview.

Sec. 13. HOME SCHOOL ASSISTANCE PROGRAM — DEFINITION. The department of education shall develop, and the state board of education shall adopt, rules by September 1, 1992, which establish criteria for the maintenance of home school assistance programs by public school districts. In developing the criteria the department shall consider program offerings in districts which have created and maintained programs for a number of years that provide instruction or instructional supervision by teachers employed by the districts to parents, guardians, or legal custodians who are providing instruction to their children or wards in the districts.

Sec. 14. Sections 8 and 13 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 23, 1992

CHAPTER 1136

CIVIL LIABILITY FOR SALE OF BEER, WINE, OR LIQUOR

H.F. 2428

AN ACT relating to including out-of-state liquor, wine, or beer licensees or permittees in, and exempting class "E" liquor control licensees from, Iowa's dramshop Act.

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

Section 1. Section 123.92, Code 1991, is amended to read as follows:

123.92 CIVIL LIABILITY FOR SALE AND SERVICE OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT).

Any person who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee, whether or not the license or permit was issued by the division or by the licensing authority of any other state, who sold and served any beer, wine, or intoxicating liquor to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee or permittee knew or should have known the person would become intoxicated. If the injury was caused by an intoxicated person, a permittee or

licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person. The remedy provided by this section shall apply both prospectively, to actions filed on or after July 1, 1992, and retrospectively, to actions pending in trial or appellate courts prior to July 1, 1992.

Every liquor control licensee and class "B" beer permittee, except a class "E" liquor control licensee, shall furnish proof of financial responsibility by the existence of a liability insurance policy in an amount determined by the division.

Approved April 23, 1992

CHAPTER 1137

MASSAGE THERAPISTS
H.F. 2441

AN ACT providing for licensure of massage therapists and imposing fees and civil penalties.

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

Section 1. NEW SECTION. 136E.1 DEFINITIONS.

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

1. "Board" means the massage therapy advisory board established in section 136E.2.

2. "Department" means the department of public health.

3. "Massage therapist" means a person licensed to practice the health care service of massage therapy under this chapter.

4. "Massage therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation. "Massage therapy" does not include diagnosis or service which requires a license to practice medicine or surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry, and does not include service performed by athletic trainers, technicians, nurses, occupational therapists, or physical therapists who act under a professional license, certificate, or registration or under the prescription or supervision of a person licensed to practice medicine or surgery or osteopathic medicine and surgery.

Sec. 2. NEW SECTION. 136E.2 MASSAGE THERAPY ADVISORY BOARD CREATED — DUTIES.

The director of the department shall appoint members of the board, including four massage therapists and three persons who are not massage therapists and who shall represent the general public. The board shall advise the department regarding licensure and continuing education requirements, standards of practice and professional ethics, disciplinary actions, and other issues of concern to the board.

Sec. 3. NEW SECTION. 136E.3 REQUIREMENTS FOR LICENSURE.

1. The department shall adopt rules pursuant to chapter 17A establishing a procedure for licensing of massage therapists. License requirements shall include the following:

a. Completion of a curriculum of massage education at a state licensed or an accredited school approved by the department which requires for admission a diploma from an accredited high school or the equivalent and requires completion of at least five hundred hours of supervised

academic instruction. However, educational requirements under this paragraph are subject to reduction by the department if, after public notice and hearing, the department determines that the welfare of the public may be adequately protected with fewer hours of education.

b. Passage of an examination given or approved by the department.

c. Payment of a reasonable fee required by the department which shall compensate and be retained by the department for the costs of administering this chapter.

2. In addition to provisions for licensure, the rules shall include the following:

a. Requirements regarding completion of at least twelve hours of continuing education annually regarding subjects concerning massage and related techniques or the health and safety of the public, subject to reduction by the department if, after public notice and hearing, the department determines that the welfare of the public may be adequately protected with fewer hours.

b. Requirements for issuance of a reciprocal license to licensees of states with license requirements equal to or exceeding those of this chapter. The rules shall provide for issuance of a temporary reciprocal license for licensees of states with lower requirements.

3. The department shall present all proposed rules, changes to rules, and proposed action for disciplinary reasons to the board for recommendation prior to implementation.

4. A massage therapist licensed pursuant to this chapter shall be issued a license number and a license certificate.

Sec. 4. NEW SECTION. 136E.4 EMPLOYMENT OF PERSON NOT LICENSED — CIVIL PENALTY APPLICABLE.

A person as defined in section 4.1, who employs to provide services to other persons a person who is not licensed pursuant to this chapter, shall not use the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", or "masseuse", or any other words or titles which imply or represent that the person employed practices massage therapy. A person who violates this section is subject to imposition, at the discretion of the board, of a civil penalty not to exceed one thousand dollars. Each violation of this section is a separate offense. Each day a violation of this section occurs after citation by the board is a separate offense. The department may inspect any facility which advertises or offers services purporting to be delivered by massage therapists.

Sec. 5. NEW SECTION. 136E.5 USE OF TITLE OR SIMILAR TITLE — CIVIL PENALTY APPLICABLE.

A person who is not licensed pursuant to this chapter shall not use the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", or "masseuse", or any other words or titles which imply or represent that the person practices massage therapy. A person who violates this section is subject to imposition, at the discretion of the board, of a civil penalty not to exceed five hundred dollars. Each violation of this section is a separate offense. Each day a violation of this section occurs after citation by the board is a separate offense.

Sec. 6. NEW SECTION. 136E.6 ENFORCEMENT.

No city, township, or county governmental body, agency, or department shall enact or enforce restrictions or requirements regarding massage therapists which are not equally enacted or enforced regarding all licensed health care practitioners, including but not limited to zoning, building code, health, and sanitation regulations.

Sec. 7. Section 147.74, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 16A. A massage therapist licensed under chapter 136E may use the words "licensed massage therapist" or the initials "L.M.T." after the person's name.

Sec. 8. TRANSITION PROVISIONS.

1. a. A person practicing massage therapy on the effective date of this bill* is eligible to receive a temporary license at the discretion of the department which is valid for up to two years. The department shall adopt rules determining criteria for receipt of a temporary license.

*Act probably intended

b. A person who can demonstrate that the person has practiced massage therapy for ten years or more prior to the effective date of this Act is eligible to receive a temporary license at the discretion of the department which is valid for six years. The department shall adopt rules determining criteria for receipt of a temporary license which shall include successful passage of a practical examination given by the department, and shall not include passage of a written examination.

2. Notwithstanding section 136E.2, of the initial appointees to the board, two members licensed to practice massage therapy and one representative of the public shall be appointed for one-year terms, one member licensed to practice massage therapy and one representative of the public shall be appointed for two-year terms, and one member licensed to practice massage therapy and one representative of the 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.

Notwithstanding section 136E.3, initial appointees who are required to be massage therapists shall have completed a curriculum of massage education at a school which complies with the curriculum requirements of this chapter but shall not receive a license until successful passage of the required examination.

Approved April 23, 1992

CHAPTER 1138

CITY AND COUNTY BONDING AND LEASE, LEASE-PURCHASE, OR LOAN AGREEMENTS

S.F. 260

AN ACT relating to the right of cities and counties to enter into lease, lease-purchase, or loan agreements, issue general or essential purpose bonds, and by requiring an election under certain conditions for real property and providing an applicability date.

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

Section 1. Section 331.301, subsection 10, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

10. A county may enter into leases or lease-purchase contracts for real or personal property in accordance with the following terms and procedures:

a. A county shall lease or lease-purchase property only for a term which does not exceed the economic life of the property, as determined by the board.

b. A lease or lease-purchase contract entered into by a county may contain provisions similar to those sometimes found in leases between private parties, including, but not limited to, the obligation of the lessee to pay any of the costs of operation or ownership of the leased property and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A county enterprise is a separate entity under this subsection, whether it is governed by the board or another governing body.

d. The board must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase contract made payable from the debt service fund.

e. The board may authorize a lease or lease-purchase contract which is payable from the general fund and which would not cause the total of lease and lease-purchase payments of the county due from the general fund of the county in any future year for lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The board must follow substantially the authorization procedures of section 331.443 to authorize a lease or lease-purchase contract for personal property which is payable from the general fund. The board must follow substantially the authorization procedures of section 331.443 to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease-purchase contract does not exceed the following limits:

(a) Four hundred thousand dollars in a county having a population of twenty-five thousand or less.

(b) Five hundred thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(c) Six hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(d) Eight hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(e) One million dollars in a county having a population of more than two hundred thousand.

(2) The board must follow the following procedures to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease or lease-purchase contract exceeds the limits set forth in subparagraph (1):

(a) The board must institute proceedings for entering into a lease or lease-purchase contract payable from the general fund by causing a notice of the meeting to discuss entering into the lease or lease-purchase contract, including a statement of the principal amount and purpose of the lease or lease-purchase and the right to petition for an election, to be published as provided in section 331.305 at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the board hold a meeting at which it is proposed to take action to enter into the lease or lease-purchase contract.

(b) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the lease or lease-purchase contract, a petition is filed with the auditor in the manner provided by section 331.306, asking that the question of entering into the lease or lease-purchase contract be submitted to the qualified electors of the county, the board shall either by resolution declare the proposal to enter into the lease or lease-purchase contract to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the lease or lease-purchase contract. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the county of _____ enter into a lease or lease-purchase contract in an amount of $_____ for the purpose of _____? Notice of the election and its conduct shall be in the manner provided in section 331.442, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into a lease or lease-purchase contract is approved at the election, the board may proceed and enter into the lease or lease-purchase contract.

f. The governing body may authorize a lease or lease-purchase contract payable from the net revenues of a county enterprise or combined county enterprise by following the authorization procedures of section 331.464.

g. A lease or lease-purchase contract to which a county is a party or in which a county has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

h. Property that is lease-purchased by a county is exempt under section 427.1, subsection 2.

i. A contract for construction by a private party of property to be leased or lease-purchased by a county is not a contract for a public improvement under section 331.341, subsection 1. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a county, with the county's obligation to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the county is a public improvement and is subject to section 331.341, subsection 1.

Sec. 2. Section 331.402, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. A county may enter into loan agreements to borrow money for any public purpose in accordance with the following terms and procedures:

a. A loan agreement entered into by a county may contain provisions similar to those sometimes found in loan agreements between private parties, including, but not limited to, the issuance of notes to evidence its obligations.

b. A provision of a loan agreement which stipulates that a portion of the payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A county enterprise is a separate entity under this subsection, whether it is governed by the board or another governing body.

c. The board shall follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a loan agreement made payable from the debt service fund.

d. The board may authorize a loan agreement which is payable from the general fund and which would not cause the total of scheduled annual payments of principal or interest or both principal and interest of the county due from the general fund of the county in any future year with respect to all loan agreements in force on the date of the authorization to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The board shall follow substantially the authorization procedures of section 331.443 to authorize a loan agreement for personal property which is payable from the general fund. The board must follow substantially the authorization procedures of section 331.443 to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement does not exceed the following limits:

(a) Four hundred thousand dollars in a county having a population of twenty-five thousand or less.

(b) Five hundred thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(c) Six hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(d) Eight hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(e) One million dollars in a county having a population of more than two hundred thousand.

(2) The board must follow the following procedures to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement exceeds the limits set forth in subparagraph (1):

(a) The board must institute proceedings for entering into a loan agreement payable from the general fund by causing a notice of the meeting to discuss entering into the loan agreement, including a statement of the principal amount and purpose of the loan agreement and the right to petition for an election, to be published as provided in section 331.305 at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the board hold a meeting at which it is proposed to take action to enter into the loan agreement.

(b) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the loan agreement, a petition is filed with the auditor in the manner provided by section 331.306 asking that the question of entering into the loan agreement be submitted to the qualified electors of the county, the board shall either by resolution declare the proposal to enter into the loan agreement to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the loan agreement. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the county of _____ enter into a loan agreement in amount of $_____ for the purpose of _____? Notice of the election and its conduct shall be in the manner provided in section 331.442, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into the loan agreement is approved at an election, the board may proceed and enter into the loan agreement.

e. The governing body may authorize a loan agreement payable from the net revenues of a county enterprise or combined county enterprise by following the authorization procedures of section 331.464.

f. A loan agreement to which a county is a party or in which a county has a participatory interest is an obligation of a political subdivision of this state for the purpose of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

Sec. 3. Section 331.441, subsection 2, paragraph b, subparagraph (5), Code 1991, is amended to read as follows:

(5) Public buildings, including the site or grounds of, and the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the cost does not exceed the following limits:

(a) ~~Two~~ Four hundred thousand dollars in a county having a population of twenty-five thousand or less.

(b) ~~Two~~ Five hundred ~~fifty~~ thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(c) ~~Three~~ Six hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(d) ~~Four~~ Eight hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(e) ~~Five hundred thousand~~ One million dollars in a county having a population of more than two hundred thousand.

Sec. 4. Section 364.4, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. Enter into leases or lease-purchase contracts for real or personal property in accordance with the following terms and procedures:

a. A city shall lease or lease-purchase property only for a term which does not exceed the economic life of the property, as determined by the governing body.

b. A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including, but not limited to, the obligation of the lessee to pay any of the costs of operation or ownership of the leased property and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A city utility or city enterprise is a separate entity under this subsection whether it is governed by the governing body of the city or another governing body.

d. The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase contract made payable from the debt service fund.

e. The governing body may authorize a lease or lease-purchase contract which is payable from the general fund and which would not cause the total of annual lease or lease-purchase payments of the city due from the general fund of the city in any future year for lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The governing body must follow substantially the authorization procedures of section 384.25 to authorize a lease or lease-purchase contract for personal property which is payable from the general fund. The governing body must follow substantially the authorization procedures of section 384.25 to authorize the lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease-purchase contract does not exceed the following limits:

(a) Four hundred thousand dollars in a city having a population of five thousand or less.

(b) Seven hundred thousand dollars in a city having a population of more than five thousand but not more than seventy-five thousand.

(c) One million dollars in a city having a population of more than seventy-five thousand.

(2) The governing body must follow the following procedures to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease or lease-purchase contract exceeds the limits set forth in subparagraph (1):

(a) The governing body must institute proceedings to enter into a lease or lease-purchase contract payable from the general fund by causing a notice of the meeting to discuss entering into the lease or lease-purchase contract, including a statement of the principal amount and purpose of the lease or lease-purchase contract and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the governing body hold a meeting at which it is proposed to take action to enter into the lease or lease-purchase contract.

(b) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the lease or lease-purchase contract, a petition is filed with the clerk of the city in the manner provided by section 362.4, asking that the question of entering into the lease or lease-purchase contract be submitted to the qualified electors of the city, the governing body shall either by resolution declare the proposal to enter into the lease or lease-purchase contract to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the lease or lease-purchase contract. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the city of _____ enter into a lease or lease-purchase contract in amount of $ _____ for the purpose of _____? Notice of the election and its conduct shall be in the manner provided in section 384.26, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into the lease or lease-purchase contract is approved at an election, the governing body may proceed and enter into the lease or lease-purchase contract.

f. The governing body may authorize a lease or lease-purchase contract payable from the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise by following the authorization procedures of section 384.83.

g. A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

h. Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

i. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 384.95, subsection 1, except for purposes of section 384.102. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to division VI of chapter 384.

Sec. 5. Section 384.24A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

384.24A LOAN AGREEMENTS.

A city may enter into loan agreements to borrow money for any public purpose in accordance with the following terms and procedures:

1. A loan agreement entered into by a city may contain provisions similar to those sometimes found in loan agreements between private parties, including, but not limited to, the issuance of notes to evidence its obligations.

2. A provision of a loan agreement which stipulates that a portion of the payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A city utility or city enterprise is a separate entity under this section whether it is governed by the governing body of the city or another governing body.

3. The governing body shall follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a loan agreement made payable from the debt service fund.

4. The governing body may authorize a loan agreement which is payable from the general fund and which would not cause the total of scheduled annual payments of principal or interest or both principal and interest of the city due from the general fund of the city in any future year with respect to all loan agreements in force on the date of the authorization to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

a. The governing body must follow substantially the authorization procedures of section 384.25 to authorize a loan agreement for personal property which is payable from the general fund. The governing body must follow substantially the authorization procedures of section 384.25 to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement does not exceed the following limits:

(1) Four hundred thousand dollars in a city having a population of five thousand or less.

(2) Seven hundred thousand dollars in a city having a population of more than five thousand but not more than seventy-five thousand.

(3) One million dollars in a city having a population of more than seventy-five thousand.

b. The governing body must follow the following procedures to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement exceeds the limits set forth in paragraph "a":

(1) The governing body must institute proceedings to enter into a loan agreement payable from the general fund by causing a notice of the meeting to discuss entering into the loan agreement, including a statement of the principal amount and purpose of the loan agreement and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the governing body hold a meeting at which it is proposed to take action to enter into the loan agreement.

(2) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the loan agreement, a petition is filed with the clerk of the city in the manner provided by section 362.4, asking that the question of entering into the loan agreement be submitted to the qualified electors of the city, the governing body shall either by resolution declare the proposal to enter into the loan agreement to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the loan agreement. However, for purposes of this paragraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the city of _____ enter into a loan agreement in amount of $ _____ for the purpose of _____? Notice of the election and its conduct shall be in the manner provided in section 384.26, subsections 2 through 4.

(3) If a petition is not filed or if a petition is filed and the proposition of entering into the loan agreement is approved at an election, the governing body may proceed and enter into the loan agreement.

5. The governing body may authorize a loan agreement payable from the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise by following the authorization procedures of section 384.83.

6. A loan agreement to which a city is a party or in which the city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

Sec. 6. Section 384.26, subsection 5, paragraph a, subparagraphs (1), (2), and (3), Code 1991, are amended to read as follows:

(1) In cities having a population of five thousand or less, in an amount of not more than ~~twenty-five~~ four hundred thousand dollars.

(2) In cities having a population of more than five thousand and not more than seventy-five thousand, in an amount of not more than ~~seventy-five~~ seven hundred thousand dollars.

(3) In cities having a population in excess of seventy-five thousand, in an amount of not more than one ~~hundred fifty thousand~~ million dollars.

Sec. 7. This Act is applicable to a lease, lease-purchase, or loan agreement entered into or general or essential purpose bonds issued on or after July 1, 1993.

Approved April 27, 1992

CHAPTER 1139

EMERGENCY MANAGEMENT

S.F. 390

AN ACT relating to the reorganization of the disaster services division of the department of public defense by renaming the division, providing for financial assistance, renaming local emergency management commissions and managers, making administrative changes, and making other amendments relevant to the reorganization.

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

Section 1. Section 29C.1, subsections 1 and 3, Code 1991, are amended to read as follows:

1. To establish ~~a disaster services~~ an emergency management division of the department of public defense and to authorize the establishment of local organizations for ~~disaster services~~ emergency management in the political subdivisions of the state.

3. To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to co-operate with the federal government with respect to the carrying out of ~~disaster services~~ emergency management functions.

Sec. 2. Section 29C.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "Local emergency management agency" means a county-wide joint county-municipal public agency organized to administer this chapter under the authority of the local emergency management commission.

Sec. 3. Section 29C.5, Code 1991, is amended to read as follows:

29C.5 ~~DISASTER SERVICES~~ EMERGENCY MANAGEMENT DIVISION.

~~There is created a disaster services~~ An emergency management division is created within the department of public defense. The ~~disaster services~~ emergency management division shall be responsible for the administration of emergency planning matters, including emergency resource planning in this state, co-operation with and support of the civil air patrol, and co-ordination of available services in the event of a disaster.

Sec. 4. Section 29C.6, subsections 9, 11, and 17, Code 1991, are amended to read as follows:

9. Co-operate with the president of the United States and the heads of the armed forces, the ~~disaster services and~~ emergency ~~planning~~ management agencies of the United States and other appropriate federal officers and agencies and with the officers and agencies of other states in matters pertaining to ~~disaster recovery and~~ emergency ~~planning~~ management of the state and nation.

11. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating ~~disaster services~~ emergency management.

17. When the president of the United States has declared a major disaster to exist in the state and upon the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of local and state government adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, accept a grant by the federal government to fund ~~such~~ the financial assistance, subject to terms and conditions imposed upon the grant, and enter into an agreement with the federal government pledging the state to participate in the funding of the financial assistance authorized to local government and eligible private nonprofit agencies in an amount not to exceed ten percent of the total eligible expenses, with ~~local government~~ the applicant providing fifteen percent. If financial assistance is granted by the federal government for state disaster-related expenses or serious needs, the state shall participate in the funding of the financial assistance authorized in an amount not to exceed twenty-five percent of the total eligible expenses. If financial assistance is granted by the federal government for hazard mitigation, the state may participate in the funding of the financial assistance authorized to a local government in an amount not to exceed ten percent of the eligible expenses, with local government providing forty percent. If financial assistance is granted by the federal government

for state-related hazard mitigation, the state may participate in the funding of the financial assistance authorized, not to exceed fifty percent of the total eligible expenses. If state funds are not otherwise available to the governor, an advance of the state share may be accepted from the federal government to be repaid when the state is able to do so.

Sec. 5. Section 29C.7, Code 1991, is amended to read as follows:

29C.7 POWERS AND DUTIES OF ADJUTANT GENERAL.

The adjutant general, as the director of the department of public defense and under the direction and control of the governor, shall have supervisory direction and control of the ~~disaster services~~ emergency management division and shall be responsible to the governor for the carrying out of the provisions of this chapter. In the event of disaster beyond local control, the adjutant general may assume direct operational control over all or any part of the ~~disaster services and~~ emergency ~~planning~~ management functions within this state.

Sec. 6. Section 29C.8, subsections 1 and 2, Code 1991, are amended to read as follows:

1. The ~~disaster services~~ emergency management division shall be under the management of an administrator appointed by the governor.

2. The administrator shall be vested with the authority to administer ~~disaster services and~~ emergency ~~planning~~ management affairs in this state and shall be responsible for preparing and executing the ~~disaster services and~~ emergency ~~planning~~ management programs of this state subject to the direction of the adjutant general.

Sec. 7. Section 29C.8, subsection 3, paragraphs a and c, Code 1991, are amended to read as follows:

a. Prepare a comprehensive plan and emergency management program for ~~the~~ disaster preparedness, response, recovery, mitigation, emergency operation, and emergency resource management of this state. The plan and program shall be integrated into and co-ordinated with the emergency plans of the federal government and of other states to the fullest possible extent and co-ordinate the preparation of plans and programs for ~~disaster services and~~ emergency ~~operations and planning by~~ management of the political subdivisions and various state departments of this state. The plans shall be integrated into and co-ordinated with a comprehensive state emergency program for this state as co-ordinated by the administrator of the ~~disaster services~~ emergency management division to the fullest possible extent.

c. Provide technical assistance to any ~~joint county-municipal disaster services and~~ local emergency ~~planning administration~~ commission or joint commission requiring ~~such~~ the assistance in the development of ~~a disaster services and recovery plan and~~ an emergency management program.

Sec. 8. Section 29C.8, subsection 4, Code 1991, is amended to read as follows:

4. The administrator, with the approval of the governor and upon recommendation of the adjutant general, may employ a deputy administrator and such technical, clerical, stenographic, and other personnel and make such expenditures within the appropriation or from other funds made available to the department of public defense for purposes of ~~disaster services and~~ emergency ~~planning~~ management, as may be necessary to ~~carry out the purposes of~~ administer this chapter.

Sec. 9. Section 29C.8A, subsection 2, Code 1991, is amended to read as follows:

2. The emergency response fund shall be administered by the ~~disaster services~~ emergency management division to carry out planning and training for the emergency response teams.

Sec. 10. Section 29C.9, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

29C.9 LOCAL EMERGENCY MANAGEMENT COMMISSIONS.

1. The county boards of supervisors, city councils, and school district boards of directors in each county shall cooperate with the emergency management division of the department of public defense to establish a local emergency management commission to carry out the provisions of this chapter.

2. The commission shall be composed of a member of the board of supervisors or its appointed representative, the sheriff or the sheriff's representative, and the mayor or the mayor's representative from each city within the county. The commission members shall be the operations liaison officers between their jurisdiction and the commission.

3. The name used by the commission shall be (county name) county emergency management commission. The name used by the office of the commission shall be (county name) county emergency management agency.

4. For the purposes of this chapter, the commission or joint commission is a municipality as defined in section 613A.1.

5. The commission shall model its bylaws and conduct its business according to the guidelines provided in the state division's administrative rules.

6. The commission shall determine the mission of its agency and program and provide direction for the delivery of the emergency management services of planning, administration, coordination, training, and support for local governments and their departments. The commission shall coordinate its services in the event of a disaster.

7. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission duties as described in the division's administrative rules. Each commission shall appoint a county emergency management coordinator who shall meet the qualifications specified in the administrative rules by the administrator of the emergency management division. Additional emergency management personnel may be appointed at the discretion of the commission.

8. The commission shall develop, adopt, and submit for approval by local governments within the county, a comprehensive county-wide emergency operations plan which meets standards adopted by the division in accordance with chapter 17A. If an approved comprehensive county-wide emergency operations plan has not been prepared according to established standards and the administrator of the emergency management division finds that satisfactory progress is not being made toward the completion of the plan, or if the administrator finds that a local emergency management commission has failed to appoint a qualified emergency management coordinator as provided in this chapter, the administrator shall notify the governing bodies of the counties and cities affected by the failure and the governing bodies shall not appropriate any moneys to the local emergency management fund until the disaster plan is prepared and approved or a qualified emergency management coordinator is appointed. If the administrator finds that a city or a county has appointed an unqualified emergency management coordinator, the administrator shall notify the governing body of the city or county citing the qualifications which are not met and the governing body shall not approve the payment of the salary or expenses of the unqualified emergency management coordinator.

9. The commission shall encourage local officials to support and participate in exercise programs which test proposed or established jurisdictional emergency plans and capabilities. During emergencies when lives are threatened and extensive damage has occurred to property, the county and all cities involved shall fully cooperate with the emergency management agency to provide assistance in order to coordinate emergency management activities including gathering of damage assessment data required by state and federal authorities for the purposes of emergency declarations and disaster assistance.

10. Two or more commissions may, upon review by the state administrator and with the approval of their respective boards of supervisors and cities, enter into agreements pursuant to chapter 28E for the joint coordination and administration of emergency management services throughout the multicounty area.

Sec. 11. Section 29C.10, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

29C.10 EMERGENCY PROGRAM MANAGER.

1. The commission or joint commission shall appoint an emergency management coordinator who shall serve at the pleasure of the commission and shall be responsible for the development of the county-wide emergency operations plan, coordination of emergency planning activities and provide technical assistance to political subdivisions throughout the county.

2. When an emergency or disaster occurs, the emergency management coordinator shall provide coordination and assistance to the governing officials of the municipalities and the county.

3. The mayors and the board of supervisors shall cooperate with the president of the United States and the heads of the armed forces and other appropriate federal, state, and local officers and agencies and with the officers and agencies of adjoining states in matters pertaining to comprehensive emergency management for a city or county.

Sec. 12. Section 29C.11, Code 1991, is amended to read as follows:

29C.11 LOCAL MUTUAL AID ARRANGEMENTS.

1. The ~~co-ordinator of each local organization~~ emergency management coordinator for ~~disaster services~~ each emergency management agency shall, in collaboration with other public and private agencies within this state, develop mutual aid arrangements for reciprocal disaster services and recovery aid and assistance in case of disaster too great to be dealt with unassisted. ~~Such~~ The arrangements shall be consistent with the ~~disaster services~~ emergency management division plan and program, and in time of emergency ~~it shall be the duty of~~ each local ~~organization for disaster services preparedness to~~ emergency management agency shall render assistance in accordance with the provisions of ~~such~~ the mutual aid arrangements.

2. The ~~co-ordinator~~ emergency management coordinator of each local ~~organization for disaster services~~ emergency management agency may, subject to the approval of the governor, enter into mutual aid arrangements with ~~disaster services~~ emergency management agencies or organizations in other states for reciprocal ~~disaster~~ emergency services and recovery aid and assistance in case of disaster too great to be dealt with unassisted.

Sec. 13. Section 29C.13, Code 1991, is amended to read as follows:

29C.13 FUNDS BY GRANTS OR GIFTS.

1. If the federal government or any agency or officer ~~thereof shall offer~~ of the federal government offers to the state or through the state to any political subdivision of the state, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of ~~disaster services and~~ emergency ~~planning~~ management, the governor or ~~such~~ the political subdivision, acting with the consent of the governor and through its executive officer or governing body, may authorize any officer of the state or of the political subdivision to receive ~~such~~ the services, equipment, supplies, materials, or funds on behalf of the state or ~~such~~ the political subdivision, and subject to the terms of the offer and rules of the agency making the offer.

2. If any person ~~shall offer~~ offers to the state or to any political subdivision of the state, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of ~~disaster services and~~ emergency ~~planning~~ management, the governor or executive officer of ~~such~~ the political subdivision, may accept ~~such~~ the offer and, upon ~~such~~ acceptance, the governor of the state or executive officer or governing body of ~~such~~ the political subdivision may authorize any officer of the state or of the political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or ~~such~~ the political subdivision, and subject to the terms of the offer.

Sec. 14. Section 29C.14, Code 1991, is amended to read as follows:

29C.14 DIRECTOR OF REVENUE AND FINANCE TO ISSUE WARRANTS.

The director of revenue and finance shall draw warrants on the treasurer of state for the purposes specified in this chapter, upon duly itemized and verified vouchers that have been approved by the administrator of the ~~disaster services~~ emergency management division.

Sec. 15. Section 29C.16, subsection 1, unnumbered paragraph 1, and subsection 2, Code 1991, are amended to read as follows:

A person employed by any organization for ~~disaster services or~~ emergency ~~resources~~ management established under this chapter shall not:

2. Any employee of an organization for ~~disaster services or~~ emergency ~~resource~~ management shall not become a candidate for any partisan elective office.

Sec. 16. Section 29C.17, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

29C.17 LOCAL EMERGENCY MANAGEMENT FUND.

1. A local emergency management fund is created in the office of the county treasurer. Revenues provided and collected shall be deposited in the fund. An unencumbered balance in the fund shall not revert to county general revenues. Any reimbursement, matching funds, moneys received from sale of property, or moneys obtained from any source in connection with the county emergency management program shall be deposited in the local emergency management fund. The commission shall be the fiscal authority and the chairperson or vice-chairperson of the commission is the certifying official.

2. For the purposes consistent with this chapter, the county emergency management agency's approved budget may be funded by one or any combination of the following options:

a. A county-wide special levy approved by the board of supervisors.

b. Per capita allocation funded from city and county general funds or by a combination of city and county special levies which may be apportioned among the member jurisdictions.

c. An allocation computed as each jurisdiction's relative share of the total assessed valuation within the county.

d. A voluntary share allocation.

3. A political subdivision may appropriate additional funds for the purpose of supporting commission expenses relating to special or unique matters extending beyond the resources of the agency.

4. Expenditures from the local emergency management fund shall be made on warrants drawn by the county auditor, supported by claims and vouchers signed by the emergency program manager or chairperson of the commission.

5. Subject to chapter 24, the commission shall adopt, certify, and submit a budget, on or before February 28 of each year, to the county board of supervisors and the cities for the ensuing fiscal year which will include an itemized list of the number of emergency management personnel, their salaries and cost of personnel benefits, travel and transportation costs, fixed costs of operation, and all other anticipated emergency management expenses. The salaries and compensation of agency personnel coming under the merit system as determined by the commission will include salary schedules for classes in which the salary of a class is based on merit qualifications for the positions.

Sec. 17. Section 29C.18, subsection 1, Code 1991, is amended to read as follows:

1. ~~It shall be the duty of every~~ Every organization for ~~disaster services and~~ emergency ~~planning~~ management established pursuant to this chapter and ~~of the~~ its officers ~~thereof to~~ shall execute and enforce ~~such~~ the orders or rules made by the governor, or under the governor's authority and the orders or rules made by subordinate organizations and not contrary or inconsistent with the orders or rules of the governor.

Sec. 18. Section 29C.20, subsections 3 and 4, Code 1991, are amended to read as follows:

3. If the president of the United States, at the request of the governor, has declared a major disaster to exist in this state, the executive council may make financial grants to meet disaster-related necessary expenses, ~~or~~ serious needs, or hazard mitigation projects of local governments and eligible private nonprofit agencies adversely affected by the major disaster if those expenses or needs cannot otherwise be met from other means of assistance. The amount of the grant shall not exceed ten percent of the total eligible expenses and is conditional upon the federal government providing at least seventy-five percent for public assistance grants and at least fifty percent for hazard mitigation grants of the eligible expenses.

4. If the president, at the request of the governor, has declared a major disaster to exist in this state, the executive council may make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance. The amount of a financial grant shall not exceed ~~five thousand dollars~~ the maximum federal authorization

in the aggregate to an individual or family in any single major disaster declared by the president. All grants authorized to individuals and families will be subject to the federal government providing no less than seventy-five percent of each grant and the declaration of a major disaster in the state by the president of the United States.

Sec. 19. Section 7E.5, subsection 1, paragraph q, Code 1991, is amended to read as follows:

q. The department of public defense, created in section 29.1, which has primary responsibility for state military forces, ~~disaster services~~ emergency management, and veterans affairs.

Sec. 20. Section 29.1, Code 1991, is amended to read as follows:

29.1 DEPARTMENT OF PUBLIC DEFENSE.

The department of public defense is composed of the military division, the ~~disaster services~~ emergency management division, and the veterans affairs division. The adjutant general is the director of the department of public defense and the budget and personnel of all of the divisions are subject to the approval of the adjutant general. The Iowa emergency response commission established by section 30.2 is attached to the department of public defense for organizational purposes.

Sec. 21. Section 29.3, Code 1991, is amended to read as follows:

29.3 ~~DISASTER SERVICES~~ EMERGENCY MANAGEMENT DIVISION.

There shall be within the department of public defense of the state government, as a division ~~thereof~~ of the department, an office of ~~disaster services~~ emergency management which shall be ~~styled and~~ known as the "~~disaster services~~ emergency management division, department of public defense", with an administrator of the division who shall be the head ~~thereof~~ of the division. The adjutant general, as the director of the department of public defense shall exercise supervisory authority over the division.

Sec. 22. Section 89B.3, subsection 2, Code 1991, is amended to read as follows:

2. "Emergency response department" means any governmental department which might be reasonably expected to be required to respond to an emergency involving a hazardous chemical, including, but not limited to, local fire, police, medical rescue, ~~disaster~~ emergency management, and public health departments.

Sec. 23. Section 97B.49, subsection 16, paragraph d, subparagraph (4), Code 1991, is amended to read as follows:

(4) An airport firefighter employed by the ~~disaster services~~ military division of the department of public defense.

Sec. 24. Section 331.321, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. ~~A co-ordinator of disaster services~~ An emergency management coordinator in accordance with section 29C.10.

Sec. 25. Section 331.381, subsection 2, Code 1991, is amended to read as follows:

2. Provide for ~~disaster services and~~ emergency management planning in accordance with sections 29C.9 ~~to~~ through 29C.13.

Sec. 26. Section 331.424, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. The maintenance and operation of a local emergency management agency established pursuant to chapter 29C.

Sec. 27. Section 331.427, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. Expenses of a joint ~~disaster services and~~ emergency ~~planning administration~~ management commission under ~~section 29C.9~~ chapter 29C.

Sec. 28. Section 331.653, subsection 5, Code 1991, is amended to read as follows:

5. Serve as a member of the joint ~~county-municipal disaster services and~~ emergency ~~planning administration~~ management commission as provided in section 29C.9.

Sec. 29. Section 384.12, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 21. A tax for the support of a local emergency management commission established pursuant to chapter 29C.

Sec. 30. Section 455B.266, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. Determination by the department in conjunction with the ~~disaster services~~ emergency management division of the department of public defense of a local crisis which affects availability of water.

Sec. 31. Section 455B.385, Code 1991, is amended to read as follows:

455B.385 STATE HAZARDOUS CONDITION CONTINGENCY PLAN.

All public agencies, as defined in chapter 28E, shall co-operate in the development and implementation of a state hazardous condition contingency plan. The plan shall detail the manner in which public agencies shall participate in the response to a hazardous condition. The director may enter into agreements, with approval of the commission, with any state agency or unit of local government or with the federal government, as necessary to develop and implement the plan. The plan shall be co-ordinated with the ~~disaster services~~ emergency management division of the department of public defense and any joint ~~county-municipal disaster services and~~ emergency ~~planning administrations~~ management agencies established pursuant to chapter 29C.

Sec. 32. Section 477A.2, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A 911 system shall be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to a public safety agency or agencies that provide the requested service at the place where the call originates. A 911 system may also provide for transmitting requests for ~~disaster services~~ emergency management, poison control, suicide prevention, and other emergency services. The public safety answering point shall be capable of receiving calls from hearing impaired persons through a telecommunications device for the deaf. Conferencing capability with counseling, aid to handicapped, and other services as deemed necessary for identifying appropriate emergency response services may be provided by the 911 service.

Sec. 33. Section 477A.3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The state emergency telephone number commission is created in the ~~disaster services~~ emergency management division of the department of public defense. The administrator of the ~~disaster services~~ emergency management division shall serve as chairperson of the commission. The ~~disaster services~~ emergency management division shall provide the meeting facilities for the commission. The division of communications, department of general services, shall provide administrative and technical support for the commission with the support of the staff of the respective members of the commission. The members of the commission are as follows:

Sec. 34. Section 477B.2, subsections 1 and 9, Code 1991, are amended to read as follows:

1. "Administrator" means the administrator of the division of ~~disaster services~~ emergency management of the department of public defense.

9. "Division" means the division of ~~disaster services~~ emergency management, department of public defense.

Sec. 35. Section 477B.6, subsection 3, Code 1991, is amended to read as follows:

3. The secretary of state, in consultation with the administrator of the office of ~~disaster services~~ emergency management of the department of public defense, shall adopt rules for the conduct of joint E911 service referendums as required by and consistent with subsections 1 and 2.

Approved April 27, 1992

CHAPTER 1140

VETERANS AFFAIRS

S.F. 2011

AN ACT relating to veterans affairs, including provisions for the establishment of an independent commission of veterans affairs, for transferring control of the Iowa veterans home to the commission of veterans affairs, for disposition of active duty members of the Iowa veterans home who are charged with an offense, and for properly related matters.

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

Section 1. Section 7E.5, subsection 1, paragraph q, Code 1991, is amended to read as follows:

q. The department of public defense, created in section 29.1, which has primary responsibility for state military forces~~,~~ and disaster services~~, and veterans affairs~~.

Sec. 2. Section 7E.5, subsection 1, Code 1991, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. w. The commission of veterans affairs, which has primary responsibility for state veterans affairs.

Sec. 3. Section 29.1, Code 1991, is amended to read as follows:

29.1 DEPARTMENT OF PUBLIC DEFENSE.

The department of public defense is composed of the military division~~,~~ and the disaster services division~~, and the veterans affairs division~~. The adjutant general is the director of the department of public defense and the budget and personnel of all of the divisions are subject to the approval of the adjutant general. The Iowa emergency response commission established by section 30.2 is attached to the department of public defense for organizational purposes.

Sec. 4. Section 35.7, Code 1991, is amended to read as follows:

35.7 ORPHANS EDUCATIONAL FUND.

The commission of ~~the~~ veterans affairs ~~division of the department of public defense is hereby authorized and empowered to~~ shall administer the war orphans educational aid fund ~~as hereinafter provided~~.

Sec. 5. Section 35.9, Code 1991, is amended to read as follows:

35.9 EXPENDITURE BY COMMISSION.

~~Said~~ The commission of ~~the~~ veterans affairs ~~division is authorized to~~ may expend not ~~to exceed~~ more than four hundred dollars per year for any one child who ~~shall have~~ has lived in the state of Iowa for two years preceding application for aid ~~hereunder~~, and who is the child of a person who died during World War I between the dates of April 6, 1917, and June 2, 1921, or during World War II between the dates of September 16, 1940, and December 31, 1946, both dates inclusive, or the Korean Conflict ~~at any time~~ between June 25, 1950, and January 31, 1955, both dates inclusive, or the Vietnam Conflict ~~at any time~~ between August 5, 1964, and May 7, 1975, both dates inclusive, while serving in the military or naval forces of the United States, to include members of the reserve components performing service or duties required or authorized under chapter 39, United States Code and Title 32, United States Code, sections 502 through 505, and active state service required or authorized under chapter 29A, or as a result of such service, to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for such child or children incident to attendance in this state at ~~any~~ an educational or training institution of college grade, or in ~~any~~ a business or vocational training school ~~of~~ with standards approved by ~~said~~ the commission of ~~the~~ veterans affairs ~~division, said educational institutions to be located within the state of Iowa~~.

A child eligible to receive funds under ~~the provisions of~~ this section shall not receive more than two thousand dollars under this section during the child's lifetime.

Sec. 6. Section 35.10, Code 1991, is amended to read as follows:

35.10 ELIGIBILITY AND PAYMENT OF AID.

Eligibility for aid ~~hereunder~~ shall be determined upon application to the commission of ~~the~~ veterans affairs ~~division~~, whose decision ~~shall be~~ is final. The eligibility of eligible applicants shall be certified by the ~~administrator~~ commission of ~~the~~ veterans affairs ~~division~~ to the director of revenue and finance, and all amounts that ~~may be~~ are or ~~may~~ become due to ~~any~~ an individual or ~~any~~ a training institution under this chapter shall be paid to the individual or institution by ~~said~~ the director of revenue and finance upon receipt by the director of certification by the president or governing board of ~~such~~ the educational or training institution as to accuracy of charges made, and as to the attendance of the individual at ~~such~~ the educational or training institution. ~~It shall be proper for the~~ The commission of ~~the~~ veterans affairs ~~division to~~ may pay over ~~said~~ the annual sum of four hundred dollars to ~~such~~ the educational or training institution in a lump sum, or in ~~such~~ installments as the circumstances ~~may~~ warrant, upon receiving from ~~such~~ the institution such written undertaking as the commission ~~of the veterans affairs division~~ may require to assure the use of ~~said~~ funds for ~~such~~ the child for the authorized purposes and for no other purpose. A person ~~shall~~ is not ~~be~~ eligible for the benefits of this chapter until the person ~~shall have~~ has graduated from a high school or educational institution offering a course of training equivalent to high school training.

Sec. 7. Section 35A.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

35A.1 DEFINITIONS.

1. "Commandant" means the commandant of the Iowa veterans home appointed in section 219.13.
2. "Commission" means the commission of veterans affairs established in section 35A.2.
3. "Commissioner" means a member of the commission of veterans affairs.
4. "Director" means the executive director appointed pursuant to section 35A.3, subsection 3.

Sec. 8. Section 35A.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

35A.2 COMMISSION OF VETERANS AFFAIRS.

1. A commission of veterans affairs is created consisting of seven persons who shall be appointed by the governor, subject to confirmation by the senate. Members shall be appointed to staggered terms of four years. The governor shall fill a vacancy for the unexpired portion of the term.
2. Five commissioners shall be honorably discharged members of the armed forces of the United States. The American legion of Iowa, disabled American veterans department of Iowa, veterans of foreign wars department of Iowa, American veterans of World War II, Korea, and Vietnam, and the military order of the purple heart, through their department commanders, shall submit two names respectively from their organizations to the governor. The governor shall appoint from each of the organizations one representative to serve as a member of the commission, unless the appointments would conflict with the bipartisan and gender balance provisions of sections 69.16 and 69.16A. In addition, the governor shall appoint two members of the public, knowledgeable in the general field of veterans affairs, to serve on the commission.
3. The office of the commission shall be located at the Iowa veterans home.

Sec. 9. Section 35A.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

35A.3 DUTIES OF THE COMMISSION.

The commission shall do all of the following:

1. Organize and annually select a chairperson.
2. Adopt rules pursuant to chapter 17A and establish policy for the management and operation of the commission.
3. Prescribe the duties of an executive director and other employees as the commission shall deem necessary to carry out the duties of the commission.

4. Supervise the commandant's administration of commission policy for the operations and conduct of the Iowa veterans home.

5. Maintain information and data concerning the military service records of Iowa veterans.

6. Assist county veterans affairs commissions established pursuant to chapter 250. The commission shall provide to county commissions suggested uniform benefits and administrative procedures for carrying out the functions and duties of the county commissions.

7. Permanently maintain the records including certified records of bonus applications for awards paid from the war orphans educational fund under chapter 35.

8. Collect and maintain information concerning veterans' affairs.

9. Conduct two service schools each year for the Iowa association of county commissioners and executive secretaries.

10. Assist the United States veterans administration, the Iowa veterans home, funeral directors, and federally chartered veterans service organizations in providing information concerning veterans service records and veterans affairs data.

11. Maintain alphabetically a permanent registry of the graves of all persons who served in the military or naval forces of the United States in time of war and whose mortal remains rest in Iowa.

Sec. 10. Section 35A.8, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

35A.8 EXECUTIVE DIRECTOR — TERM — DUTIES.

1. The governor shall appoint an executive director, subject to confirmation by the senate, who shall serve at the pleasure of the governor. The executive director is responsible for administering the duties of the commission other than those related to the Iowa veterans home.

2. The executive director shall be a resident of the state of Iowa and an honorably discharged veteran who served in the armed forces of the United States during a conflict or war. As used in this section, the dates of service in a conflict or war shall coincide with the dates of service established by the Congress of the United States.

Sec. 11. Section 35A.9, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

35A.9 EXPENSES AND COMPENSATION.

The commissioners are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. Each member of the commission may also be eligible to receive compensation as provided in section 7E.6.

1. The executive director, commandant, and employees of the commission and the Iowa veterans home are entitled to receive, in addition to salary, reimbursement for actual expenses incurred while engaged in the performance of official duties.

2. All out-of-state travel by commissioners, the executive director, the commandant, or employees of the commission or the Iowa veterans home shall be approved by the chairperson of the commission.

Sec. 12. Section 110.24, subsection 16, Code Supplement 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 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 commission of 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, 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. 13. Section 139A.1, subsection 3, Code 1991, is amended to read as follows:

3. ~~"Division"~~ "Commission" means the commission of veterans affairs ~~division within the department of public defense~~.

Sec. 14. Section 139A.2, Code 1991, is amended to read as follows:

139A.2 CHEMICAL EXPOSURE REPORT TO ~~DIVISION~~ COMMISSION.

A licensed physician ~~pursuant to~~, as defined in section 135.1, subsection 5, who treats a veteran the physician believes may have been exposed to chemicals while serving in the armed forces of the United States shall submit a report indicating that information to the ~~division~~ commission at the request of the veteran pursuant to section 139A.3.

Sec. 15. Section 139A.3, Code 1991, is amended to read as follows:

139A.3 DUTIES OF THE ~~DIVISION~~ COMMISSION.

The ~~division~~ commission shall:

1. Provide the forms for the reports required in section 139A.2. The report form shall require the doctor to provide all of the following:

a. Symptoms of the veteran which may be related to exposure to chemicals.

b. Diagnosis of the veteran.

c. Methods of treatment prescribed.

2. Annually compile and evaluate the information submitted in the reports pursuant to subsection 1, in consultation and cooperation with a certified medical toxicologist selected by the ~~division~~ commission. The ~~division~~ commission shall submit the report to the governor, the general assembly, and the United States veterans' administration. The report shall include current research data on the effects of exposure to chemicals, statistical information received from individual physicians' reports, and statistical information from the epidemiological investigations pursuant to subsection 3.

3. Conduct epidemiological investigations of veterans who have cancer or other medical problems or who have children born with birth defects associated with exposure to chemicals, in consultation and cooperation with a certified medical toxicologist selected by the ~~division~~ commission. The ~~division~~ commission shall obtain consent from a veteran before conducting the investigations.

The ~~division~~ commission shall cooperate with local and state agencies during the course of an investigation.

Sec. 16. Section 139A.4, Code 1991, is amended to read as follows:

139A.4 CONFIDENTIALITY AND LIABILITY.

The ~~division~~ commission shall not identify a veteran consenting to the epidemiological investigations pursuant to section 139A.3, subsection 3, unless the veteran consents to the release of identity. The statistical information compiled by the ~~division~~ commission pursuant to section 139A.3 is a public record.

A licensed physician complying with this chapter is not civilly or criminally liable for release of the required information.

Sec. 17. Section 139A.6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The ~~division~~ commission and appropriate medical facilities at the state university of Iowa under the control of the state board of regents shall institute a cooperative program to:

Sec. 18. Section 139A.7, Code 1991, is amended to read as follows:

139A.7 FEDERAL PROGRAM.

If the ~~administrator of the division~~ commission or the general assembly determines that an agency of the federal government or the state of Iowa is providing the referral and genetic

services pursuant to section 139A.6, the ~~administrator~~ commission or the general assembly by specific action may discontinue all or part of the services and requirements in this chapter.

Sec. 19. Section 139A.8, Code 1991, is amended to read as follows:

139A.8 RULES.

The ~~division~~ commission shall adopt rules pursuant to chapter 17A to implement this chapter.

Sec. 20. Section 139A.9, Code 1991, is amended to read as follows:

139A.9 APPROPRIATIONS.

This chapter shall be implemented by the ~~division~~ commission each fiscal year that appropriations are made to the ~~division~~ commission for the implementation.

Sec. 21. Section 218.1, subsection 1, Code 1991, is amended by striking the subsection.

Sec. 22. Section 219.1, subsection 2, Code 1991, is amended to read as follows:

2. As used in this chapter:

a. ~~"Director"~~ "Commandant" means the ~~director~~ commandant of the ~~department of human services~~ Iowa veterans home appointed pursuant to section 219.13.

b. "Commission" means the commission of veterans affairs established in section 35A.2.

~~b~~ c. "Member" means a patient or resident of the home.

Sec. 23. Section 219.2, subsection 1, Code 1991, is amended to read as follows:

1. Persons described in section 219.1 who do not have sufficient means for their own support, or are disabled by disease, wounds, old age, or otherwise, and are unable to earn a livelihood, and who are residents of the state of Iowa on the date of the application and immediately preceding the date the application is accepted, may be admitted to the home as members under rules adopted by the ~~director~~ commission. Eligibility determinations are subject to approval by the ~~director~~ commandant.

Sec. 24. Section 219.3, Code 1991, is amended to read as follows:

219.3 RULES — GENERAL MANAGEMENT.

The ~~director~~ commission shall adopt all the necessary rules, pursuant to chapter 17A, for the preservation of order and enforcement of discipline, the promotion of health and well-being of all the members and the management and control of the home and its grounds.

Sec. 25. Section 219.4, subsection 2, Code 1991, is amended to read as follows:

2. The cottages may be made available to persons on the staff of the home at a rental rate determined by the ~~director~~ commission.

Sec. 26. Section 219.7, subsection 3, Code 1991, is amended to read as follows:

3. The ~~director~~ commandant may require any member of the home to render assistance in the care of the home and its grounds as the member's psycho-social and physical condition ~~will~~ permit, as a phase of that member's rehabilitation program. The ~~director~~ commandant shall compensate each member who furnishes assistance at rates established by the ~~director~~ commission.

Sec. 27. Section 219.8, Code 1991, is amended to read as follows:

219.8 CONDITIONAL ADMITTANCE.

The ~~director~~ commission may, if there is room for all dependent members and applicants, admit and allow to remain in the home persons who have sufficient means for their own support but are otherwise eligible to become members of the home, on payment of the cost of their support. The cost and method of collection shall be determined by the ~~director~~ commission.

Sec. 28. Section 219.11, subsection 2, Code 1991, is amended to read as follows:

2. The commandant, if authorized by a member of the home, and pursuant to policies adopted by the ~~director~~ commission, may act on behalf of that member in receiving, disbursing, and accounting for personal funds of the member received from any source. The authorization may be given by the member at any time and shall not be a condition of admission to the home.

Sec. 29. Section 219.12, subsection 2, Code 1991, is amended to read as follows:

2. The commandant, if authorized by a member of the home, and pursuant to policies adopted by the ~~director~~ commission, may make withdrawals against that member's personal account to pay regular bills and other expenses incurred by the member. The authorization may be given by the member at any time and shall not be a condition of admission to the home.

Sec. 30. Section 219.13, Code 1991, is amended to read as follows:

219.13 COMMANDANT.

1. The ~~director~~ governor shall appoint a commandant, subject to senate confirmation, who ~~shall be the person responsible for handling veterans affairs for the department of human services,~~ shall serve at the pleasure of the governor as the chief executive of the home ~~and~~. The commandant shall report directly to the commission and shall have the immediate custody and control, subject to the orders of the ~~director or the director's designee~~ commission, of all property used in connection with the home.

2. The commandant must be a resident of the state of Iowa, ~~and~~ an honorably discharged veteran who served in the armed forces of the United States during a conflict or war, and a licensed nursing home administrator. As used in this section, the dates of service in a conflict or war shall coincide with the dates of service established by the Congress of the United States.

3. The salary of the commandant shall ~~receive an annual salary as the director may determine~~ be fixed by the governor within salary guidelines or a range established by the general assembly. In addition to salary, the ~~director~~ commission shall furnish the commandant with a dwelling house or with appropriate quarters and additional allowances, as provided in section 218.14 for executive heads of state institutions.

Sec. 31. NEW SECTION. 219.14 EXPENSES AND COMPENSATION.

The commandant and employees of the Iowa veterans home are entitled to receive, in addition to salary, reimbursement for actual expenses incurred while engaged in the performance of official duties pursuant to section 35A.9.

Sec. 32. Section 219.18, Code 1991, is amended to read as follows:

219.18 RULES ENFORCED – POWER TO SUSPEND AND EXPEL MEMBERS.

The commandant shall administer and enforce all rules adopted by the ~~director~~ commission, including rules of discipline and, subject to these rules, may immediately suspend the membership of and expel any person from the home for infraction of the rules when the commandant determines that the health, safety, or welfare of the residents of the home is in immediate danger and other reasonable alternatives have been exhausted. The suspension and expulsion are temporary pending action by the ~~director~~ commission. Judicial review of the action of the ~~director~~ commission may be sought in accordance with chapter 17A.

Sec. 33. Section 219.19, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

219.19 DISPOSITIONS OF ACTIVE DUTY MEMBERS CHARGED WITH OFFENSE.

A person on active duty in the state military forces subject to the provisions of chapter 29B, or on active duty in the federal military forces subject to 10 U.S.C. chapter 47, charged with an offense under either code, may be summarily delivered to the appropriate state or federal branch of the military for disciplinary action or trial.

Sec. 34. Section 219.21, Code 1991, is amended to read as follows:

219.21 REPORT BY ~~DIRECTOR~~ COMMANDANT.

The ~~director~~ commandant shall, biennially, make a full and detailed report to the governor, the commission, and the general assembly, showing the condition of the home, the number of members in the Iowa veterans home, the order and discipline enforced, and the needs of the home financially and otherwise, together with an itemized statement of all receipts and disbursements and any other matters of importance in the management and control of the Iowa veterans home.

Sec. 35. Section 250.11, Code 1991, is amended to read as follows:

250.11 DATA FURNISHED STATE COMMISSION.

The commission of veteran affairs of each county shall provide information to the state commission of ~~the~~ veterans affairs ~~division of the department of public defense~~ as the state commission may request.

Sec. 36. Section 250.19, Code 1991, is amended to read as follows:

250.19 BURIAL RECORDS.

The county commission of veteran affairs shall be charged with securing the information requested by the commission of veterans affairs ~~division of the department of public defense~~ of every person having a military service record and buried in that county. Such information shall be secured from the undertaker in charge of the burial and shall be transmitted by the undertaker to the commission of veteran affairs of the county where burial is made. This information shall be recorded alphabetically and by description of location in the cemetery where the veteran is buried. This recording shall conform to the directives of the ~~division~~ state commission of veterans affairs and shall be kept in a book by the county commission.

Sec. 37. Section 331.608, subsection 1, Code 1991, is amended to read as follows:

1. The recorder shall maintain a special book in which, upon request, the discharge of a veteran shall be recorded without charge. The discharge book shall be a uniform type, kind, and form approved by the commission of veterans affairs ~~division of the department of public defense and the adjutant general of the state~~.

Sec. 38. Sections 29.4, 35A.4, 35A.5, 35A.6, and 35A.7, Code 1991, are repealed.

Sec. 39. All rules, regulations, forms, orders, and directives in effect for the Iowa veterans home on the effective date of this Act shall continue in full force and effect as rules, regulations, forms, orders, and directives of the commission of veterans affairs until amended, repealed, or supplemented by affirmative action of the commission or commandant.

Sec. 40. Rules, regulations, forms, orders, and directives of the division of veterans affairs of the department of public defense in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the commission of veterans affairs.

Sec. 41. TRANSITION. The five members of the commission of the veterans affairs division of the department of public defense abolished by this Act serving unexpired terms on the effective date of this Act may serve as members of the commission of veterans affairs established under section 35A.3 until the expiration of the terms to which they were appointed as members of the commission of the veterans affairs division of the department of public defense. The sixth and seventh members shall serve until June 30, 1996. Their successors shall be appointed as provided in section 35A.2. A commission member is eligible for reappointment.

Sec. 42. TRANSFER. On the effective date of this Act, the director of revenue and finance shall allocate to the commission of veterans affairs any funds appropriated to the department of public defense for the veterans affairs division abolished by this Act.

Sec. 43. TRANSFER. On the effective date of this Act, the director of revenue and finance shall allocate to the commission of veterans affairs any funds appropriated to the department of human services for the Iowa veterans home and the department of human services shall take all actions necessary to transfer administration and control of the Iowa veterans home to the commission of veterans affairs, including but not limited to, the assignment of contracts and transfer of records and supplies as applicable.

Sec. 44. RELOCATION. The commission of veterans affairs shall have until December 31, 1992, if necessary, to complete the relocation of the commission's own office supplies, furnishings, and records, from the department of defense and the department of human services to the commission of veterans affairs as provided in section 35A.2, subsection 3.

Approved April 27, 1992

CHAPTER 1141

FOSTER CARE REVIEW BOARDS

S.F. 2197

AN ACT relating to state and local foster care review boards.

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

Section 1. Section 10A.104, subsection 2, Code 1991, is amended to read as follows:

2. Appoint the administrators of the divisions within the department and all other personnel deemed necessary for the administration of this chapter, except the state public defender, assistant state public defenders, administrator of the racing and gaming commission, members of the employment appeal board, and administrator of the state citizen foster care review board. All persons appointed and employed in the department are covered by the provisions of chapter 19A, but persons not appointed by the director are exempt from the merit system provisions of chapter 19A.

Sec. 2. Section 232.175, Code 1991, is amended to read as follows:

232.175 PURPOSE AND POLICY.

It is the purpose and policy of this division to provide court oversight for placements that involve a handicapped child placed voluntarily in foster care by the child's parent or guardian, through review of the voluntary placements every six months by the department's foster care review committees or by a local citizen foster care review board. It is the purpose and policy of this division to assure the additional safeguard of court oversight as required by Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 3. Section 232.183, subsection 7, Code 1991, is amended to read as follows:

7. A dispositional hearing is not required if the court has approved either the local citizen foster care review board review or the department's administrative review procedure as defined under section 234.42, and all parties agree. This provision does not eliminate the initial judicial determination required under section 232.182.

Sec. 4. Section 235A.15, subsection 2, paragraph e, subparagraph (6), Code Supplement 1991, is amended to read as follows:

(6) To the state and local citizen foster care review boards created pursuant to sections 237.16 and 237.19.

Sec. 5. Section 237.15, subsections 2, 4, and 6, Code Supplement 1991, are amended to read as follows:

2. "Child receiving foster care" means a child defined in section 234.1 ~~whose~~ who is described by any of the following circumstances:

a. The child's foster care placement is the financial responsibility of the state pursuant to section 234.35, ~~who~~.

b. The child is under the guardianship of the department, ~~or who~~.

c. The child has been involuntarily hospitalized for mental illness pursuant to chapter 229.

d. The child is at-risk of being placed outside the child's home, the department or court is providing or planning to provide services to the child, and the department or court has requested the involvement of the state or local board.

4. "Local board" means a local citizen foster care review board created pursuant to section 237.19.

6. "State board" means the state citizen foster care review board created pursuant to section 237.16.

Sec. 6. Section 237.16, Code 1991, is amended to read as follows:

237.16 STATE CITIZEN FOSTER CARE REVIEW BOARD.

1. The state citizen foster care review board is created within the department of inspections and appeals. The state board consists of seven members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. The appointment is for a term of four years which begins and ends as provided in section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made.

2. The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members are entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The state board shall meet at least twice a year.

3. An employee of the department or of the department of inspections and appeals, an employee of a child-placing agency, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board.

Sec. 7. Section 237.18, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. In conjunction with the legislative fiscal bureau and in consultation with the department of human services, supreme court, and private foster care providers, develop and maintain an evaluation program regarding citizen foster care review programming. The evaluation program shall be designed to evaluate the effectiveness of citizen reviews in improving case permanency planning and meeting case permanency planning goals, identify the amount of time children spend in foster care placements, and identify problem issues in the foster care system. The state board shall submit an annual evaluation report to the governor and the general assembly.

Sec. 8. Section 237.19, Code 1991, is amended to read as follows:

237.19 LOCAL CITIZEN FOSTER CARE REVIEW BOARDS.

1. The state board shall establish local citizen foster care review boards to review cases of children receiving foster care. The department shall discontinue its foster care review process for those children reviewed by local boards as local boards are established and operating. The state board shall select five members and two alternate members to serve on each local board in consultation with the chief judge of each judicial district. The actual number of local boards needed and established shall be determined by the state board. ~~However, the state board shall seek to establish a sufficient number of boards to ensure no board must evaluate more than one hundred cases annually.~~ The members of each local board shall consist of persons of the various social, economic, racial, and ethnic groups and various occupations of their district. A person employed by the state board or the department, the department of inspections and appeals, the district court, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. The state board shall provide the names of the members of the local boards to the department.

2. Vacancies on a local board shall be filled in the same manner as original appointments. The members shall not receive per diem but shall receive reimbursement for actual and necessary expenses incurred in their duties as members.

Sec. 9. Section 237.20, subsection 1, unnumbered paragraphs 1 and 2, Code 1991, are amended to read as follows:

Review at least every six months the case of each child receiving foster care assigned to the local board by the state board to determine whether satisfactory progress is being made toward the goals of the case permanency plan pursuant to section 237.22. As much as is possible, review shall be conducted immediately prior to court reviews of the case.

During each ~~six month~~ review, the agency responsible for the placement of or services provided to the child shall attend the review and the local board shall review all of the following:

Sec. 10. Section 237.20, subsection 1, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The review shall include issues pertaining to the case permanency plan and shall not include issues that do not pertain to the case permanency plan. ~~Each review shall include written testimony of any~~ A person notified pursuant to subsection 4~~, and may include oral testimony from those persons when determined to be relevant and material to the child's placement~~ shall either attend the review or submit testimony as requested by the local board or in accordance with a written protocol jointly developed by the state board and the department. Oral testimony may, upon the request of the testifier or upon motion of the local board, be given in a private setting when to do so would facilitate the presentation of evidence. Local board questions shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

Sec. 11. Section 237.20, subsection 2, Code 1991, is amended to read as follows:

2. a. Submit to the appropriate court within fifteen days after the review under subsection 1, the findings and recommendations of the review. The local board shall ensure that the most recent report is available for a court hearing. The report to the court shall include information regarding the case permanency plan and the progress in attaining the permanency goals. The report shall not include issues that do not pertain to the case permanency plan. The findings and recommendations shall include the proposed date of the next review by the local board. The local board shall notify the persons specified in subsection 4 of the findings and recommendations.

b. If the person or agency responsible for services provided to the child disagrees with the review findings or recommendations, the person or agency shall respond during the review or submit a statement to the local board and the court within ten working days of receiving the local board's report. The response shall explain the reasons the person or agency disagrees with the board's findings or does not plan to implement the board's recommendations.

Sec. 12. Section 237.20, subsection 4, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The person providing services to the child or the child's family.

Sec. 13. Section 237.23, Code 1991, is amended to read as follows:

237.23 AUTOMATIC REPEAL.

Sections 237.15 through 237.22, ~~Code 1987~~ and this section, are repealed July 1, ~~1992~~ 1996.

Approved April 27, 1992

CHAPTER 1142

ADOPTION RECORDS

S.F. 2203

AN ACT relating to the availability of adoption records.

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

Section 1. Section 600.16, subsection 1, paragraph c, Code Supplement 1991, is amended to read as follows:

c. Any person approved by the department if the person uses this information solely for the purposes of conducting a legitimate medical research project or of treating a patient in a medical facility.

Information regarding an adopted person's existing medical and developmental history and family medical history, which meets the definition of background information in section 600.8, subsection 1, paragraph "c", ~~but which was compiled prior to July 1, 1976,~~ shall be made available as provided in this subsection. However, the identity of the adopted person's natural parents shall not be disclosed.

Sec. 2. Section 600.16, subsection 2, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

A natural parent may file an affidavit requesting that the court reveal or not reveal the parent's name. The court shall consider any such affidavit in determining whether there is good cause to order opening of the records. If the adopted person who applies for revelation of the natural parents' name has a sibling who is a minor and who has been adopted by the same parents, the court may deny the application on the grounds that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling. To facilitate the natural parents in filing an affidavit, the department shall, upon request of a natural parent, ~~file an affidavit in the court in which the adoption records have been sealed~~ provide the natural parent with an adoption information packet containing an affidavit for completion and filing with the court.

Sec. 3. Section 600.24, Code 1991, is amended to read as follows:

600.24 ACCESS TO RECORDS.

The department may allow access to adoption records held by ~~it~~ the department or an agency if all of the following conditions are met:

~~a. The records were compiled prior to January 1, 1977;~~

~~b~~ a. The identity of the natural parents of the adopted person is concealed from the person gaining access to the records~~; and~~,.

~~c~~ b. The person gaining access to the records uses them solely for the purposes of conducting a legitimate medical research project or of treating a patient in a medical facility.

Approved April 27, 1992

CHAPTER 1143

ABUSE OF DEPENDENT PERSONS

S.F. 2231

AN ACT relating to abuse of dependent persons including the sharing of information between departments involved in child abuse investigations, multidisciplinary team members, the definitions of certain types of abuse, the definition of a mandatory reporter of dependent adult abuse, and the requirement of mandatory reporter training.

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

Section 1. Section 232.71, subsection 1, Code 1991, is amended to read as follows:

1. ~~Whenever~~ If a report is determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report. The department, within five working days of commencing the investigation, shall provide written notification of the investigation to the child's parents. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall issue an emergency order restraining the notification. If a report is determined to not constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

Sec. 2. Section 235A.13, subsection 9, Code 1991, is amended to read as follows:

9. "Multidisciplinary team" means a group of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, nursing, public health, substance abuse, mental health, social work, child development, education, law, juvenile probation, or law enforcement, or a group established pursuant to section 235B.1, subsection 6, paragraph "a".

Sec. 3. Section 235A.15, subsection 1, Code Supplement 1991, is amended to read as follows:

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by subsection 2, ~~and subsection~~ 3, or 4.

Sec. 4. Section 235A.15, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Access to founded child abuse information only is authorized to the department of personnel as necessary for presentation in grievance or arbitration procedures provided for in sections 19A.14 and 20.18. Child abuse information introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

Sec. 5. Section 235A.19, subsection 2, paragraph b, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) To persons involved in an investigation of child abuse.

Sec. 6. Section 235B.2, subsection 5, paragraph a, subparagraph (1), Code Supplement 1991, is amended to read as follows:

(1) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement or unreasonable punishment of a dependent adult.

Sec. 7. Section 235B.2, subsection 5, paragraph b, Code Supplement 1991, is amended to read as follows:

b. The deprivation of the minimum food, shelter, clothing, supervision, physical ~~and~~ or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

Sec. 8. Section 235B.3, subsection 1, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.

Sec. 9. Section 235B.3, subsection 2, paragraph b, Code Supplement 1991, is amended to read as follows:

b. A social worker or an income maintenance worker under the jurisdiction of the department of human services.

Sec. 10. Section 235B.16, subsection 5, unnumbered paragraph 4, Code Supplement 1991, is amended to read as follows:

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. A person who is a mandatory reporter for both child abuse and dependent adult abuse may satisfy the combined training requirements of this subsection through completion of a two-hour training program, if the training program curriculum and content is approved by the department of human services.

Approved April 27, 1992

CHAPTER 1144

SALES TAX EXEMPTION

S.F. 2298

AN ACT relating to the retail sales tax, by exempting hay, straw, paper, and other materials used for bedding in agricultural production.

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

Section 1. Section 422.45, subsection 30, Code Supplement 1991, is amended to read as follows:

30. The gross receipts from the sale of wood chips, ~~or~~ sawdust, hay, straw, paper, or other materials used for bedding in the production of agricultural livestock or fowl.

Approved April 27, 1992

CHAPTER 1145

PREVENTING TRANSMISSION OF THE HIV OR HEPATITIS B VIRUS

S.F. 2323

AN ACT relating to the prevention of the transmission of HIV or the hepatitis B virus to patients, providing penalties, and providing for a repeal.

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

Section 1. NEW SECTION. 139C.1 DEFINITIONS.

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

1. "Department" means the Iowa department of public health.

2. "Exposure-prone procedure" means a procedure performed by a health care provider which presents a recognized risk of percutaneous injury to the health care provider and if such an injury occurs, the health care provider's blood is likely to contact a patient's body cavity, subcutaneous tissues, or mucous membranes or "exposure-prone procedure" as defined subsequently by the centers for disease control of the United States department of health and human services.

3. "HBV" means hepatitis B virus.

4. "Health care facility" means a health care facility as defined in section 135C.1, an ambulatory surgical center, or a clinic.

5. "Health care provider" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, podiatry, nursing, dentistry, optometry, or as a physician assistant or dental hygienist.

6. "HIV" means HIV as defined in section 141.21.

7. "Hospital" means hospital as defined in section 135B.1.

Sec. 2. NEW SECTION. 139C.2 PREVENTION OF TRANSMISSION OF HIV OR HBV TO PATIENTS.

1. Each hospital shall adopt procedures requiring the establishment of protocols applicable on a case-by-case basis to a health care provider determined to be infected with HIV or HBV who ordinarily performs exposure-prone procedures as determined by an expert review panel, within the hospital setting. The protocols established shall be in accordance with the recommendations issued by the centers for disease control of the United States department of health and human services. The expert review panel may be an established committee of the hospital. The procedures may provide for referral of the health care provider to the expert review panel established by the department for establishment of the protocols. The procedures shall require reporting noncompliance with the protocols by a health care provider to the examining board with jurisdiction over the health care providers.

2. Each health care facility shall adopt procedures in accordance with recommendations issued by the center for disease control of the United States department of health and human services, applicable to a health care provider determined to be infected with HIV or HBV who ordinarily performs or assists with exposure-prone procedures within the facility. The procedures shall require referral of the health care provider to the expert review panel established by the department.

3. The department shall establish an expert review panel to determine on a case-by-case basis under what circumstances, if any, a health care provider determined to be infected with HIV or HBV practicing outside the hospital setting or referred to the panel by a hospital, may perform exposure-prone procedures. If a health care provider determined to be infected with HIV or HBV does not comply with the determination of the expert review panel, the panel shall report the noncompliance to the examining board with jurisdiction over the health care provider. A determination of an expert review panel pursuant to this section is a final agency action appealable pursuant to section 17A.19.

4. The health care provider determined to be infected with HIV or HBV, who works in a hospital setting, may elect either the expert review panel established by the hospital or the

expert review panel established by the department for the purpose of making a determination of the circumstances under which the health care provider may perform exposure-prone procedures.

5. A health care provider determined to be infected with HIV or HBV shall not perform an exposure-prone procedure except as approved by the expert review panel established by the department pursuant to subsection 3, or in compliance with the protocol established by the hospital pursuant to subsection 1.

6. The board of medical examiners, the board of physician assistant examiners, the board of podiatry examiners, the board of nursing, the board of dental examiners, and the board of optometry examiners shall require that licensees comply with the recommendations for preventing transmission of human immuno-deficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures issued by the centers for disease control of the United States department of health and human services, or with the recommendations of the expert review panel established pursuant to subsection 3, and applicable hospital protocols established pursuant to subsection 1.

7. Information relating to the HIV status of a health care provider is confidential and subject to the provisions of section 141.23. A person who intentionally or recklessly makes an unauthorized disclosure of such information 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. Information relating to the HBV status of a health care provider is confidential and shall not be accessible to the public. Information regulated by this section, however, may be disclosed to members of the expert review panel established by the department or a panel established by hospital protocol under this section. The information may also be disclosed to the appropriate examining board by filing a report as required by this section. The examining board shall consider the report a complaint subject to the confidentiality provisions of section 258A.6. A licensee, upon the filing of a formal charge or notice of hearing by the examining board based on such a complaint, may seek a protective order from the board.

8. The expert review panel established by the department and individual members of the panel shall be immune from any liability, civil or criminal, for the good faith performance of functions authorized or required by this section. A hospital, an expert review panel established by the hospital, and individual members of the panel shall be immune from any liability, civil or criminal, for the good faith performance of functions authorized or required by this section. Complaints, investigations, reports, deliberations, and findings of the hospital and its panel with respect to a named health care provider suspected, alleged, or found to be in violation of the protocol required by this section, constitute peer review records under section 147.135, and are subject to the specific confidentiality requirements and limitations of this section.

Sec. 3. NEW SECTION. 139C.3 CONTINGENT REPEAL.

If the provisions of Pub. L. No. 102-141 relating to requirements for prevention of transmission of HIV or HBV to patients in the performance of exposure-prone procedures are repealed, this chapter is repealed.

Approved April 27, 1992

CHAPTER 1146

UNIFORM COMMERCIAL CODE — FUNDS TRANSFERS

H.F. 150

AN ACT relating to the transfer of funds by enacting the uniform Act and providing civil remedies.

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

ARTICLE 12
FUNDS TRANSFERS
PART 1
SUBJECT MATTER AND DEFINITIONS

Section 1. NEW SECTION. 554.12101 SHORT TITLE.

This article shall be known and may be cited as "Uniform Commercial Code — Funds Transfers."

Sec. 2. NEW SECTION. 554.12102 SUBJECT MATTER.

Except as otherwise provided in section 554.12108, this article applies to funds transfers defined in section 554.12104.

Sec. 3. NEW SECTION. 554.12103 PAYMENT ORDER — DEFINITIONS.

In this article unless the context otherwise requires:

1. a. "Payment order" means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if all of the following apply:

(1) The instruction does not state a condition to payment to the beneficiary other than time of payment.

(2) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender.

(3) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

b. A payment order instructing more than one payment to be made to a beneficiary is a separate payment order with respect to each payment.

c. A payment order is issued when it is sent to the receiving bank.

2. "Beneficiary" means the person to be paid by the beneficiary's bank.

3. "Beneficiary's bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

4. "Receiving bank" means the bank to which the sender's instruction is addressed.

5. "Sender" means the person giving the instruction to the receiving bank.

Sec. 4. NEW SECTION. 554.12104 FUNDS TRANSFER — DEFINITIONS.

In this article unless the context otherwise requires:

1. "Funds transfer" means the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. A funds transfer is completed by acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's payment order.

2. "Intermediary bank" means a receiving bank other than the originator's bank or the beneficiary's bank.

3. "Originator" means the sender of the first payment order in a funds transfer.

4. "Originator's bank" means the receiving bank to which the payment order of the originator is issued if the originator is not a bank, or the originator if the originator is a bank.

Sec. 5. NEW SECTION. 554.12105 OTHER DEFINITIONS.

1. In this article unless the context otherwise requires:

a. "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

b. "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this article.

c. "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

d. "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders, and cancellations and amendments of payment orders.

e. "Funds-transfer system" means a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

f. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

g. "Prove" with respect to a fact means to meet the burden of establishing the fact as defined in section 554.1201, subsection 8.

2. Other definitions applying to this article and the sections in which they appear are:

"Acceptance"	554.12209
"Beneficiary"	554.12103
"Beneficiary's bank	554.12103
"Executed"	554.12301
"Execution date"	554.12301
"Funds transfer"	554.12104
"Funds-transfer system rule"	554.12501
"Governing law"	554.12507
"Intermediary bank"	554.12104
"Originator"	554.12104
"Originator's bank"	554.12104
"Payment by beneficiary's bank to beneficiary"	554.12405
"Payment by originator to beneficiary"	554.12406
"Payment by sender to receiving bank"	554.12403
"Payment date"	554.12401
"Payment order"	554.12103
"Receiving bank"	554.12103
"Security procedure"	554.12201
"Sender"	554.12103

3. The following definitions in article 4 apply to this article:

"Clearing house"	554.4104
"Item"	554.4104
"Suspends payments"	554.4104

4. In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 6. NEW SECTION. 554.12106 TIME PAYMENT ORDER IS RECEIVED.

1. The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in section 554.1201, subsection 27. A receiving bank may establish a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders, and communications canceling or

amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally, or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

2. Unless otherwise provided, if this article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated.

Sec. 7. NEW SECTION. 554.12107 FEDERAL RESERVE REGULATIONS AND OPERATING CIRCULARS.

Regulations of the board of governors of the federal reserve system and operating circulars of the federal reserve banks as of July 1, 1991, supersede any inconsistent provision of this article to the extent of the inconsistency.

Sec. 8. NEW SECTION. 554.12108 EXCLUSION OF CONSUMER TRANSACTIONS GOVERNED BY FEDERAL LAW.

This article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978, 15 U.S.C. § 1693 et seq.

PART 2
ISSUE AND ACCEPTANCE OF PAYMENT ORDER

Sec. 9. NEW SECTION. 554.12201 SECURITY PROCEDURE.

"Security procedure" means a procedure established by agreement between a customer and a receiving bank for the purpose of verifying that a payment order or communication amending or canceling a payment order is that of the customer, or detecting error in the transmission or the content of the payment order or communication. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer is not by itself a security procedure.

Sec. 10. NEW SECTION. 554.12202 AUTHORIZED AND VERIFIED PAYMENT ORDERS.

1. A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

2. If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and the bank proves that it accepted the payment order in good faith and in compliance with the security procedure and any written agreement or instruction of the customer restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates a written agreement with the customer or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

3. Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders

normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and the customer expressly agreed in writing to be bound by any payment order, whether or not authorized, issued in the customer's name and accepted by the bank in compliance with the security procedure chosen by the customer.

4. The term "sender" in this article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection 1, or it is effective as the order of the customer under subsection 2.

5. This section applies to amendments and cancellations of payment orders in the same manner it applies to payment orders.

6. Except as provided in this section and section 554.12203, rights and obligations arising under this section or section 554.12203 may not be varied by agreement.

Sec. 11. NEW SECTION. 554.12203 UNENFORCEABILITY OF CERTAIN VERIFIED PAYMENT ORDERS.

If an accepted payment order is not an authorized order of a customer identified as sender pursuant to section 554.12202, subsection 1, but is effective as an order of the customer pursuant to section 554.12202, subsection 2, the following rules apply:

1. By express written agreement, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

2. The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person entrusted at any time with the authority to act for the customer with respect to payment orders or the security procedure, or who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or similar items.

3. This section applies to amendments of payment orders in the same manner it applies to payment orders.

Sec. 12. NEW SECTION. 554.12204 REFUND OF PAYMENT AND DUTY OF CUSTOMER TO REPORT WITH RESPECT TO UNAUTHORIZED PAYMENT ORDER.

1. If a receiving bank accepts a payment order issued in the name of its customer as sender which is not authorized and not effective as the order of the customer under section 554.12202, or which is not enforceable, in whole or in part, against the customer under section 554.12203, the bank shall refund any payment related to the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer as a result of a failure by the customer to give notification as stated in this section.

2. Reasonable time under subsection 1 may be fixed by agreement as provided in section 554.1204, subsection 1, but the obligation of a receiving bank to refund payment as stated in subsection 1 may not otherwise be varied by agreement.

Sec. 13. NEW SECTION. 554.12205 ERRONEOUS PAYMENT ORDERS.

1. If an accepted payment order was transmitted pursuant to a security procedure for the detection of error and the payment order (i) erroneously instructed payment to a beneficiary

not intended by the sender, (ii) erroneously instructed payment in an amount greater than the amount intended by the sender, or (iii) was an erroneously transmitted duplicate of a payment order previously sent by the sender, the following rules apply:

a. If the sender proves that the sender or a person acting on behalf of the sender pursuant to section 554.12206 complied with the security procedure and that the error would have been detected if the receiving bank had also complied, the sender is not obligated to pay the order to the extent stated in subsections 2 and 3.

b. If the funds transfer is completed on the basis of an erroneous payment order described in (i) or (iii) of subsection 1, the sender is not obligated to pay the order and the receiving bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

c. If the funds transfer is completed on the basis of a payment order described in (ii) of subsection 1, the sender is not obligated to pay the order to the extent the amount received by the beneficiary is greater than the amount intended by the sender. In that case, the receiving bank is entitled to recover from the beneficiary the excess amount received to the extent allowed by the law governing mistake and restitution.

2. If the sender of an erroneous payment order described in subsection 1 is not obligated to pay all or part of the order, and the sender receives notification from the receiving bank that the order was accepted by the bank or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care, on the basis of information available to the sender, to discover the error with respect to the order and to advise the bank of the relevant facts within a reasonable time, not exceeding ninety days, after the bank's notification was received by the sender. If the bank proves that the sender failed to perform this duty, the sender is liable to the bank for the loss the bank proves it incurred as a result of the failure, not to exceed the amount of the sender's order.

3. This section applies to amendments to payment orders in the same manner it applies to payment orders.

Sec. 14. NEW SECTION. 554.12206 TRANSMISSION OF PAYMENT ORDER THROUGH FUNDS-TRANSFER OR OTHER COMMUNICATION SYSTEM.

If a payment order addressed to a receiving bank is transmitted to a funds-transfer system or other third-party communication system for transmittal to the bank, the system is deemed to be an agent of the sender for the purpose of transmitting the payment order to the bank. If there is a discrepancy between the terms of the payment order transmitted to the system by the sender and the terms of the payment order transmitted by the system to the bank, the terms of the payment order of the sender are deemed to be those transmitted by the system. This section does not apply to a funds-transfer system of the federal reserve banks.

This section applies to cancellations and amendments of payment orders in the same manner it applies to payment orders.

Sec. 15. NEW SECTION. 554.12207 MISDESCRIPTION OF BENEFICIARY.

1. Subject to subsection 2, if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

2. If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

a. Except as otherwise provided in subsection 3, if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

b. If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid

by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

3. If a payment order described in subsection 2 is accepted, the originator's payment order described the beneficiary inconsistently by name and number, and the beneficiary's bank pays the person identified by number as permitted by subsection 2, paragraph "a", the following rules apply:

a. If the originator is a bank, the originator shall pay the originator's order.

b. If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obligated to pay the originator's order unless the originator's bank proves that the originator had notice, before acceptance by the originator's bank of the originator's order, that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator signed a writing stating the information to which the notice relates before the payment order was accepted.

4. In a case governed by subsection 2, paragraph "a", if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

a. If the originator is obligated to pay its payment order as stated in subsection 3, the originator has the right to recover.

b. If the originator is not a bank and is not obligated to pay its payment order, the originator's bank has the right to recover.

Sec. 16. NEW SECTION. 554.12208 MISDESCRIPTION OF INTERMEDIARY BANK OR BENEFICIARY'S BANK.

1. This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

a. The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

b. The sender shall compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of the receiving bank's reliance on the number in executing or attempting to execute the order.

2. This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

a. If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender shall compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of the receiving bank's reliance on the number in executing or attempting to execute the order.

b. If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by paragraph "a", as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a writing stating the information to which the notice relates.

c. Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank,

at the time the receiving bank executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

d. If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in section 554.12302, subsection 1, paragraph "a".

Sec. 17. NEW SECTION. 554.12209 ACCEPTANCE OF PAYMENT ORDER.

1. Subject to subsection 4, a receiving bank other than the beneficiary's bank accepts a payment order when it executes the order.

2. Subject to subsections 3 and 4, a beneficiary's bank accepts a payment order at the earliest of the following times:

a. When the bank pays the beneficiary as stated in section 554.12405, subsection 1 or 2, or notifies the beneficiary of receipt of the order or that the account of the beneficiary has been credited with respect to the order, unless the notice indicates that the bank is rejecting the order or that funds with respect to the order may not be withdrawn or used until receipt of payment from the sender of the order;

b. When the bank receives payment of the entire amount of the sender's order pursuant to section 554.12403, subsection 1, paragraph "a" or "b"; or

c. The opening of the next funds-transfer business day of the bank following the payment date of the order if, at that time, the amount of the sender's order is fully covered by a withdrawable credit balance in an authorized account of the sender or the bank has otherwise received full payment from the sender, unless the order was rejected before that time or is rejected within one hour after that time, or one hour after the opening of the next business day of the sender following the payment date if the time is later. If notice of rejection is received by the sender after the payment date and the authorized account of the sender does not bear interest, the bank shall pay interest to the sender on the amount of the order for the number of days elapsing after the payment date to the day the sender receives notice or learns that the order was not accepted, counting the day that notice is received as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest payable is reduced accordingly.

3. Acceptance of a payment order cannot occur before the order is received by the receiving bank. Acceptance does not occur under subsection 2, paragraph "b" or "c", if the beneficiary of the payment order does not have an account with the receiving bank, the account has been closed, or the receiving bank is not permitted by law to receive credits for the beneficiary's account.

4. A payment order issued to the originator's bank cannot be accepted until the payment date if the bank is the beneficiary's bank, or the execution date if the bank is not the beneficiary's bank. If the originator's bank executes the originator's payment order before the execution date or pays the beneficiary of the originator's payment order before the payment date and the payment order is subsequently canceled pursuant to section 554.12211, subsection 2, the bank may recover from the beneficiary any payment received to the extent allowed by the law governing mistake and restitution.

Sec. 18. NEW SECTION. 554.12210 REJECTION OF PAYMENT ORDER.

1. A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally, electronically, or in writing. A notice of rejection need not use any particular words and is sufficient if the notice indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable under the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, any means complying with the agreement is reasonable and any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

2. This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank shall pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to section 554.12211, subsection 4, or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

3. If a receiving bank suspends payments, all unaccepted payment orders issued to the receiving bank are deemed rejected at the time the bank suspends payments.

4. Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.

Sec. 19. NEW SECTION. 554.12211 CANCELLATION AND AMENDMENT OF PAYMENT ORDER.

1. A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally, electronically, or in writing. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

2. Subject to subsection 1, a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

3. After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

a. With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

b. With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order that is a duplicate of a payment order previously issued by the sender, that orders payment to a beneficiary not entitled to receive payment from the originator, or that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

4. An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

5. A canceled payment order cannot be accepted. If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issuance of a new payment order in the amended form at the same time.

6. Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

7. A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

8. A funds-transfer system rule is not effective to the extent it conflicts with subsection 3, paragraph "b".

Sec. 20. NEW SECTION. 554.12212 LIABILITY AND DUTY OF RECEIVING BANK REGARDING UNACCEPTED PAYMENT ORDER.

If a receiving bank fails to accept a payment order that it is obligated by express agreement to accept, the bank is liable for breach of the agreement to the extent provided in the agreement or in this article, but does not otherwise have any duty to accept a payment order or, before acceptance, to take any action, or refrain from taking action, with respect to the order except as provided in this article or by express agreement. Liability based on acceptance arises only when acceptance occurs as stated in section 554.12209, and liability is limited to that provided in this article. A receiving bank is not the agent of the sender or beneficiary of the payment order it accepts, or of any other party to the funds transfer, and the bank owes no duty to any party to the funds transfer except as provided in this article or by express agreement.

PART 3

EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING BANK

Sec. 21. NEW SECTION. 554.12301 EXECUTION AND EXECUTION DATE.

1. A payment order is executed by the receiving bank when the receiving bank issues a payment order intended to carry out the payment order received by the bank. A payment order received by the beneficiary's bank can be accepted but cannot be executed.

2. "Execution date" of a payment order means the day on which the receiving bank may properly issue a payment order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the beneficiary on the payment date.

Sec. 22. NEW SECTION. 554.12302 OBLIGATIONS OF RECEIVING BANK IN EXECUTION OF PAYMENT ORDER.

1. Except as provided in subsections 2 through 4, if the receiving bank accepts a payment order pursuant to section 554.12209, subsection 1, the bank has the following obligations in executing the order:

a. The receiving bank is obligated to issue, on the execution date, a payment order complying with the sender's order and to follow the sender's instructions concerning any intermediary bank or funds-transfer system to be used in carrying out the funds transfer, or the means by which payment orders are to be transmitted in the funds transfer. If the originator's bank issues a payment order to an intermediary bank, the originator's bank shall instruct the intermediary bank according to the instruction of the originator. An intermediary bank in the funds transfer is similarly bound by an instruction given to it by the sender of the payment order it accepts.

b. If the sender's instruction states that the funds transfer is to be carried out telephonically or by wire transfer or otherwise indicates that the funds transfer is to be carried out by the most expeditious means, the receiving bank is obligated to transmit its payment order by the most expeditious available means, and to instruct any intermediary bank accordingly. If a sender's instruction states a payment date, the receiving bank shall transmit the receiving bank's payment order at a time and by means reasonably necessary to allow payment to the beneficiary on the payment date or as soon thereafter as is feasible.

2. Unless otherwise instructed, a receiving bank executing a payment order may use any funds-transfer system if use of that system is reasonable under the circumstances, and issue

a payment order to the beneficiary's bank or to an intermediary bank through which a payment order conforming to the sender's order can expeditiously be issued to the beneficiary's bank if the receiving bank exercises ordinary care in the selection of the intermediary bank. A receiving bank is not required to follow an instruction of the sender designating a funds-transfer system to be used in carrying out the funds transfer if the receiving bank, in good faith, determines that it is not feasible to follow the instruction or that following the instruction would unduly delay completion of the funds transfer.

3. Unless subsection 1, paragraph "b", applies or the receiving bank is otherwise instructed, the receiving bank may execute a payment order by transmitting the receiving bank's payment order by first class mail or by any means reasonable under the circumstances. If the receiving bank is instructed to execute the sender's order by transmitting the receiving bank's payment order by a particular means, the receiving bank may issue the payment order by the means stated or by any means as expeditious as the means stated.

4. Unless instructed by the sender, the receiving bank may not obtain payment of its charges for services and expenses in connection with the execution of the sender's order by issuing a payment order in an amount equal to the amount of the sender's order less the amount of the charges, and may not instruct a subsequent receiving bank to obtain payment of its charges in the same manner.

Sec. 23. NEW SECTION. 554.12303 ERRONEOUS EXECUTION OF PAYMENT ORDER.

1. A receiving bank that executes the payment order of the sender by issuing a payment order in an amount greater than the amount of the sender's order, or that issues a payment order in execution of the sender's order and then issues a duplicate order, is entitled to payment of the amount of the sender's order under section 554.12402, subsection 3, if the provisions of that subsection are otherwise satisfied. The bank is entitled to recover from the beneficiary of the erroneous order the excess payment received to the extent allowed by the law governing mistake and restitution.

2. A receiving bank that executes the payment order of the sender by issuing a payment order in an amount less than the amount of the sender's order is entitled to payment of the amount of the sender's order under section 554.12402, subsection 3, if the provisions of that subsection are otherwise satisfied and the bank corrects the error by issuing an additional payment order for the benefit of the beneficiary of the sender's order. If the error is not corrected, the issuer of the erroneous order is entitled to receive or retain payment from the sender of the order only to the extent of the amount of the erroneous order. This subsection does not apply if the receiving bank executes the sender's payment order by issuing a payment order in an amount less than the amount of the sender's order for the purpose of obtaining payment of the receiving bank's charges for services and expenses pursuant to instruction of the sender.

3. If a receiving bank executes the payment order of the sender by issuing a payment order to a beneficiary different from the beneficiary of the sender's order and the funds transfer is completed on the basis of that error, the sender of the payment order that was erroneously executed and all previous senders in the funds transfer are not obligated to pay the payment orders they issued. The issuer of the erroneous order is entitled to recover from the beneficiary of the payment order issued the payment received to the extent allowed by the law governing mistake and restitution.

Sec. 24. NEW SECTION. 554.12304 DUTY OF SENDER TO REPORT ERRONEOUSLY EXECUTED PAYMENT ORDER.

If the sender of a payment order that is erroneously executed as stated in section 554.12303 receives notification from the receiving bank that the order was executed or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care to determine, on the basis of information available to the sender, that the order was erroneously executed and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the notification from the bank is received by the sender. If the sender

fails to perform that duty, the bank is not obligated to pay interest on any amount refundable to the sender under section 554.12402, subsection 4, for the period before the bank learns of the execution error. The bank is not entitled to any recovery from the sender as a result of the failure by the sender to perform the duty stated in this section.

Sec. 25. NEW SECTION. 554.12305 LIABILITY FOR LATE OR IMPROPER EXECUTION OR FAILURE TO EXECUTE PAYMENT ORDER.

1. If a funds transfer is completed, but execution of a payment order by the receiving bank in breach of section 554.12302 results in delay in payment to the beneficiary, the bank is obligated to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection 3, additional damages are not recoverable.

2. If execution of a payment order by a receiving bank in breach of section 554.12302 results in noncompletion of the funds transfer, failure to use an intermediary bank designated by the originator, or issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for the originator's expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by subsection 1, resulting from the improper execution. Except as provided in subsection 3, additional damages are not recoverable.

3. In addition to the amounts payable under subsections 1 and 2, damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank.

4. If a receiving bank fails to execute a payment order that the receiving bank was obligated by express agreement to execute, the receiving bank is liable to the sender for the sender's expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank, but are not otherwise recoverable.

5. Reasonable attorney's fees are recoverable if demand for compensation under subsection 1 or 2 is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection 4 and the agreement does not provide for damages, reasonable attorney's fees are recoverable if demand for compensation under subsection 4 is made and refused before an action is brought on the claim.

6. Except as stated in this section, the liability of a receiving bank under subsections 1 and 2 may not be varied by agreement.

PART 4
PAYMENT

Sec. 26. NEW SECTION. 554.12401 PAYMENT DATE.

"Payment date" of a payment order means the day on which the amount of the order is payable to the beneficiary by the beneficiary's bank. The payment date may be determined by instruction of the sender but cannot be earlier than the day the order is received by the beneficiary's bank and, unless otherwise determined, is the day the order is received by the beneficiary's bank.

Sec. 27. NEW SECTION. 554.12402 OBLIGATION OF SENDER TO PAY RECEIVING BANK.

1. This section is subject to sections 554.12205 and 554.12207.

2. With respect to a payment order issued to the beneficiary's bank, acceptance of the order by the bank obligates the sender to pay the bank the amount of the order, but payment is not due until the payment date of the order.

3. This subsection is subject to subsection 5 and to section 554.12303. With respect to a payment order issued to a receiving bank other than the beneficiary's bank, acceptance of the order by the receiving bank obligates the sender to pay the bank the amount of the sender's order. Payment by the sender is not due until the execution date of the sender's order. The

obligation of the sender to pay the sender's payment order is excused if the funds transfer is not completed by acceptance by the beneficiary's bank of the payment order instructing payment to the beneficiary of the sender's payment order.

4. If the sender of a payment order pays the order and was not obligated to pay all or part of the amount paid, the bank receiving payment shall refund payment to the extent the sender was not obligated to pay. Except as provided in sections 554.12204 and 554.12304, interest is payable on the refundable amount from the date of payment.

5. If a funds transfer is not completed as stated in subsection 3 and an intermediary bank is obligated to refund payment as stated in subsection 4 but is unable to do so because the intermediary bank is not permitted by applicable law or because the bank suspends payments, a sender in the funds transfer that executed a payment order in compliance with an instruction, as stated in section 554.12302, subsection 1, paragraph "a", to route the funds transfer through the intermediary bank is entitled to receive or retain payment from the sender of the payment order that it accepted. The first sender in the funds transfer that issued an instruction requiring routing through that intermediary bank is subrogated to the right of the bank that paid the intermediary bank to refund as stated in subsection 4.

6. The right of the sender of a payment order to be excused from the obligation to pay the order as stated in subsection 3 or to receive refund under subsection 4 may not be varied by agreement.

Sec. 28. NEW SECTION. 554.12403 PAYMENT BY SENDER TO RECEIVING BANK.

1. Payment of the sender's obligation under section 554.12402 to pay the receiving bank occurs as follows:

a. If the sender is a bank, payment occurs when the receiving bank receives final settlement of the obligation through a federal reserve bank or through a funds-transfer system.

b. If the sender is a bank and the sender credited an account of the receiving bank with the sender, or caused an account of the receiving bank in another bank to be credited, payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank knows of that fact.

c. If the receiving bank debits an account of the sender with the receiving bank, payment occurs when the debit is made to the extent the debit is covered by a withdrawable credit balance in the account.

2. (i) If the sender and receiving bank are members of a funds-transfer system that nets obligations multilaterally among participants, the receiving bank receives final settlement when settlement is complete in accordance with the rules of the system. (ii) The obligation of the sender to pay the amount of a payment order transmitted through the funds-transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against the sender's obligation the right of the sender to receive payment from the receiving bank of the amount of any other payment order transmitted to the sender by the receiving bank through the funds-transfer system. (iii) The aggregate balance of obligations owed by each sender to each receiving bank in the funds-transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against that balance the aggregate balance of obligations owed to the sender by other members of the system. The aggregate balance is determined after the right of setoff stated in clause (ii) of this subsection has been exercised.

3. If two banks transmit payment orders to each other under an agreement that settlement of the obligations of each bank to the other under section 554.12402 will be made at the end of the day or other period, the total amount owed with respect to all orders transmitted by one bank shall be set off against the total amount owed with respect to all orders transmitted by the other bank. To the extent of the setoff, each bank has made payment to the other.

4. In a case not covered by subsection 1, the time when payment of the sender's obligation occurs under section 554.12402, subsection 2 or 3, is governed by applicable principles of law that determine when an obligation is satisfied.

Sec. 29. NEW SECTION. 554.12404 OBLIGATION OF BENEFICIARY'S BANK TO PAY AND GIVE NOTICE TO BENEFICARY.*

1. Subject to sections 554.12211, subsection 5, and 554.12405, subsections 4 and 5, if a beneficiary's bank accepts a payment order, the beneficiary bank shall pay the amount of the order to the beneficiary of the order. Payment is due on the payment date of the order, but if acceptance occurs on the payment date after the close of the funds-transfer business day of the beneficiary's bank, payment is due on the next funds-transfer business day. If the beneficiary's bank refuses to pay upon demand by the beneficiary and receipt of notice of particular circumstances that will give rise to consequential damages as a result of nonpayment, the beneficiary may recover damages resulting from the refusal to pay to the extent the beneficiary's bank had notice of the damages, unless the beneficiary's bank proves that it did not pay because of a reasonable doubt concerning the right of the beneficiary to payment.

2. If a payment order accepted by the beneficiary's bank instructs payment to an account of the beneficiary, the bank shall notify the beneficiary of receipt of the order before midnight of the next funds-transfer business day following the payment date. If the payment order does not instruct payment to an account of the beneficiary, the beneficiary's bank is required to notify the beneficiary only if notice is required by the order. Notice may be given by first class mail or any other means reasonable in the circumstances. If the beneficiary's bank fails to give the required notice, the bank shall pay interest to the beneficiary on the amount of the payment order from the day notice should have been given until the day the beneficiary learned of receipt of the payment order by the beneficiary's bank. No other damages are recoverable. Reasonable attorney's fees are also recoverable if demand for interest is made and refused before an action is brought on the claim.

3. The right of a beneficiary to receive payment and damages as stated in subsection 1 may not be varied by agreement or a funds-transfer system rule. The right of a beneficiary to be notified as stated in subsection 2 may be varied by agreement of the beneficiary or by a funds-transfer system rule if the beneficiary is notified of the rule before initiation of the funds transfer.

Sec. 30. NEW SECTION. 554.12405 PAYMENT BY BENEFICIARY'S BANK TO BENEFICIARY.

1. If the beneficiary's bank credits an account of the beneficiary of a payment order, payment of the beneficiary's bank's obligation under section 554.12404, subsection 1, occurs when and to the extent the beneficiary is notified of the right to withdraw the credit, the bank lawfully applies the credit to a debt of the beneficiary, or funds with respect to the order are otherwise made available to the beneficiary by the beneficiary's bank.

2. If the beneficiary's bank does not credit an account of the beneficiary of a payment order, the time when payment of the beneficiary's bank's obligation under section 554.12404, subsection 1, occurs is governed by principles of law that determine when an obligation is satisfied.

3. Except as stated in subsections 4 and 5, if the beneficiary's bank pays the beneficiary of a payment order under a condition to payment or agreement of the beneficiary giving the beneficiary's bank the right to recover payment from the beneficiary if the bank does not receive payment of the order, the condition to payment or agreement is not enforceable.

4. A funds-transfer system rule may provide that payments made to beneficiaries of funds transfers made through the system are provisional until receipt of payment by the beneficiary's bank of the payment order the beneficiary's bank accepted. A beneficiary's bank that makes a payment that is provisional under the rule is entitled to refund from the beneficiary if the rule requires that both the beneficiary and the originator be given notice of the provisional nature of the payment before the funds transfer is initiated, the beneficiary, the beneficiary's bank and the originator's bank agreed to be bound by the rule, and the beneficiary's bank did not receive payment of the payment order that the beneficiary's bank accepted. If the beneficiary is obligated to refund payment to the beneficiary's bank, acceptance of the payment order by the beneficiary's bank is nullified and no payment by the originator of the funds transfer to the beneficiary occurs under section 554.12406.

*According to enrolled Act

5. This subsection applies to a funds transfer that includes a payment order transmitted over a funds-transfer system that nets obligations multilaterally among participants, and has in effect a loss-sharing agreement among participants for the purpose of providing funds necessary to complete settlement of the obligations of one or more participants that do not meet their settlement obligations. If the beneficiary's bank in the funds transfer accepts a payment order and the system fails to complete settlement pursuant to the system's rules with respect to any payment order in the funds transfer, the acceptance by the beneficiary's bank is nullified and no person has any right or obligation based on the acceptance, the beneficiary's bank is entitled to recover payment from the beneficiary, payment by the originator to the beneficiary does not occur under section 554.12406, and subject to section 554.12402, subsection 5, each sender in the funds transfer is excused from its obligation to pay its payment order under section 554.12402, subsection 3, because the funds transfer has not been completed.

Sec. 31. NEW SECTION. 554.12406 PAYMENT BY ORIGINATOR TO BENEFICIARY — DISCHARGE OF UNDERLYING OBLIGATION.

1. Subject to section 554.12211, subsection 5, and section 554.12405, subsections 4 and 5, the originator of a funds transfer pays the beneficiary of the originator's payment order at the time a payment order for the benefit of the beneficiary is accepted by the beneficiary's bank in the funds transfer and in an amount equal to the amount of the order accepted by the beneficiary's bank, but not more than the amount of the originator's order.

2. If payment under subsection 1 is made to satisfy an obligation, the obligation is discharged to the same extent discharge would result from payment to the beneficiary of the same amount in money, unless the payment under subsection 1 was made by a means prohibited by the contract of the beneficiary with respect to the obligation, the beneficiary, within a reasonable time after receiving notice of receipt of the order by the beneficiary's bank, notified the originator of the beneficiary's refusal of the payment, funds with respect to the order were not withdrawn by the beneficiary or applied to a debt of the beneficiary, or the beneficiary would suffer a loss that could reasonably have been avoided if payment had been made by a means complying with the contract. If payment by the originator does not result in discharge under this section, the originator is subrogated to the rights of the beneficiary to receive payment from the beneficiary's bank under section 554.12404, subsection 1.

3. For the purpose of determining whether discharge of an obligation occurs under subsection 2, if the beneficiary's bank accepts a payment order in an amount equal to the amount of the originator's payment order less charges of one or more receiving banks in the funds transfer, payment to the beneficiary is deemed to be in the amount of the originator's order unless upon demand by the beneficiary the originator does not pay the beneficiary the amount of the deducted charges.

4. Rights of the originator or of the beneficiary of a funds transfer under this section may be varied only by agreement of the originator and the beneficiary.

PART 5
MISCELLANEOUS PROVISIONS

Sec. 32. NEW SECTION. 554.12501 VARIATION BY AGREEMENT AND EFFECT OF FUNDS-TRANSFER SYSTEM RULE.

1. Except as otherwise provided in this article, the rights and obligations of a party to a funds transfer may be varied by agreement of the affected party.

2. "Funds-transfer system rule" means a rule of an association of banks governing transmission of payment orders by means of a funds-transfer system of the association or rights and obligations with respect to those orders, or to the extent the rule governs rights and obligations between banks that are parties to a funds transfer in which a federal reserve bank, acting as an intermediary bank, sends a payment order to the beneficiary's bank. Except as otherwise provided in this article, a funds-transfer system rule governing rights and obligations between participating banks using the system may be effective even if the rule conflicts with this article and indirectly affects another party to the funds transfer who does not

consent to the rule. A funds-transfer system rule may also govern the rights and obligations of parties other than participating banks using the system to the extent stated in section 554.12404, subsection 3, section 554.12405, subsection 4, and section 554.12507, subsection 3.

Sec. 33. NEW SECTION. 554.12502 CREDITOR PROCESS SERVED ON RECEIVING BANK — SETOFF BY BENEFICIARY'S BANK.

1. As used in this section, "creditor process" means levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.

2. This subsection applies to the creditor process with respect to an authorized account of the sender of a payment order if the creditor process is served on the receiving bank. For the purpose of determining the rights of the parties with respect to the creditor process, if the receiving bank accepts the payment order, the balance in the authorized account is deemed to be reduced by the amount of the payment order to the extent the bank did not otherwise receive payment of the order, unless the creditor process is served at a time and in a manner affording the bank a reasonable opportunity to act on it before the bank accepts the payment order.

3. If a beneficiary's bank has received a payment order for payment to the beneficiary's account in the bank, the following rules apply:

a. The beneficiary's bank may credit the beneficiary's account. The amount credited may be set off against an obligation owed by the beneficiary to the bank or may be applied to satisfy a creditor process served on the bank with respect to the account.

b. The beneficiary's bank may credit the beneficiary's account and allow withdrawal of the amount credited unless a creditor process with respect to the account is served at a time and in a manner affording the beneficiary's bank a reasonable opportunity to act to prevent withdrawal.

c. If a creditor process with respect to the beneficiary's account has been served and the beneficiary's bank has had a reasonable opportunity to act on it, the beneficiary's bank may not reject the payment order except for a reason unrelated to the service of process.

4. Creditor process with respect to a payment by the originator to the beneficiary pursuant to a funds transfer may be served only on the beneficiary's bank with respect to the debt owed by that bank to the beneficiary. Any other bank served with the creditor process is not required to act with respect to the process.

Sec. 34. NEW SECTION. 554.12503 INJUNCTION OR RESTRAINING ORDER WITH RESPECT TO FUNDS TRANSFER.

For proper cause and in compliance with applicable law, a court may restrain a person from issuing a payment order to initiate a funds transfer, an originator's bank from executing the payment order of the originator, or the beneficiary's bank from releasing funds to the beneficiary or the beneficiary from withdrawing the funds. A court may not otherwise restrain a person from issuing a payment order, paying or receiving payment of a payment order, or otherwise acting with respect to a funds transfer.

Sec. 35. NEW SECTION. 554.12504 ORDER IN WHICH ITEMS AND PAYMENT ORDERS MAY BE CHARGED TO ACCOUNT — ORDER OF WITHDRAWALS FROM ACCOUNT.

1. If a receiving bank has received more than one payment order of the sender or one or more payment orders and other items that are payable from the sender's account, the bank may charge the sender's account with respect to the various orders and items in any sequence.

2. In determining whether a credit to an account has been withdrawn by the holder of the account or applied to a debt of the holder of the account, credits first made to the account are first withdrawn or applied.

Sec. 36. NEW SECTION. 554.12505 PRECLUSION OF OBJECTION TO DEBIT OF CUSTOMER'S ACCOUNT.

If a receiving bank has received payment from the receiving bank's customer with respect to a payment order issued in the name of the customer as sender and accepted by the receiving bank, and the customer received notification reasonably identifying the order, the customer is precluded from asserting that the receiving bank is not entitled to retain the payment unless the customer notifies the receiving bank of the customer's objection to the payment within one year after the notification was received by the customer.

Sec. 37. NEW SECTION. 554.12506 RATE OF INTEREST.

1. If, under this article, a receiving bank is to pay interest with respect to a payment order issued to the bank, the amount payable may be determined by agreement of the sender and receiving bank, or by a funds-transfer system rule if the payment order is transmitted through a funds-transfer system.

2. If the amount of interest is not determined by an agreement or rule as stated in subsection 1, the amount is calculated by multiplying the applicable federal funds rate by the amount on which interest is payable, and then multiplying the product by the number of days for which interest is payable. The applicable federal funds rate is the average of the federal funds rates published by the federal reserve bank of New York for each of the days for which interest is payable divided by three hundred sixty. The federal funds rate for any day on which a published rate is not available is the same as the published rate for the next preceding day for which there is a published rate. If a receiving bank that accepted a payment order is required to refund payment to the sender of the order because the funds transfer was not completed, but the failure to complete was not due to any fault by the receiving bank, the interest payable is reduced by a percentage equal to the reserve requirement on deposits of the receiving bank.

Sec. 38. NEW SECTION. 554.12507 CHOICE OF LAW.

1. The following rules apply unless the affected parties otherwise agree or subsection 3 applies:

a. The rights and obligations between the sender of a payment order and the receiving bank are governed by the law of the jurisdiction in which the receiving bank is located.

b. The rights and obligations between the beneficiary's bank and the beneficiary are governed by the law of the jurisdiction in which the beneficiary's bank is located.

c. The issue of when payment is made pursuant to a funds transfer by the originator to the beneficiary is governed by the law of the jurisdiction in which the beneficiary's bank is located.

2. If the parties described in each paragraph of subsection 1 have made an agreement selecting the law of a particular jurisdiction to govern rights and obligations between each other, the law of that jurisdiction governs those rights and obligations, whether or not the payment order or the funds transfer bears a reasonable relation to that jurisdiction.

3. A funds-transfer system rule may select the law of a particular jurisdiction to govern (i) the rights and obligations between participating banks with respect to payment orders transmitted or processed through the system, or (ii) the rights and obligations of some or all parties to a funds transfer any part of which is carried out by means of the system. A choice of law made pursuant to clause (i) is binding on participating banks. A choice of law made pursuant to clause (ii) is binding on the originator, other sender, or a receiving bank having notice that the funds-transfer system might be used in the funds transfer and of the choice of law by the system when the originator, other sender, or receiving bank issued or accepted a payment order. The beneficiary of a funds transfer is bound by the choice of law if, when the funds transfer is initiated, the beneficiary has notice that the funds-transfer system might be used in the funds transfer and of the choice of law by the system. The law of a jurisdiction selected pursuant to this subsection may govern, whether or not that law bears a reasonable relation to the matter in issue.

4. In the event of inconsistency between an agreement under subsection 2 and a choice-of-law rule under subsection 3, the agreement under subsection 2 prevails.

5. If a funds transfer is made by use of more than one funds-transfer system and there is inconsistency between choice-of-law rules of the systems, the matter in issue is governed by the law of the selected jurisdiction that has the most significant relationship to the matter in issue.

Sec. 39. Section 554.1105, subsection 2, Code 1991, is amended to read as follows:

2. Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 554.2402.

Applicability of the Article on Bank Deposits and Collections. Section 554.4102.

Bulk transfers subject to the Article on Bulk Transfers. Section 554.6102.

Applicability of the Article on Investment Securities. Section 554.8106.

Perfection provisions of the Article on Secured Transactions; ~~section.~~ Section 554.9103.

Governing law in the Article on Funds Transfers. Section 554.12507.

Approved April 27, 1992

CHAPTER 1147

COOPERATIVE ASSOCIATIONS

H.F. 2085

AN ACT relating to cooperative associations by amending the manner in which the board of directors may conduct business, the manner of making payments to certain dissenting shareholders, and the manner in which funds of the association can be used.

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

Section 1. Section 499.36, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting through the use of any means of communication by which all directors participating are able to simultaneously hear each other during the meeting. A director participating in a meeting pursuant to this subsection is deemed to be present in person at the meeting.

NEW SUBSECTION. 6. Unless the articles of incorporation or bylaws provide otherwise, an action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and filed with the corporate records reflecting the action taken. An action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date. A consent signed under this section is deemed to have the same effect as a meeting vote and may be described as such in any document.

Sec. 2. Section 499.65, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If a voting member or voting shareholder of a co-operative association which is a party to a merger or consolidation files with the co-operative association, prior to or at the meeting of members at which the plan is submitted to a vote, a written objection to the plan of merger or consolidation, and votes in opposition to the plan, and the member or shareholder, within twenty days after the merger or consolidation is approved by the other members, makes

written demand on the surviving or new association for payment of the fair value of that member's or shareholder's interest as of the day prior to the date on which the vote was taken approving the merger or consolidation, the surviving or new association shall pay to the member or shareholder, upon surrender of that person's certificate of membership or shares of stock, the fair value of that person's interest as provided in section 499.66. A member or shareholder who fails to make demand within the twenty-day period is conclusively presumed to have consented to the merger or consolidation and is bound by its terms.

Sec. 3. Section 499.66, subsection 3, Code 1991, is amended to read as follows:

3. The new association shall pay to each dissenting member in cash within sixty days after the merger or consolidation the amount paid in cash by the dissenting member for that member's interest in the old association. The new association shall pay the remainder of each dissenting member's fair value ~~at the same time other payments of deferred patronage dividends or redemption of preferred stock are made but in any event within~~ in ten annual equal payments. The final payment must be made not later than fifteen years after the merger or consolidation. The value of the deferred patronage dividends and preferred stock shall be considered a liability of the new association as reflected in the accounts of the new association until the value of the patronage dividends or preferred stock is paid in full to the dissenting member. A dissenting member who is a natural person who dies before receiving the fair value shall have all of the person's fair value paid with the same priority as if the person was a member at the time of death.

Sec. 4. NEW SECTION. 499.80 MEMBER INFORMATION.

If a member of a cooperative association intends to distribute information to other members of a cooperative association and the member does not have a list of the members of the cooperative association, the member may request the board of directors to distribute the information for the member.

The board of directors shall adopt a policy which permits the distribution of materials or information to members of a cooperative association by request of a member when the purpose of the request concerns directly the action of the board of directors of the cooperative association.

The board of directors shall distribute for a member such material or information requested, provided that the board of directors may charge the member for the mailing costs incurred by the cooperative association in distributing the information.

Cooperative associations subject to regulation under chapter 476 are exempt from the provisions of this section.

Sec. 5. Section 499.58, Code 1991, is repealed.

Approved April 27, 1992

CHAPTER 1148

CRIME VICTIM COMPENSATION PROGRAM
H.F. 2126

AN ACT relating to providing compensation for the expense of cleaning the scene of a homicide in a residence.

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

Section 1. Section 912.6, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Reasonable expenses incurred for cleaning the scene of a homicide, if the scene is a residence, not to exceed one thousand dollars.

Approved April 27, 1992

CHAPTER 1149

HUNTING — ABANDONMENT OF DEAD OR INJURED WILDLIFE
H.F. 2203

AN ACT relating to the abandonment and waste of killed or injured game, fur-bearing animals, or other wildlife, and providing a penalty for a violation.

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

Section 1. Section 109.123, subsection 1, Code 1991, is amended to read as follows:

1. A person shall not discharge a firearm or shoot or attempt to shoot a game or fur-bearing animal within two hundred yards of a building inhabited by people or domestic livestock or within two hundred yards of a feedlot unless the owner or tenant has given consent.

Sec. 2. NEW SECTION. 109.136 ABANDONMENT OF DEAD OR INJURED WILDLIFE.

1. While taking or attempting to take game or fur-bearing animals, a person shall not abandon an injured game or fur-bearing animal without making a reasonable effort to retrieve the animal from the field. A person shall not leave a useable portion of game or a fur-bearing animal in the field.

2. A person violating subsection 1 is subject to a scheduled fine as provided in section 805.8.

3. As used in this section, "useable portion" means the following:

a. For game, that part of an animal which is customarily processed for human consumption.

b. For a fur-bearing animal, the fur or hide of the animal.

4. This section does not apply to pigeons or crows.

Sec. 3. Section 805.8, subsection 5, paragraph e, Code 1991, is amended to read as follows:

e. For violations of sections 109.85, 109.93, 109.95, 109.120, 109.136, 109A.5, 109B.3, and 109B.9, the scheduled fine is one hundred dollars.

Approved April 27, 1992

CHAPTER 1150

STUDY OF LEGAL BURDENS RELATED TO WORKERS' COMPENSATION
H.F. 2214

AN ACT relating to an insurance division study regarding legal burdens imposed on employers related to workers' compensation.

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

Section 1. The commissioner of insurance shall study, in consultation with all affected groups, the issue and ramifications of purported differentials in the legal burdens imposed in this state on employers purchasing workers' compensation insurance versus those legal burdens imposed on individual and group self-insured employers. Issues to be studied include, but are not limited to, the following:

1. The existence or nonexistence of a differential, and a measure of the relative size or burden of any net differential.
2. Any effect on the volume of writings in the voluntary market for workers' compensation and the impact on the high risk pool or involuntary market.
3. Current trends in workers' compensation resulting from employers' funding mechanisms.
4. All other subsumed and appropriate issues.

The commissioner of insurance shall report to the house of representatives committee on commerce and the senate committee on commerce all findings and recommendations. If as a result of this the commissioner recommends corrective legislation, a draft of that legislation shall be provided to the committees no later than December 1, 1992.

Approved April 27, 1992

CHAPTER 1151

LIMITED LIABILITY COMPANIES
H.F. 2369

AN ACT authorizing limited liability companies in Iowa and including penalties.

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

SUBCHAPTER I
GENERAL PROVISIONS
PART 1

Section 1. Section 4.1, subsection 13, Code 1991, is amended to read as follows:

13. PERSON. Unless otherwise provided by law, "person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

Sec. 2. Section 172C.1, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Limited liability company" means a limited liability company as defined in section 490A.102.

Sec. 3. Section 172C.1, subsection 16, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A limited liability company organized in the United States or elsewhere, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

Sec. 4. Section 172C.1, subsection 17, Code Supplement 1991, is amended to read as follows:

17. "Processor" means a person, firm, corporation, limited liability company, or limited partnership, which alone or in conjunction with others, directly or indirectly controls the manufacturing, processing or preparation for sale of beef or pork products having a total annual wholesale value of ten million dollars or more. Any person, firm, corporation, limited liability company, or limited partner with a ten percent or greater interest in another person, firm, corporation, limited liability company, or limited partnership involved in the manufacturing, processing or preparation for sale of beef or pork products having a total annual wholesale value of ten million dollars or more shall also be considered a processor.

Sec. 5. Section 172C.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

In order to preserve free and private enterprise, prevent monopoly, and protect consumers, it is unlawful for any processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, or limited liability company in which a processor is a member, to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter. In addition, a processor shall not directly or indirectly control the manufacturing, processing, or preparation for sale of pork products derived from swine if the processor contracted for the care and feeding of the swine in this state. However, this section does not apply to a cooperative association organized under chapter 497, 498, or 499, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This section does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, or 499 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, or 499, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming. This section shall not preclude a processor or limited partnership from contracting for the purchase of hogs or cattle, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract it shall:

Sec. 6. NEW SECTION. 172C.3A LIMITED LIABILITY COMPANIES — PROHIBITIONS.

A limited liability company shall not, either directly or indirectly, hold or acquire or otherwise obtain, lease, or have a legal or beneficial interest in any agricultural land in this state. A limited liability company shall not be a shareholder in a corporation, a limited partner in a limited partnership, or beneficiary of a trust which holds or leases any agricultural land in this state. A limited liability company violating the provisions of this section shall be subject to the same penalty as provided in section 172C.4. The courts of this state may prevent and restrain violators 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 or restrain violators of this section.

Sec. 7. Section 422.32, subsection 1, Code 1991, is amended to read as follows:

1. The word "corporation" includes joint stock companies, and associations organized for pecuniary profit, other than limited liability companies, and publicly traded partnerships taxed as corporations under the Internal Revenue Code.

Sec. 8. NEW SECTION. 490A.100 SHORT TITLE.

This chapter is entitled and may be cited as the "Iowa Limited Liability Company Act."

Sec. 9. NEW SECTION. 490A.101 RESERVATION OF POWER TO AMEND OR REPEAL.

The general assembly has the power to amend or repeal all or part of this chapter at any time and all domestic and foreign limited liability companies subject to this chapter shall be governed by the amendment or repeal.

Sec. 10. NEW SECTION. 490A.102 DEFINITIONS.

In this chapter, unless the context otherwise requires:

1. "Articles of organization" means documents filed under section 490A.301 for the purpose of forming a limited liability company and includes amended and restated articles of organization, and articles of merger.

2. "Bankruptcy" means, with respect to any person, being the subject of an order for relief under Title 11 of the United States Code.

3. "Capital contribution" means any cash, property, or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a member contributes to a limited liability company in the capacity of a member.

4. "Constituent entity" means each limited liability company, limited partnership, or corporation which is party to a plan of merger pursuant to subchapter XII.

5. "Corporation" means a domestic corporation formed under the law of this state or subject to the law of this state, or a foreign corporation as defined in this chapter.

6. "Court" includes every court having jurisdiction of the case.

7. "Distribution" means a direct or indirect transfer of money or other property, or incurrence of indebtedness by a limited liability company to or for the benefit of its members in respect of their interests.

8. "Entity" includes corporation and foreign corporation; nonprofit corporation; profit and nonprofit unincorporated association; business trust, estate, partnership, limited liability company, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign government.

9. "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

10. "Foreign limited liability company" means a limited liability company organized under a law other than the law of this state.

11. "Foreign limited partnership" means a limited partnership organized under a law other than the law of this state.

12. "Individual" includes the estate of an incompetent, a ward, or a deceased individual.

13. "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated association having two or more members, and that is organized under or subject to this chapter.

14. "Limited partnership" means a limited partnership organized under the law of this state or a foreign limited partnership as defined in this section.

15. "Manager" or "managers" means a person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement.

16. "Member" means a person with a membership interest in a limited liability company.

17. "Membership interest" or "interest" means a member's share of the profits and the losses of the limited liability company and the right to receive distributions of the limited liability company's assets, and any right to vote or participate in management.

18. "Operating agreement" means any agreement of the members as to the affairs of a limited liability company and the conduct of its business.

19. "Person" has the same meaning as specified in section 4.1, subsection 13.

20. "Principal office" means the office, in or out of this state, where the principal executive offices of a domestic or foreign limited liability company are located.

21. "Secretary of state" means the Iowa secretary of state.

22. "State," when referring to a part of the United States, includes a state, commonwealth, and their agencies and governmental subdivisions; and a territory or insular possession, and their agencies and governmental subdivisions, of the United States.

23. "Surviving entity" means the constituent entity surviving the merger, as identified in the articles of merger provided for in subchapter XII.

24. "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

PART 2

Sec. 11. NEW SECTION. 490A.120 FILING REQUIREMENTS.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

2. The document must be one that this chapter requires or permits to be filed with the secretary of state.

3. The document must contain the information required by this chapter. It may contain other information as well.

4. The document must be typewritten or printed. The typewritten or printed portion shall be in black. Manually signed photocopies, or other reproduced copies, including facsimiles and other electronically or computer-generated copies of typewritten or printed documents may be filed.

5. The document must be in the English language. A limited liability company name need not be in English if written in English letters or Arabic or Roman numerals. The articles of organization, duly authenticated by the official having custody of the applicable records in the state or country under whose law the limited liability company is formed, which are required of foreign limited liability companies, need not be in English if accompanied by a reasonably authenticated English translation.

6. The document must be executed by one of the following persons:

a. A manager, or if no managers have been selected, by any member of the limited liability company.

b. If the limited liability company has not been formed, by the person forming the limited liability company.

c. If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, that fiduciary.

7. The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs.

8. If, pursuant to any provision of this chapter, the secretary of state has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

9. The document must be delivered to the secretary of state for filing and must be accompanied by the correct filing fee.

Sec. 12. NEW SECTION. 490A.121 FILING DUTY OF SECRETARY OF STATE.

1. If a document delivered to the office of the secretary of state for filing satisfies the requirements of section 490A.120, the secretary of state shall file it and issue any necessary certificate.

2. The secretary of state files a document by stamping or otherwise endorsing "filed", together with the secretary of state's name and official title and the date and time of receipt, on both the document and the receipt for the filing fee, and recording the document in the records of the secretary of state. After filing a document, and except as provided in section 490A.503, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign limited liability company or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign limited liability company or its representative within ten days after the document was received by the secretary of state, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusing to file a document does not:

a. Affect the validity or invalidity of the document in whole or part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct.

Sec. 13. NEW SECTION. 490A.122 EFFECTIVE TIME AND DATE OF DOCUMENTS.

1. Except as provided in subsection 2 and section 490A.123, subsection 3, a document accepted for filing is effective at the later of the following times:

a. At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date it is filed.

2. A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

Sec. 14. NEW SECTION. 490A.123 CORRECTING FILED DOCUMENTS.

1. A domestic or foreign limited liability company may correct a document filed by the secretary of state if the document satisfies one or both of the following requirements:

a. Contains an incorrect statement.

b. Was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with both of the following:

a. By preparing articles of correction that satisfy all of the following requirements:

(1) Describe the document, including its filing date, or attach a copy of it to the articles.

(2) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 15. NEW SECTION. 490A.124 FEES.

1. The secretary of state shall collect the following fees when documents described in this subsection are delivered to the secretary's office for filing:

a. Articles of organization ..... $ 50
b. Application for use of indistinguishable name ..... $ 10
c. Application for reserved name ..... $ 10
d. Notice of transfer of reserved name ..... $ 10
e. Application for registered name per month or part thereof ..... $ 2
f. Application for renewal of registered name ..... $ 20
g. Statement of change of registered agent or registered office or both ..... No fee
h. Agent's statement of change of registered office for each affected limited liability company ..... No fee
i. Agent's statement of resignation ..... No fee
j. Amendment of articles of organization ..... $ 50
k. Restatement of articles of organization with amendment of articles ..... $ 50
l. Articles of merger ..... $ 50
m. Articles of dissolution ..... $ 5
n. Articles of revocation of dissolution ..... $ 5
o. Certificate of administrative dissolution ..... No fee
p. Application for reinstatement following administrative dissolution ..... $ 5
q. Certificate of reinstatement ..... No fee

r. Certificate of judicial dissolution ..... No fee
s. Application for certificate of authority $100
t. Application for amended certificate of authority $100
u. Application for certificate of withdrawal ..... $ 10
v. Certificate of revocation of authority to transact business ... No fee
w. Articles of correction ..... $ 5
x. Application for certificate of existence or authorization ..... $ 5
y. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

a. One dollar a page for copying.

b. Five dollars for the certificate.

Sec. 16. NEW SECTION. 490A.125 FORMS.

1. The secretary of state may prescribe and furnish on request forms including but not limited to the following:

a. An application for a certificate of existence.

b. A foreign limited liability company's application for a certificate of authority to transact business in this state.

c. A foreign limited liability company's application for a certificate of withdrawal.

If the secretary of state so requires, use of these listed forms prescribed by the secretary of state is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use is not mandatory.

Sec. 17. NEW SECTION. 490A.126 APPEAL FROM SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT.

1. If the secretary of state refuses to file a document delivered to the secretary's office for filing, the domestic or foreign limited liability company may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the limited liability company's principal office or, if none in this state, its registered office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

2. The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

Sec. 18. NEW SECTION. 490A.127 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate attached to a copy of a document filed by the secretary of state, bearing the secretary of state's signature, which may be in facsimile, and the seal of the secretary of state, is conclusive evidence that the original document is on file with the secretary of state.

Sec. 19. NEW SECTION. 490A.128 CERTIFICATE OF EXISTENCE.

1. Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic limited liability company or a certificate of authorization for a foreign limited liability company.

2. A certificate of existence or authorization must set forth all of the following:

a. The domestic limited liability company's name or the foreign limited liability company's name used in this state.

b. That one of the following applies:

(1) If it is a domestic limited liability company, that it is duly organized under the law of this state, the date of its organization, and the period of its duration.

(2) If it is a foreign limited liability company, that it is authorized to transact business in this state.

c. That all fees required by this chapter have been paid.

d. That articles of dissolution have not been filed.

e. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in this state.

Sec. 20. NEW SECTION. 490A.129 PENALTY FOR SIGNING FALSE DOCUMENT.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

Sec. 21. NEW SECTION. 490A.130 SECRETARY OF STATE — POWERS.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

SUBCHAPTER II
PURPOSES AND POWERS

Sec. 22. NEW SECTION. 490A.201 PURPOSES.

1. A limited liability company organized under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of organization.

2. A limited liability company engaging in a business that is subject to regulation under another statute of this state may organize under this chapter only if permitted by, and subject to all limitations of, the other statute.

Sec. 23. NEW SECTION. 490A.202 POWERS.

Unless its articles of organization provide otherwise, a limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to do all of the following:

1. Sue and be sued, complain, and defend in its name.

2. Transact its business, carry on its operations, and have and exercise the powers granted by this chapter in any state and in any foreign country.

3. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

4. Sell, convey, transfer, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

5. Purchase, receive, subscribe for, or otherwise acquire and hold, to sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of any other person.

6. Make contracts and guaranties, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the limited liability company, and secure any of its obligations by mortgage, deed of trust, or pledge of any of its property, franchises, or income.

7. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

8. Elect and appoint managers, employees, and agents of the limited liability company, define their duties, fix their compensation, and lend them money and credit.

9. Pay pensions and establish pension plans, pension trusts, profit sharing plans, and benefit and incentive plans for all or any of its current or former members, managers, employees, and agents.

10. Make donations for the public welfare or for religious, charitable, scientific, or educational purposes.

11. Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the limited liability company.

12. Cease its activities and dissolve.

13. Be a promoter, stockholder, partner, member, associate, agent, or manager of any corporation, partnership, limited liability company, joint venture, trust, or other entity.

14. Make and amend operating agreements, not inconsistent with its articles of organization or with the law of this state, for the administration and regulation of its affairs.

15. Transact any lawful business that a corporation, partnership, or other entity may conduct under the law of this state subject, however, to any and all laws and restrictions that govern or limit the conduct of such activity by such corporation, partnership, or other entity.

16. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the limited liability company is organized.

SUBCHAPTER III
FORMATION

Sec. 24. NEW SECTION. 490A.301 FORMATION.

One or more persons may form a limited liability company by executing and delivering articles of organization to the secretary of state for filing. Such person or persons need not be members of the limited liability company after formation has occurred.

Sec. 25. NEW SECTION. 490A.302 LIABILITY.

All persons purporting to act as or on behalf of a limited liability company, knowing there is no organization under this chapter, are jointly and severally liable for all liabilities created while so acting.

Sec. 26. NEW SECTION. 490A.303 ARTICLES OF ORGANIZATION.

1. The articles of organization must set forth all of the following:

a. A name for the limited liability company that satisfies the requirements of section 490A.401.

b. The street address of the limited liability company's initial registered office and the name of its initial registered agent at that office.

c. The street address of the principal office of the limited liability company, which may be the same as the registered office, but need not be within this state.

d. The period of its duration which shall not be perpetual.

2. The articles of organization may set forth any other provision not inconsistent with law, including, but not limited to, a statement of whether there are limitations on the authority of members to bind the limited liability company.

3. The articles of organization need not set forth any of the powers enumerated in this chapter.

4. The articles of organization or an operating agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of membership interest issued by the limited liability company and may also provide for assignment or transfer of any membership interest represented by such a certificate and make other provisions with respect to such a certificate.

SUBCHAPTER IV
NAMES

Sec. 27. NEW SECTION. 490A.401 NAME.

1. A limited liability company name must contain the words "Limited Company" or the abbreviation "L.C." or words or abbreviations of like import in another language.

2. A limited liability company name shall not contain any of the following:

a. The words "Corporation", "Incorporated", "Limited Partnership" or the abbreviations "Corp.", "Inc." or "L.P." or words or abbreviations of like import in another language.

b. Any word or phrase the use of which is prohibited by law for such a limited liability company.

3. Except as authorized by subsections 4 and 5, a limited liability company name must be distinguishable upon the records of the secretary of state from all of the following:

a. The name of a limited liability company, limited partnership, or corporation organized under the law of this state or registered as a foreign limited liability company, foreign limited partnership, or foreign corporation in this state.

b. A name reserved in the manner provided under the law of this state.

c. The fictitious name adopted by a foreign corporation, foreign limited partnership, or foreign limited liability company authorized to transact business in this state, because its real name is unavailable.

d. The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state.

4. A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary's records from one or more of the names described in subsection 3. The secretary of state shall authorize use of the name applied for if one of the following conditions applies:

a. The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

5. A limited liability company may use the name, including the fictitious name, of another entity that is used in this state if the other entity is formed under the law of this state or is authorized to transact business in this state and the proposed user limited liability company meets one of the following conditions:

a. Has merged with the other entity.

b. Has been formed by reorganization of the other entity.

c. Has acquired all or substantially all of the assets, including the name, of the other entity.

6. This chapter does not control the use of fictitious names; however, if a limited liability company uses a fictitious name in this state it shall deliver to the secretary of state for filing a certified copy of the resolution of the limited liability company adopting the fictitious name.

Sec. 28. NEW SECTION. 490A.402 RESERVED NAME.

1. A person may reserve the exclusive use of a limited liability company name, including a fictitious name for a foreign limited liability company whose limited liability company name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the limited liability company name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty-day period.

2. The owner of a reserved limited liability company 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.

SUBCHAPTER V
REGISTERED OFFICE AND AGENT

Sec. 29. NEW SECTION. 490A.501 REGISTERED OFFICE AND REGISTERED AGENT.

Each limited liability company must continuously maintain in this state each of the following:

1. A registered office that may be the same as any of its places of business.

2. A registered agent who may be any of the following:

a. An individual who is a resident of this state and whose business office is identical with the registered office.

b. A domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 30. NEW SECTION. 490A.502 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. Each limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth the following:

a. The name of the limited liability company or foreign limited liability company.

b. The street address of its current registered office.

c. If the current registered office is to be changed, the street address of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical.

2. A statement of change shall forthwith be filed in the office of the secretary of state by a limited liability company whenever its registered agent dies, resigns, or ceases to satisfy the requirements of section 490A.501.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 1 for each limited liability company, or a single statement for all limited liability companies named in the notice, except that it need be signed only by the registered agent or agents and need not be responsive to subsection 1, paragraph "e", and must recite that a copy of the statement has been mailed to each limited liability company named in the notice.

Sec. 31. NEW SECTION. 490A.503 RESIGNATION OF REGISTERED AGENT.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing the signed original and two exact copies or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail one copy to the registered office, if not discontinued, and the other copy to the limited liability company at its principal office.

2. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 32. NEW SECTION. 490A.504 SERVICE ON LIMITED LIABILITY COMPANY.

1. A domestic or foreign limited liability company's registered agent is the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.

2. If a limited liability company has no registered agent, or the agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at its principal office. Service is perfected under this subsection at the earliest of:

a. The date the limited liability company receives the mail.

b. The date shown on the return receipt, if signed on behalf of the limited liability company.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a domestic or foreign limited liability company.

SUBCHAPTER VI
RELATIONSHIP OF A
LIMITED LIABILITY COMPANY
AND ITS MEMBERS TO THIRD PERSONS

Sec. 33. NEW SECTION. 490A.601 LIABILITY TO THIRD PARTIES.

Except as otherwise provided by this chapter or as expressly provided in the articles of organization, no member or manager of a limited liability company is personally liable for the acts or debts of the limited liability company.

Sec. 34. NEW SECTION. 490A.602 PARTIES TO ACTIONS.

A member of a limited liability company is not a proper party to a proceeding by or against a limited liability company, except where either of the following applies:

1. The object is to enforce a member's right against or liability to the limited liability company.
2. As provided in subchapter 10.

SUBCHAPTER VII
RELATIONSHIP OF MEMBERS TO EACH OTHER

Sec. 35. NEW SECTION. 490A.701 VOTING RIGHTS OF MEMBERS.

1. Unless otherwise provided in the articles of organization or an operating agreement, the members of a limited liability company shall vote in proportion to their capital contributions to the limited liability company, as adjusted from time to time to reflect any additional contributions or withdrawals.

2. Unless otherwise provided in the articles of organization or an operating agreement, a unanimous vote shall be required to approve the following matters:

a. The dissolution and winding up of the limited liability company.

b. The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited liability company.

c. Merger of the limited liability company with another entity.

d. An amendment to the articles of organization or operating agreement.

Sec. 36. NEW SECTION. 490A.702 MANAGEMENT OF LIMITED LIABILITY COMPANY.

Unless the articles of organization or an operating agreement provides for management of a limited liability company by a manager or managers, management of a limited liability company shall be vested in its members.

Sec. 37. NEW SECTION. 490A.703 OPERATING AGREEMENT.

1. The members of a limited liability company may enter into an operating agreement to establish or regulate the affairs of the limited liability company, the conduct of its business and the relations of its members. An operating agreement may contain any provisions regarding the affairs of a limited liability company and the conduct of its business to the extent that such provisions are not inconsistent with law or the articles of organization.

2. An operating agreement must initially be agreed to by all of the members. Unless the articles of organization specifically permit otherwise, an operating agreement shall be in writing.

3. A court may enforce an operating agreement by injunction or by other relief that the court determines to be fair and appropriate in the circumstances. As an alternative to injunctive or other equitable relief, when the provisions of section 490A.1302 are applicable, the court may order dissolution of the limited liability company.

Sec. 38. NEW SECTION. 490A.704 WITHDRAWAL OF MEMBER.

A member may withdraw from a limited liability company at the time or upon the happening of events specified in writing in the articles of organization or an operating agreement. If

the articles of organization or an operating agreement does not specify in writing the time or the events upon the happening of which a member may withdraw, a member may withdraw upon not less than six months' prior written notice to each member at the member's address on the books of the limited liability company.

Sec. 39. NEW SECTION. 490A.705 MANAGEMENT OF A LIMITED LIABILITY COMPANY BY A MANAGER OR MANAGERS.

1. The articles of organization or an operating agreement of a limited liability company may apportion responsibility for managing a limited liability company among one or more managers who may be, but need not be, members.

2. The articles of organization or an operating agreement may prescribe qualifications for managers.

3. The number of managers shall be fixed by or in the manner provided in the articles of organization or an operating agreement. The number of managers may be increased or decreased by amendment to, or in the manner provided in, the articles of organization or an operating agreement.

4. Unless otherwise provided in the articles of organization or an operating agreement, managers shall be elected by the majority vote of the members.

5. Unless otherwise provided in the articles of organization or an operating agreement, any vacancy occurring in the office of manager shall be filled by a majority vote of the members.

6. All managers or any lesser number may be removed in the manner provided in the articles of organization or an operating agreement. If the articles of organization or an operating agreement does not provide for the removal of managers, then all managers or any lesser number may be removed with or without cause by a majority vote of the members.

7. Unless otherwise provided in the articles of organization or an operating agreement, if the limited liability company has more than one manager, all decisions of the managers shall be by majority vote of the managers.

8. Unless the articles of organization or an operating agreement require a different number, a quorum for a meeting of managers consists of a majority of the managers.

Sec. 40. NEW SECTION. 490A.706 GENERAL STANDARDS OF CONDUCT FOR MANAGERS.

1. A manager shall discharge that manager's duties as a manager in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner the manager believes to be in the best interests of the limited liability company.

2. In discharging the manager's duties, a manager is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

a. One or more managers or employees of the limited liability company whom the manager reasonably believes to be reliable and competent in the matters presented.

b. Legal counsel, public accountants, or other persons as to matters the manager reasonably believes are within the person's professional or expert competence.

c. A committee of managers of which the manager is not a member if the manager reasonably believes the committee merits confidence.

3. A manager is not acting in good faith if the manager has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.

4. A manager is not liable for any action taken as a manager or any failure to take any action, if the manager performed the duties of the manager's office in compliance with this section, or if, and to the extent that, liability for any such action or failure to act has been limited by the articles of organization pursuant to section 490A.707.

Sec. 41. NEW SECTION. 490A.707 LIMITATION OF LIABILITY OF MANAGERS.

The articles of organization may contain a provision eliminating or limiting the personal liability of a manager to the limited liability company or its members for monetary damages for breach of fiduciary duty as a manager, if the provision does not eliminate or limit the liability of a manager for any of the following:

1. Breach of the manager's duty of loyalty to the limited liability company or its members.

2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.

3. Transaction from which the manager derives an improper personal benefit or a wrongful distribution in violation of section 490A.807.

A provision shall not eliminate or limit the liability of a manager for an act or omission occurring prior to the date when the provision in the articles of organization becomes effective.

Sec. 42. NEW SECTION. 490A.708 BUSINESS TRANSACTIONS OF MANAGERS WITH THE LIMITED LIABILITY COMPANY.

1. A conflict of interest transaction is a transaction with the limited liability company in which a manager of the limited liability company has a direct or indirect interest. A conflict of interest transaction is not voidable by the limited liability company solely because of the manager's interest in the transaction if any one of the following is true:

a. The material facts of the transaction and the manager's interest were disclosed or known to the managers or a committee of managers and the managers or a committee of managers authorized, approved, or ratified the transaction.

b. The material facts of the transaction and the manager's interest were disclosed or known to the members entitled to vote and they authorized, approved, or ratified the transaction.

c. The transaction was fair to the limited liability company.

2. For purposes of this section, a manager of the limited liability company has an indirect interest in a transaction if either:

a. Another entity in which the manager has a material financial interest or in which the manager is a general partner is a party to the transaction.

b. Another entity of which the manager is a director, officer, manager, or trustee is a party to the transaction and the transaction is or should be considered by the limited liability company.

3. For purposes of subsection 1, paragraph "a", a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the managers or of the committee of managers, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single manager. If a majority of the managers who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a manager with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection 1, paragraph "a", if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

4. For purposes of subsection 1, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified if it receives the vote of a majority of the members entitled to vote under this subsection. Interests owned by or voted under the control of a manager who has a direct or indirect interest in the transaction, and interests owned by or voted under the control of an entity described in subsection 2, paragraph "a", shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 1, paragraph "b". The vote of those members, however, is counted in determining whether the transaction is approved under other sections of this chapter. Members, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitute a quorum for the purpose of taking action under this section.

Sec. 43. NEW SECTION. 490A.709 INFORMATION AND RECORDS.

1. Each limited liability company shall keep at its principal office the following:

a. A current list of the full name and last known business address of each member and manager.

b. A copy of the articles of organization and all articles of amendment thereto.

c. Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the three most recent years.

d. Copies of any then-effective written operating agreement and of any financial statements of the limited liability company for the three most recent years.

e. Unless contained in a written operating agreement, a writing setting out:

(1) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each member and which each member has agreed to contribute.

(2) The times at which or events on the happening of which any additional contributions agreed to be made by each member are to be made.

(3) Any right of a member to receive, or of the limited liability company to make, distributions to a member which include a return of all or any part of the member's contribution.

(4) Any events upon the happening of which the limited liability company is to dissolve and its affairs be wound up.

2. Each member has the right, upon reasonable request and subject to reasonable standards as may be set forth in an operating agreement, to do any of the following:

a. Inspect and copy any of the limited liability company records required to be maintained by this section; and

b. Obtain from the manager or managers, or if the limited liability company has no manager or managers, from any member or other person with access to such information, from time to time upon reasonable demand any of the following:

(1) True and full information regarding the state of the business and financial condition of the limited liability company.

(2) Promptly after it becomes available, a copy of the limited liability company's federal, state, and local income tax returns for each year.

(3) Other information regarding the affairs of the limited liability company as is just and reasonable.

SUBCHAPTER VIII
FINANCE

Sec. 44. NEW SECTION. 490A.801 CONTRIBUTIONS.

1. The contributions of a member to a limited liability company may be in cash, property, or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services.

2. Unless otherwise provided in the articles of organization or an operating agreement, a member is obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or any other reason. If a member does not make the contribution, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the value of the contribution that has not been made as stated in the limited liability company records required to be kept by section 490A.709. A promise by a member to contribute to a limited liability company is not enforceable unless set out in a writing signed by the member.

3. Unless otherwise provided in the articles of organization or an operating agreement, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit or otherwise acts in reliance on the original obligation may enforce the original obligation.

Sec. 45. NEW SECTION. 490A.802 SHARING OF PROFITS AND LOSSES.

The profits and losses of a limited liability company shall be allocated among the members, and among classes of members, in the manner provided in writing in the articles of organization or an operating agreement. If the articles of organization or an operating agreement do not so provide in writing, profits and losses shall be allocated on the basis of their respective capital contributions, as adjusted from time to time to reflect any additional contributions or withdrawals.

Sec. 46. NEW SECTION. 490A.803 SHARING OF DISTRIBUTIONS.

Distributions of cash or other assets of a limited liability company shall be allocated among the members, and among classes of members, in the manner provided in writing in the articles of organization or an operating agreement. If the articles of organization or an operating agreement do not so provide in writing, distributions shall be made on the basis of their respective capital contributions, as adjusted from time to time to reflect any additional contributions or withdrawals.

Sec. 47. NEW SECTION. 490A.804 INTERIM DISTRIBUTIONS.

Except as otherwise provided in this chapter, a member is entitled to receive distributions from a limited liability company before the member's withdrawal from the limited liability company and before the dissolution and winding up of the company to the extent and at the times or upon the happening of the events specified in the articles of organization or an operating agreement.

Sec. 48. NEW SECTION. 490A.805 DISTRIBUTION UPON WITHDRAWAL.

Except as otherwise provided in this chapter, upon withdrawal, a withdrawing member is entitled to receive any distribution to which the member is entitled under the articles of organization or an operating agreement. If not otherwise provided in the articles of organization or an operating agreement, the member is entitled to receive, within a reasonable time after withdrawal, the fair value of the member's membership interest as of the date of withdrawal, based on the member's right to share in distributions from the limited liability company.

Sec. 49. NEW SECTION. 490A.806 DISTRIBUTION IN KIND.

Unless otherwise provided in the articles of organization or an operating agreement, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in any form other than cash. Unless otherwise provided in the articles of organization or an operating agreement, a member shall not be compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset distributed to the member exceeds the percentage of the member's membership interest in the limited liability company.

Sec. 50. NEW SECTION. 490A.807 RESTRICTIONS ON MAKING DISTRIBUTION.

1. A distribution shall not be made if, after giving it effect, either of the following would result:

a. The limited liability company would not be able to pay its debts as they became due in the usual course of business.

b. The limited liability company's total assets would be less than the sum of its total liabilities plus, unless the articles of organization or an operating agreement permit otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of members whose preferential rights are superior to the rights of members receiving the distribution.

2. The limited liability company may base a determination that a distribution is not prohibited under subsection 1 of this section on either of the following:

a. Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances.

b. A fair valuation or other method that is reasonable in the circumstances.

3. The effect of a distribution under subsection 1 of this section is measured as of one of the following:

a. The date the distribution is authorized if the payment occurs within one hundred twenty days after the date of authorization.

b. The date the payment is made if it occurs more than one hundred twenty days after the date of authorization.

4. A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general unsecured creditors, except to the extent subordinated by agreement.

Sec. 51. NEW SECTION. 490A.808 LIABILITY UPON WRONGFUL DISTRIBUTION.

If a member has received a distribution in violation of the articles of organization or an operating agreement or in violation of section 490A.807 of this chapter, then the member is liable to the limited liability company for a period of five years thereafter for the amount of the distribution wrongfully made.

SUBCHAPTER IX
RIGHTS OF AND ASSIGNMENT BY MEMBERS

Sec. 52. NEW SECTION. 490A.901 NATURE OF INTEREST IN LIMITED LIABILITY COMPANY.

A membership interest in a limited liability company is personal property.

Sec. 53. NEW SECTION. 490A.902 ASSIGNMENT OF INTEREST.

Unless otherwise provided in the articles of organization or an operating agreement, a membership interest in a limited liability company is assignable in whole or in part. An assignment of an interest in a limited liability company does not of itself dissolve the limited liability company. An assignment does not entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights of a member. Such an assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the articles of organization or an operating agreement, a member ceases to be a member upon assignment of the member's entire membership interest.

Unless otherwise provided in the articles of organization or an operating agreement, the pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the membership interest of a member shall not cause the member to cease to be a member and shall not deprive the member of the power to exercise any rights or powers of a member.

Unless otherwise provided in the articles of organization or an operating agreement and except to the extent assumed by agreement, until an assignee of a membership interest becomes a member, the assignee shall have no liability as a member as a result of the assignment except for liability for a wrongful distribution to the assignee described in section 490A.808.

Sec. 54. NEW SECTION. 490A.903 RIGHT OF ASSIGNEE TO BECOME MEMBER.

1. Unless otherwise provided in the articles of organization or an operating agreement, an assignee of an interest in a limited liability company may become a member only if the other members unanimously consent. The consent of a member may be evidenced in any manner specified in the articles of organization or an operating agreement. In the absence of such specification consent shall be evidenced by a written instrument, dated and signed by the requisite number of members, or evidenced by a vote taken at a meeting of members called for that purpose.

2. An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the articles of organization, an operating agreement, and this chapter. An assignee who becomes a member is liable for any obligations of the member's assignor to make and return contributions as provided in subchapter VII and VIII. However, an assignee who becomes a member is not obligated for liabilities of the assignor unknown to the assignee at the time the assignee became a member, and which could not be ascertained from the articles of organization or an operating agreement.

3. If an assignee of an interest in a limited liability company becomes a member, the assignor is not released from liability to the limited liability company under sections 490A.801 and 490A.808.

Sec. 55. NEW SECTION. 490A.904 RIGHTS OF CREDITOR.

On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the interest of the member in the limited liability company with payment of the unsatisfied amount of the judgment with interest. To the extent of the amounts

so charged, the judgment creditor has only the rights of an assignee of the interest in the limited liability company. This chapter does not deprive any member of the benefit of any exemption laws applicable to the member's interest in the limited liability company.

Sec. 56. NEW SECTION. 490A.905 POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER.

If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent, the member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the member's rights for the purpose of settling the member's estate or administering the member's property, including any power under the articles of organization or an operating agreement of an assignee to become a member. If a member is a corporation, trust, or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

SUBCHAPTER X
DERIVATIVE ACTIONS

Sec. 57. NEW SECTION. 490A.1001 RIGHT OF MEMBER TO BRING DERIVATIVE ACTION.

A member may bring an action in the right of the limited liability company to recover a judgment in its favor if all of the following conditions are met:

1. Either management of the limited liability company is vested in a manager or managers who have the sole authority to cause the limited liability company to sue in its own right or management of the limited liability company is reserved to the members but the plaintiff does not have the authority to cause the limited liability company to sue in its own right under the provisions of the articles of organization or an operating agreement.

2. The plaintiff has made demand on those managers or those members with such authority requesting that such managers or such members cause the limited liability company to sue in its own right.

3. The members or managers with such authority have wrongfully refused to bring the action or, after adequate time to consider the demand, have failed to respond to the demand.

4. The plaintiff is a member of the limited liability company at the time of bringing the action and was a member of the limited liability company at the time of the transaction of which the plaintiff complains, or the plaintiff's status as a member of the limited liability company thereafter devolved upon the plaintiff pursuant to the terms of the articles of organization or an operating agreement from a person who was a member at such time.

5. The plaintiff fairly and adequately represents the interests of the members in enforcing the right of the limited liability company.

SUBCHAPTER XI
AMENDMENT OF ARTICLES OF ORGANIZATION

Sec. 58. NEW SECTION. 490A.1101 AMENDMENT OF ARTICLES OF ORGANIZATION.

1. A limited liability company may amend its articles of organization at any time to add or change a provision that is required or permitted in the articles of organization or to delete a provision not required in the articles of organization by delivering articles of amendment to the secretary of state for filing. Whether a provision is required or permitted for the articles of organization is determined as of the effective date of the amendment.

2. To amend its articles of organization, a limited liability company shall deliver to the secretary of state for filing articles of amendment setting forth all of the following:

a. The name of the limited liability company.

b. The text of each amendment adopted.

c. The date of each amendment's adoption.

d. A statement that the amendment was adopted by a vote of the members in accordance with this chapter.

Sec. 59. NEW SECTION. 490A.1102 RESTATED ARTICLES OF ORGANIZATION.

1. A limited liability company may restate its articles of organization at any time.

2. The restatement may include one or more amendments to the articles. The restatement must be adopted by a vote of the members as provided by this chapter.

3. A limited liability company restating its articles of organization shall deliver to the secretary of state for filing articles of restatement setting forth the name of the limited liability company and the text of the restated articles of organization together with a certificate setting forth the information required by section 490A.1101, subsection 2.

4. Duly adopted restated articles of organization supersede the original articles of organization and all amendments to them.

5. The secretary of state may certify restated articles of organization, as the articles of organization currently in effect, without including the certificate information required by subsection 3.

Sec. 60. NEW SECTION. 490A.1103 AMENDMENT PURSUANT TO REORGANIZATION.

1. A limited liability company's articles of organization may be amended without action by the members to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles of organization after amendment contain only provisions required or permitted by section 490A.303.

2. The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth all of the following:

a. The name of the limited liability company.

b. The text of each amendment approved by the court.

c. The date of the court's order or decree approving the articles of amendment.

d. The title of the reorganization proceeding in which the order or decree was entered.

e. A statement that the court had jurisdiction of the proceeding under federal statute.

3. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

Sec. 61. NEW SECTION. 490A.1104 EFFECT OF AMENDMENT.

An amendment to articles of organization does not affect a cause of action existing against or in favor of the limited liability company, a proceeding to which the limited liability company is a party, or the existing rights of persons other than members of the limited liability company. An amendment changing a limited liability company's name does not abate a proceeding brought by or against the limited liability company in its former name.

SUBCHAPTER XII
MERGER

Sec. 62. NEW SECTION. 490A.1201 MERGER.

Any one or more limited liability companies may merge with or into any one or more limited liability companies, limited partnerships, or corporations, provided that no member of a limited liability company that is a party to the merger will, as a result of the merger, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the plan of merger or otherwise consents to becoming personally liable.

Sec. 63. NEW SECTION. 490A.1202 PLAN OF MERGER.

1. Each constituent entity must enter into a written plan of merger, which must be approved in accordance with section 490A.1203.

2. The plan of merger must set forth all of the following:

a. The name of each constituent entity in the merger and the name of the surviving entity into which each other constituent entity proposes to merge.

b. The terms and conditions of the proposed merger.

c. The manner and basis of converting the interests in each constituent entity in the merger into interests, shares, or other securities or obligations of the surviving entity, or of any other entity, or, in whole or in part, into cash or other property.

d. Such amendments to the articles of organization of a limited liability company, articles or certificate of incorporation of a corporation, or certificate of limited partnership of a limited partnership, as the case may be, of the surviving entity as are desired to be effected by the merger, or that no such changes are desired.

e. Other provisions relating to the proposed merger as are deemed necessary or desirable.

Sec. 64. NEW SECTION. 490A.1203 ACTION ON PLAN.

1. A proposed plan of merger complying with the requirements of section 490A.1202 shall be approved in the manner provided by this section:

a. A limited liability company which is a party to a proposed merger shall have the plan of merger authorized and approved as required by section 490A.701.

b. A corporation which is a party to a proposed merger shall have the plan of merger authorized and approved in the manner and by the vote required by chapter 490.

c. A limited partnership which is a party to a proposed merger shall have the plan of merger authorized and approved in the manner and by the vote required by its partnership agreement and in accordance with chapter 545.

2. After a merger is authorized, unless the plan of merger provides otherwise, and at any time before articles of merger as provided for in section 490A.1204 are filed, the plan of merger may be abandoned subject to any contractual rights, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in one of the following ways:

a. By the unanimous consent of the members of each limited liability company that is a constituent entity, unless the articles of organization or an operating agreement of any such limited liability company provides otherwise.

b. In the manner determined by the board of directors of any corporation that is a constituent entity.

c. By the limited partners of any limited partnership that is a constituent entity by the vote, if any, required by its limited partnership agreement and in accordance with the law of this state.

Sec. 65. NEW SECTION. 490A.1204 ARTICLES OF MERGER.

1. After a plan of merger is approved as provided in section 490A.1203, the surviving entity shall deliver to the secretary of state for filing articles of merger duly executed by each constituent entity setting forth all of the following:

a. The name of each constituent entity.

b. The plan of merger.

c. The effective date of the merger if later than the date of filing of the articles of merger.

d. The name of the surviving entity.

e. A statement that the plan of merger was duly authorized and approved by each constituent entity in accordance with section 490A.1203.

2. A merger takes effect upon the later of the effective date of the filing of the articles of merger or the date set forth in the plan of merger.

Sec. 66. NEW SECTION. 490A.1205 EFFECT OF MERGER.

When a merger takes effect all of the following apply:

1. Every other constituent entity merges into the surviving entity and the separate existence of every constituent entity except the surviving entity ceases.

2. The title to all real estate and other property owned by each constituent entity is vested in the surviving entity without reversion or impairment.

3. The surviving entity has all liabilities of each constituent entity.

4. A proceeding pending against any constituent entity may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the constituent entity whose existence ceased.

5. The articles or limited partnership agreement of the surviving entity are amended to the extent provided in the plan of merger.

6. The shares or interests of each constituent entity that are to be converted into shares, obligations, or other securities of the surviving or any other entity or into cash or other

property are converted, and the former holders of the shares or interests are entitled only to the rights provided in the articles of merger except for dissenters' rights provided by law.

Sec. 67. NEW SECTION. 490A.1206 MERGER WITH FOREIGN ENTITY.

1. Any one or more limited liability companies of this state may merge with or into one or more foreign liability companies, foreign corporations, or foreign limited partnerships, or any one or more foreign liability companies, foreign corporations, or foreign limited partnerships may merge with or into any one or more limited liability companies of this state, if all of the following apply:

a. The merger is permitted by the law of the state or jurisdiction under whose law each foreign constituent entity is organized or formed and each foreign constituent entity complies with that law in effecting the merger.

b. The foreign constituent entity complies with section 490A.1204 of this division if it is the surviving entity.

c. Each domestic constituent entity complies with the applicable provisions of sections 490A.1202 and 490A.1203 and, if it is the surviving entity, with section 490A.1204.

2. Upon a merger involving one or more domestic limited liability companies taking effect, if the surviving entity is to be governed by the law of any state other than this state or of any foreign country, then the surviving entity shall agree to both of the following:

a. That it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent entity, who was a party to the merger, that was organized under the law of this state, as well as for enforcement of any obligation of the surviving entity arising from the merger.

b. To irrevocably appoint the secretary of state as its agent for service of process in any such proceeding, and the surviving entity shall specify the address to which a copy of the process shall be mailed to it by the secretary of state.

3. The effect of the merger shall be as provided in section 490A.1205, if the surviving entity is to be governed by the law of this state. If the surviving entity is to be governed by the law of any jurisdiction other than this state, the effect of the merger shall be the same as provided in subsection 2 of this section, except insofar as the law of the other jurisdiction provides otherwise.

SUBCHAPTER XIII
DISSOLUTION

Sec. 68. NEW SECTION. 490A.1301 DISSOLUTION – GENERAL PROVISIONS.

A limited liability company organized under this chapter is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following events:

1. At the time or on the happening of an event specified in the articles of organization or an operating agreement to cause dissolution.

2. Upon the unanimous written consent of the members.

3. Upon the death, withdrawal, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event, except assignment of a membership interest voluntarily or by operation of law, that terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the unanimous consent of the remaining members.

4. The entry of a decree of judicial dissolution under section 490A.1302.

Sec. 69. NEW SECTION. 490A.1302 JUDICIAL DISSOLUTION.

On application by or for a member, the district court of the county in which the registered office of the limited liability company is located may decree dissolution of a limited liability company if it is not reasonably practicable to carry on the business in conformity with the articles of organization and any operating agreement.

Sec. 70. NEW SECTION. 490A.1303 WINDING UP.

Unless otherwise provided in the articles of organization or an operating agreement, members who have not wrongfully dissolved a limited liability company may wind up the limited liability company's affairs; but the district court of the county in which the registered office of the limited liability company is located, on cause shown, may wind up the limited liability company's affairs on application of any member, member's legal representative, or member's assignee.

Sec. 71. NEW SECTION. 490A.1304 DISTRIBUTION OF ASSETS UPON DISSOLUTION.

Upon the winding up of a limited liability company, the assets of the limited liability company shall be distributed in the order as follows:

1. To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited liability company other than for distributions to members under section 490A.803 or section 490A.805.

2. Unless otherwise provided in the articles of organization or an operating agreement, to members and former members in satisfaction of liabilities for distributions under section 490A.803 or section 490A.805.

3. Unless otherwise provided in the articles of organization or an operating agreement, to members first for the return of their capital contributions and second with respect to their interests in the limited liability company, in the proportions in which the members share in distributions.

Sec. 72. NEW SECTION. 490A.1305 ARTICLES OF DISSOLUTION.

1. Upon the completion of winding up of the limited liability company, articles of dissolution shall be delivered to the secretary of state for filing. The winding up of a limited liability company shall be completed when all debts, liabilities, and obligations of the limited liability company have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining property and assets of the limited liability company have been distributed to the members. The articles of dissolution shall set forth all of the following:

a. The name of the limited liability company.

b. The date of filing of the articles of organization and each amendment thereto.

c. The reason for filing the articles of dissolution.

d. The effective date of dissolution if it is not to be effective on the filing of the articles of dissolution.

e. Any other information the members or managers determine to include.

2. The limited liability company is dissolved upon the effective date of its articles of dissolution.

Sec. 73. NEW SECTION. 490A.1306 KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANIES.

A dissolved limited liability company may dispose of the known claims against it in accordance with this section.

1. The dissolved limited liability company shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved limited liability company must receive the claim.

d. State that the claim will be barred if not received by the deadline.

2. A claim against the dissolved limited liability company is barred if either of the following occurs:

a. A claimant who was given written notice under subsection 1 does not deliver the claim to the dissolved limited liability company by the deadline.

b. A claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

3. For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Sec. 74. NEW SECTION. 490A.1307 UNKNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.

1. A dissolved limited liability company may also publish notice of its dissolution and request that persons with claims against the limited liability company present them in accordance with the notice.

2. The notice shall meet all of the following requirements:

a. Be published one time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office or, if none in this state, its registered office is or was last located.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within five years after the publication of the notice.

3. If the dissolved limited liability company publishes a newspaper notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 490A.1306.

b. A claimant whose claim was timely sent to the dissolved limited liability company but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section in either of the following ways:

a. Against the dissolved limited liability company, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the limited liability company assets distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section shall not exceed the total amount of assets distributed to the member in liquidation.

SUBCHAPTER XIV
FOREIGN LIMITED LIABILITY COMPANIES

Sec. 75. NEW SECTION. 490A.1401 LAW GOVERNING.

The law of the state or other jurisdiction under which a foreign limited liability company is formed governs its formation and internal affairs and the liability of its members and managers. A foreign limited liability company shall not be denied registration by reason of any difference between those laws and the laws of this state. A foreign limited liability company holding a valid registration in this state shall have no greater rights and privileges than a domestic limited liability company. The registration shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

Sec. 76. NEW SECTION. 490A.1402 REGISTRATION.

A foreign limited liability company may apply for a certificate of registration to transact business in this state by delivering an application to the secretary of state for filing. An application for registration as a foreign limited liability company shall set forth all of the following:

1. The name of the foreign limited liability company and, if different, the name under which it proposes to register and transact business in this state.

2. The state or other jurisdiction in which the foreign limited liability company was formed and the date of its formation.

3. The street address of the registered office of the foreign limited liability company in this state, the name of the registered agent at the office, and a statement that the registered office and registered agent comply with the requirements of section 490A.501.

4. The address of the office required to be maintained in the state or other jurisdiction of its formation by the law of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company.

5. A copy of the articles of organization filed in the foreign limited liability company's state or other jurisdiction of formation authorizing it to do business in that state or other jurisdiction, duly authenticated by the proper officer of the state or other jurisdiction of its formation.

Sec. 77. NEW SECTION. 490A.1403 SERVICE ON FOREIGN LIMITED LIABILITY COMPANY.

1. The registered agent of a foreign limited liability company authorized to transact business in this state is the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company.

2. A foreign limited liability company may be served by registered or certified mail, return receipt requested, addressed to the foreign limited liability company at its principal office shown in its application for a certificate of authority if the foreign limited liability company meets any of the following conditions:

a. Has no registered agent or its registered agent cannot with reasonable diligence be served.

b. Has withdrawn from transacting business in this state under section 490A.1406.

c. Has had its certificate of authority revoked under section 490A.1410.

3. Service is perfected under subsection 2 at the earliest of:

a. The date the foreign limited liability company receives the mail.

b. The date shown on the return receipt, if signed on behalf of the foreign limited liability company.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. A foreign limited liability company may also be served in any other manner permitted by law.

Sec. 78. NEW SECTION. 490A.1404 NAME.

A certificate of registration shall not be issued to a foreign limited liability company unless the name of the limited liability company satisfies the requirements of section 490A.401. To obtain or maintain a certificate of registration the company shall comply with the following:

1. The foreign limited company shall add the words "Limited Company" or the abbreviation "L.C." to its name for use in this state.

2. If its real name is unavailable in this state, the foreign limited liability company shall use a fictitious name that is available, and which satisfies the requirements of section 490A.401, and shall inform the secretary of state of the fictitious name.

Sec. 79. NEW SECTION. 490A.1405 CHANGE AND AMENDMENT.

If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly deliver to the secretary of state for filing articles of correction correcting such statement as required by section 490A.123.

Sec. 80. NEW SECTION. 490A.1406 CANCELLATION OF CERTIFICATE OF REGISTRATION.

1. A foreign limited liability company may cancel its certificate of registration by delivering to the secretary of state for filing a certificate of cancellation which shall set forth all of the following:

a. The name of the foreign limited liability company and the name of the state or other jurisdiction under whose jurisdiction it was formed.

b. That the foreign limited liability company is not transacting business in this state and that it surrenders its registration to transact business in this state.

c. That the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state.

d. A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under paragraph "c" of this subsection.

e. A commitment to notify the secretary of state in the future of any change in the mailing address of the limited liability company.

2. The certificate of registration shall be cancelled upon the filing of the certificate of cancellation by the secretary of state.

Sec. 81. NEW SECTION. 490A.1407 AUTHORITY TO TRANSACT BUSINESS REQUIRED.

1. A foreign limited liability company shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

2. The following activities, among others, do not constitute transacting business within the meaning of subsection 1:

a. Maintaining, defending, or settling any proceeding.

b. Holding meetings of the members or managers or carrying on other activities concerning internal corporate affairs.

c. Maintaining bank accounts.

d. Maintaining offices or agencies for the transfer, exchange, and registration of the limited liability company's own securities or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, and security interests in real or personal property.

h. Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

i. Owning, without more, real or personal property.

j. Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature.

k. Transacting business in interstate commerce.

3. The list of activities in subsection 2 is not exhaustive.

Sec. 82. NEW SECTION. 490A.1408 CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY.

1. A foreign limited liability company transacting business in this state without a certificate of authority shall not maintain a proceeding in any court in this state until it obtains a certificate of authority.

2. The successor to a foreign limited liability company that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this state until the foreign limited liability company or its successor obtains a certificate of authority.

3. A court may stay a proceeding commenced by a foreign limited liability company, its successor, or assignee until it determines whether the foreign limited liability company or its successor or assignee requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign limited liability company or its successor or assignee obtains the certificate.

4. A foreign limited liability company is liable for a civil penalty not to exceed a total of one thousand dollars if it transacts business in this state without a certificate of authority. The attorney general may collect penalties due under this subsection.

5. Notwithstanding subsections 1 and 2, the failure of a foreign limited liability company to obtain a certificate of authority does not impair the validity of its official acts or prevent it from defending any proceeding in this state.

Sec. 83. NEW SECTION. 490A.1409 ACTIONS BY ATTORNEY GENERAL.

The attorney general may bring an action to restrain a foreign limited liability company from transacting business in this state in violation of this chapter.

Sec. 84. NEW SECTION. 490A.1410 REVOCATION OF REGISTRATION.

1. The certificate of registration of a foreign limited liability company to transact business in this state may be revoked by the secretary of state upon the occurrence of any of the following:

a. The foreign limited liability company has failed to:

(1) Pay any fees or penalties prescribed by this chapter.

(2) Appoint and maintain a registered agent as required under section 490A.1402.

(3) Deliver for filing to the secretary of state a report upon any change in the name or address of the registered agent.

(4) Deliver to the secretary of state for filing articles of correction required under section 490A.1405.

b. A misrepresentation has been made of any material matter in any application, report, affidavit, or other documents submitted by the foreign limited liability company under this subchapter.

2. A certificate of registration of a foreign limited liability company shall not be revoked by the secretary of state, unless both of the following apply:

a. The secretary of state has given the foreign limited liability company not less than sixty days' notice thereof by mail addressed to its registered office in this state or, if the foreign limited liability company fails to appoint and maintain a registered agent in this state, addressed to the office required to be maintained pursuant to section 490A.1402.

b. During the sixty-day period, the foreign limited liability company has failed to pay such fees or penalties prescribed by this chapter, to file a report of change regarding the registered agent, to file any necessary articles of correction, or to correct any such misrepresentation.

3. Upon the expiration of sixty days after the mailing of the notice, the authority of the foreign limited liability company to transact business in this state shall cease.

SUBCHAPTER XV
PROFESSIONAL LIMITED LIABILITY COMPANIES

Sec. 85. NEW SECTION. 490A.1501 DEFINITIONS.

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

1. "Employees" or "agents" does not include clerks, stenographers, secretaries, bookkeepers, technicians, or other persons who are not usually and ordinarily considered by custom and practice to be practicing a profession nor any other person who performs all that person's duties for the professional limited liability company under the direct supervision and control of one or more managers, employees, or agents of the professional limited liability company who are duly licensed in this state to practice a profession which the limited liability company is authorized to practice in this state. This chapter does not require any such persons to be licensed to practice a profession if they are not required to be licensed under any other law of this state.

2. "Foreign professional limited liability company" means a limited liability company organized under laws other than the laws of this state for a purpose for which a professional limited liability company may be organized under this chapter.

3. "Licensed" includes registered, certified, admitted to practice, or otherwise legally authorized under the laws of this state.

4. "Profession" means the profession of certified public accountancy, architecture, chiropractic, dentistry, physical therapy, psychology, professional engineering, land surveying,

landscape architecture, law, medicine and surgery, optometry, osteopathy, osteopathic medicine and surgery, accounting practitioner, podiatry, speech pathology, audiology, veterinary medicine, pharmacy, and nursing.

5. "Professional limited liability company" means a limited liability company subject to this subchapter, except a foreign professional limited liability company.

6. "Regulating board" means any board, commission, court, or governmental authority which, under the laws of this state, is charged with the licensing, registration, certification, admission to practice, or other legal authorization of the practitioners of any profession.

7. "Voluntary transfer" includes a sale, voluntary assignment, gift, pledge, or encumbrance; a voluntary change of legal or equitable ownership or beneficial interest; or a voluntary change of persons having voting rights with respect to any membership interest, except as proxies; but does not include a transfer of an individual's membership interest or other property to a guardian or conservator appointed for that individual or the individual's property.

Sec. 86. NEW SECTION. 490A.1502 PURPOSES AND POWERS.

A professional limited liability company shall be organized only for the purpose of engaging in the practice of one specific profession, or two or more specific professions which could lawfully be practiced in combination by a licensed individual or a partnership of licensed individuals, and for the additional purpose of doing all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions. The articles of organization of a professional limited liability company shall state in substance that the purposes for which the professional limited liability company is organized are to engage in the general practice of a specified profession or professions, or one or more specified branches or divisions thereof, and to do all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions.

Sec. 87. NEW SECTION. 490A.1503 NAME.

The name of a professional limited liability company, the name of a foreign professional limited liability company or its name as modified for use in this state, and any fictitious name or trade name adopted by a professional limited liability company or foreign professional limited liability company shall contain the words "Professional Limited Company" or the abbreviation "P.L.C.", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the professional limited liability company is authorized to practice. Each regulating board may by rule adopt additional requirements as to the corporate names and fictitious or trade names of professional limited liability companies and foreign professional limited liability companies which are authorized to practice a profession which is within the jurisdiction of the regulating board.

Sec. 88. NEW SECTION. 490A.1504 WHO MAY ORGANIZE.

Two or more individuals having capacity to contract, each of whom is licensed to practice a profession in this state which the professional limited liability company is to be authorized to practice, may act as organizers of a professional limited liability company.

Sec. 89. NEW SECTION. 490A.1505 PRACTICE BY PROFESSIONAL LIMITED LIABILITY COMPANY.

Notwithstanding any other statute or rule of law, a professional limited liability company may practice a profession, but may do so in this state only through members, managers, employees, and agents who are licensed to practice the same profession in this state. In its practice of a profession, no professional limited liability company shall do any act which could not lawfully be done by individuals licensed to practice the profession which the professional limited liability company is authorized to practice.

Sec. 90. NEW SECTION. 490A.1506 PROFESSIONAL REGULATION.

A professional limited liability company shall not be required to register with or to obtain any license, registration, certificate, or other legal authorization from a regulating board in

order to practice a profession. Except as provided in this section, this subchapter does not restrict or limit in any manner the authority or duties of any regulating board with respect to individuals practicing a profession which is within the jurisdiction of the regulating board, even if the individual is a member, manager, employee, or agent of a professional limited liability company or foreign professional limited liability company and practices the individual's profession through such professional limited liability company.

Sec. 91. NEW SECTION. 490A.1507 RELATIONSHIP AND LIABILITY TO PERSONS SERVED.

This subchapter does not modify any law applicable to the relationship between an individual practicing a profession and a person receiving professional services, including, but not limited to, any liability arising out of such practice and any law respecting privileged communications. This chapter does not modify or affect the ethical standards or standards of conduct of any profession, including, but not limited to, any standards prohibiting or limiting the practice of the profession by a limited liability company or prohibiting or limiting the practice of two or more professions in combination. All such standards shall apply to the members, managers, employees, and agents through whom a professional limited liability company practices any profession in this state, to the same extent that the standards apply to an individual practitioner.

Sec. 92. NEW SECTION. 490A.1508 ISSUANCE OF MEMBERSHIP INTERESTS.

Membership interests of a professional limited liability company shall be issued only to individuals who are licensed to practice in any state a profession which the professional limited liability company is authorized to practice. Membership interests of a professional limited liability company shall not at any time be issued in, transferred into, or held in joint tenancy, tenancy in common, or any other form of joint ownership or co-ownership. The Iowa uniform securities Act shall not be applicable to nor govern any transaction relating to any membership interests of a professional limited liability company.

Sec. 93. NEW SECTION. 490A.1509 ASSIGNMENT OF MEMBERSHIP INTERESTS.

A member or other person shall not make a voluntary assignment of a membership interest in a professional limited liability company to any person, except to the professional limited liability company or to an individual who is licensed to practice in this state a profession which the limited liability company is authorized to practice. The articles of organization or operating agreement of the professional limited liability company may contain any additional provisions restricting the assignment of membership interests. Unless the articles of organization or an operating agreement otherwise provide, a voluntary assignment requires the unanimous consent of the members.

Sec. 94. NEW SECTION. 490A.1510 CONVERTIBLE MEMBERSHIP INTERESTS — RIGHTS AND OPTIONS.

A professional limited liability company shall not create or issue any interest convertible into a membership interest of the professional limited liability company. The provisions of this subchapter with respect to the issuance and transfer of membership interests apply to the creation, issuance, and transfer of any rights or options entitling the holder to purchase from a professional limited liability company any membership interests of the professional limited liability company. Rights or options shall not be transferable, whether voluntarily, involuntarily, by operation of law, or in any other manner. Upon the death of the holder, or when the holder ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the rights or options shall expire.

Sec. 95. NEW SECTION. 490A.1511 VOTING TRUST — PROXY.

A member of a professional limited liability company shall not create or enter into a voting trust or any other agreement conferring upon any other person the right to vote or otherwise represent any membership interests of a professional limited liability company, and no such voting trust or agreement is valid or effective. Any proxy of a member of a professional limited

liability company shall be an individual licensed to practice a profession in this state which the professional limited liability company is authorized to practice. Any provision in any proxy instrument denying the right of the member to revoke the proxy at any time or for any period of time is not valid or effective. This section does not otherwise limit the right of a member to vote by proxy, but the articles of organization or operating agreement of the professional limited liability company may further limit or deny the right to vote by proxy.

Sec. 96. NEW SECTION. 490A.1512 REQUIRED PURCHASE BY PROFESSIONAL LIMITED LIABILITY COMPANY OF ITS OWN MEMBERSHIP INTERESTS.

1. Notwithstanding any other statute or rule of law, a professional limited liability company shall purchase its own membership interests as provided in this section; and the members of a professional limited liability company and their executors, administrators, legal representatives, and successors in interest, shall sell and transfer the membership interests held by them as provided in this section.

2. Upon the death of a member, the professional limited liability company shall immediately purchase all membership interests held by the deceased member.

3. In order to remain a member of a professional limited liability company, a member shall at all times be licensed to practice in this state a profession which the professional limited liability company is authorized to practice. When a member does not have or ceases to have this qualification, the professional limited liability company shall immediately purchase all membership interests held by that member.

4. When a person other than a member of record becomes entitled to have membership interests of a professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to membership interests of the professional limited liability company, the professional limited liability company shall immediately purchase the membership interests. Without limiting the generality of the foregoing, this section shall be applicable whether the event occurs as a result of appointment of a guardian or conservator for a member or the member's property, transfer of membership interests by operation of law, involuntary transfer of membership interests, judicial proceedings, execution, levy, bankruptcy proceedings, receivership proceedings, foreclosure or enforcement of a pledge or encumbrance, or any other situation or occurrence. However, this section does not apply to any voluntary transfer of membership interests as defined in this chapter.

5. Membership interests purchased by the professional limited liability company under this section shall be transferred to the professional limited liability company as of the close of business on the date of the death or other event which requires purchase. The member and the member's executors, administrators, legal representatives, or successors in interest, shall promptly do all things which may be necessary or convenient to cause transfer to be made as of the transfer date. However, the membership interests shall promptly be transferred on the books and records of the professional limited liability company as of the transfer date, notwithstanding any delay in transferring or surrendering the membership interests or certificates representing the membership interests, and the transfer shall be valid and effective for all purposes as of the close of business on the transfer date. The purchase price for such membership interests shall be paid as provided in this chapter, but the transfer of membership interests to the professional limited liability company as provided in this section shall not be delayed or affected by any delay or default in making payment.

6. Notwithstanding subsections 1 through 5, purchase by the professional limited liability company is not required upon the occurrence of any event other than death of a member, if the professional limited liability company is dissolved within sixty days after the occurrence of the event. The articles of organization or operating agreement of the professional limited liability company may provide that purchase is not required upon the death of a member, if the professional limited liability company is dissolved within sixty days after the date of the member's death.

7. Unless otherwise provided in the articles of organization or an operating agreement of the professional limited liability company or in an agreement among all members of the professional limited liability company all of the following apply:

a. The purchase price for membership interests shall be their book value as of the end of the month immediately preceding the death or other event which requires purchase. Book value shall be determined from the books and records of the professional limited liability company in accordance with the regular method of accounting used by the professional limited liability company, uniformly and consistently applied. Adjustments to book value shall be made, if necessary, to take into account work in process and accounts receivable. A final determination of book value made in good faith by an independent certified public accountant or firm of certified public accountants employed by the professional limited liability company for the purpose shall be conclusive on all persons.

b. The purchase price shall be paid in cash as follows:

(1) Upon the death of a member, thirty percent of the purchase price shall be paid within ninety days after death, and the balance shall be paid in three equal annual installments on the first three anniversaries of the death.

(2) Upon the happening of any other event referred to in this section, one-tenth of the purchase price shall be paid within ninety days after the date of the event, and the balance shall be paid in three equal annual installments on the first three anniversaries of the date of the event.

c. Interest from the date of death or other event shall be payable annually on principal payment dates, at the rate of six percent per annum on the unpaid balance of the purchase price.

d. All persons who are members of the professional limited liability company on the date of death or other event, and their executors, administrators, and legal representatives, shall, to the extent the professional limited liability company fails to meet its obligations under this section, be jointly liable for the payment of the purchase price and interest in proportion to their percentage of ownership of the professional limited liability company's membership interests, disregarding membership interests of the deceased or withdrawing member.

e. The part of the purchase price remaining unpaid after the initial payment shall be evidenced by a negotiable promissory note, which shall be executed by the professional limited liability company and all members liable for payment. Any person liable on the note shall have the right to prepay the note in full or in part at any time.

f. If the person making any payment is not reasonably able to determine which of two or more persons is entitled to receive a payment, or if the payment is payable to a person who is unknown, or who is under disability and there is no person legally competent to receive the payment, or who cannot be found after the exercise of reasonable diligence by the person making the payment, it shall be deposited with the treasurer of state and shall be subject to the provisions of section 490.1440 with respect to funds deposited with the treasurer of state upon the voluntary or involuntary dissolution of a business corporation.

8. Notwithstanding the other provisions of this section, no part of the purchase price shall be required to be paid until the certificates, if any, representing the membership interests have been surrendered to the professional limited liability company.

9. Notwithstanding the other provisions of this section, payment of any part of the purchase price for membership interests of a deceased member shall not be required until the executor or administrator of the deceased member provides any indemnity, release, or other document from any taxing authority, which is reasonably necessary to protect the professional limited liability company against liability for estate, inheritance, and death taxes.

10. The articles of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for a different purchase price, a different method of determining the purchase price, a different interest rate or no interest, and other terms, conditions, and schedules of payment.

11. The articles of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for the optional or mandatory purchase of its own membership interests by the professional limited liability company in other situations, subject to any applicable law regarding such a purchase.

Sec. 97. NEW SECTION. 490A.1513 CERTIFICATES REPRESENTING MEMBERSHIP INTERESTS.

Each certificate representing membership interests of a professional limited liability company shall state in substance that the certificate represents membership interests in a professional limited liability company and is not transferable except as expressly provided in this chapter and in the articles of organization or an operating agreement of the professional limited liability company.

Sec. 98. NEW SECTION. 490A.1514 MANAGEMENT.

All managers of a professional limited liability company shall at all times be individuals who are licensed to practice a profession in this state which the limited liability company is authorized to practice. A person who is not licensed shall have no authority or duties in the management or control of the limited liability company. If a manager ceases to have this qualification, the manager shall immediately and automatically cease to hold such management position.

Sec. 99. NEW SECTION. 490A.1515 MERGER.

A professional limited liability company shall not merge with any entity except another professional limited liability company subject to this subchapter or a professional corporation subject to chapter 496C. Merger is not permitted unless the surviving or new professional limited liability company is a professional limited liability company which complies with all requirements of this subchapter.

Sec. 100. NEW SECTION. 490A.1516 DISSOLUTION OR LIQUIDATION.

Violation of any provision of this subchapter by a professional limited liability company or any of its members or managers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court, as provided in section 490A.1302. Upon the death of the last remaining member of a professional limited liability company, or when the last remaining member is not licensed or ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, or when any person other than the member of record becomes entitled to have all membership interests of the last remaining member of the professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such membership interests, the professional limited liability company shall not practice any profession and it shall be promptly dissolved. However, if prior to dissolution all outstanding membership interests of the professional limited liability company are acquired by one or more persons licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the professional limited liability company need not be dissolved and may practice the profession as provided in this subchapter.

Sec. 101. NEW SECTION. 490A.1517 FOREIGN PROFESSIONAL LIMITED LIABILITY COMPANY.

A foreign professional limited liability company may practice a profession in this state if it complies with the provisions of this chapter and this subchapter. The secretary of state may prescribe forms for this purpose. A foreign professional limited liability company may practice a profession in this state only through members, managers, employees, and agents who are licensed to practice the profession in this state. The provisions of this subchapter with respect to the practice of a profession by a professional limited liability company apply to a foreign professional limited liability company. This subchapter does not prohibit the practice of a profession in this state by an individual who is a member, manager, employee, or agent of a foreign professional limited liability company, if the individual could lawfully practice the profession in this state in the absence of any relationship to a foreign professional limited liability company. The preceding sentence applies regardless of whether or not the foreign professional limited liability company is authorized to practice a profession in this state.

Sec. 102. NEW SECTION. 490A.1518 LIMITED LIABILITY COMPANIES ORGANIZED UNDER OTHER LAWS.

This chapter does not apply to or interfere with the practice of any profession by or through any professional limited liability company organized after the effective date of this Act under any other law of this state or any other state or country, if the practice is lawful under any other statute or rule of law of this state. Any such professional limited liability company may voluntarily elect to adopt this subchapter and become subject to its provisions, by amending its articles of organization to be consistent with all provisions of this subchapter and by stating in its amended articles of organization that the limited liability company has voluntarily elected to adopt this subchapter. Any limited liability company organized under any law of any other state or country may become subject to the provisions of this subchapter by complying with all provisions of this subchapter with respect to foreign professional limited liability companies.

Sec. 103. NEW SECTION. 490A.1519 CONFLICTS WITH OTHER PROVISIONS OF THIS CHAPTER.

The provisions of this subchapter shall prevail over any inconsistent provisions of this chapter.

SUBCHAPTER XVI
PROVISIONS

Sec. 104. NEW SECTION. 490A.1601 PROPERTY TITLE RECORDS.

When by merger or amendment to the articles of organization the name of any domestic or foreign limited liability company is changed, a certificate reciting the change or succession shall be issued by the secretary of state upon request and payment of any applicable fee and the certificate may be admitted to record upon payment of any applicable fee in any recording office within the jurisdiction of which any property of the limited liability company is located in order to maintain the continuity of title records, but no transfer tax shall be due thereon. If a limited liability company or other entity is not a domestic limited liability company or other entity or a foreign limited liability company or other entity authorized to do business in this state, a similar certificate by any competent authority of the state of organization or formation of the limited liability company or other entity may be admitted to record in any recording office within the jurisdiction of which any property of the limited liability company or other entity is located in order to maintain the continuity of title records upon payment of any applicable fee, but no transfer tax shall be due thereon.

Sec. 105. Section 502.207A, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. The issuer must be a corporation, limited liability company, or partnership organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in a business other than petroleum exploration or production mining or other extractive industries.

Sec. 106. Section 558.39, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. In the case of limited liability companies:

On this _____ day of _____, A.D. 19_____, before me, a _____ (Insert title of acknowledging officer) in and for said county, personally appeared _____, to me personally known, who being by me duly (sworn or affirmed) did say that that person is _____ (Insert title of executing member) of said (limited liability company), that (the seal affixed to said instrument is the seal of said or no seal has been procured by the said) (limited liability company) and that said instrument was signed and sealed on behalf of the said (limited liability company) by authority of its managers and the said _____ acknowledged the execution of said instrument to be the voluntary act and deed of said (limited liability company) by it voluntarily executed.

Approved April 27, 1992

CHAPTER 1152

RAILROAD CROSSING VIOLATIONS

H.F. 2380

AN ACT relating to railroad crossing violations.

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

Section 1. NEW SECTION. 321.344A REPORTED VIOLATIONS FOR FAILURE TO STOP AT A RAILROAD CROSSING.

The employee of a railroad who observes a violation of section 321.341, 321.342, 321.343, or 321.344, may prepare a written report on a form provided by the department of public safety indicating that a violation has occurred. The railroad employee may deliver the report not more than seventy-two hours after the violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the violation occurred. The report shall state the time and the location at which the violation occurred and shall include the registration plate number and a description of the vehicle involved in the violation.

A peace officer may initiate an investigation not more than seven calendar days after receiving a report of a violation pursuant to this section. The peace officer may request that the owner of the vehicle supply information identifying the driver of the vehicle in accordance with section 321.484. If from the investigation, the peace officer is able to identify the driver of the vehicle and has reasonable cause to believe a violation has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail on the driver of the vehicle.

Sec. 2. Section 321.484, unnumbered paragraph 3, Code 1991, is amended to read as follows:

If a peace officer as defined in section 801.4 has reasonable cause to believe the driver of a motor vehicle has violated sections 321.261, 321.262, 321.264, 321.341, 321.342, 321.343, 321.344, or 321.372, the officer may request any owner of the motor vehicle to supply information identifying the driver. When requested, the owner of the vehicle shall identify the driver to the best of the owner's ability. However, the owner of the vehicle is not required to supply identification information to the officer if the owner believes the information is self-incriminating.

Approved April 27, 1992

CHAPTER 1153

PUBLIC ROAD RIGHTS-OF-WAY

H.F. 2391

AN ACT defining public road rights-of-way.

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

Section 1. Section 306.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 12. "Public road right-of-way" means the area of land, the right to possession of which is secured or reserved by a governmental subdivision for roadway purposes. The right-of-way for all secondary roads is sixty-six feet in width, unless otherwise specified by the county board of supervisors of the respective counties.

Approved April 27, 1992

CHAPTER 1154

PROCEEDS RECEIVED BY FELONS AS RESULT OF COMMISSION OF CRIME

H.F. 2405

AN ACT relating to proceeds received by felons as it relates to Iowa's "Son of Sam" statute.

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

Section 1. Section 910.15, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

910.15 DISTRIBUTION OF MONEYS RECEIVED AS A RESULT OF THE COMMISSION OF CRIME.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Convicted felon" means a person initially convicted, or found not guilty by reason of insanity, of a felony committed in Iowa, either by a court or jury trial or by entry of a guilty plea in court.

b. "Escrow account" includes, but is not limited to, property in which the attorney general has assumed the powers of a receiver as provided in this section.

c. "Felony" means a felony defined by any Iowa or United States statute.

d. "Fruits of the crime" mean any profit which, were it not for the commission of the felony, would not have been realized.

e. "Proceeds" mean all of the fruits of the crime from whatever source received by or owing to a felon or the felon's representatives, whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

f. "Representative of the convicted felon" means any person or entity receiving proceeds by designation of that convicted felon, or on behalf of that convicted felon, or in the stead of that convicted felon, whether by the felon's designation or by operation of law.

g. "Victim" means a person who has suffered physical, mental, or emotional harm or financial loss as the result of a felony committed in this state, for which the felon was convicted. The term also includes the father, mother, son, or daughter of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

2. DUE PROCESS HEARING — ACTION BY ATTORNEY GENERAL.

a. The attorney general may bring an action to require all proceeds received by a convicted felon or representative of the convicted felon to be deposited in an escrow account as provided in this section.

b. The action may be brought in the county where the convicted felon resides, or the county in which the proceeds are located.

c. The action shall be preceded by notice to any interested party.

d. The court shall order that all proceeds be deposited in the escrow account until an order of disposition is made by the court pursuant to subsection 3, 4, or 5 or until the expiration of the escrow account as specified in subsection 8, if the attorney general proves both of the following:

(1) The proceeds are fruits of the crime for which the convicted felon was convicted.

(2) It is more probable than not that there are victims who may recover a money judgment against the felon for physical, mental, or emotional injury or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted or there is an unpaid order of restitution under chapter 910 against the convicted felon for the felony for which the felon was convicted.

e. If the court orders that proceeds be deposited in an escrow account and the nature of the proceeds to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under chapter 680 in taking charge of the property for benefit of and payable to any victim or representative

of the victim. In those instances, the date the attorney general assumed the power of a receiver, shall be considered the date the escrow account was established for purposes of this section.

3. NOTICE OF ESTABLISHMENT OF ESCROW ACCOUNT. Once an escrow account is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account and their possible rights under this section. The reasonable efforts shall include, but are not limited to, mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership.

4. PROCEEDS FOR LEGAL DEFENSE OF FELON. The attorney general shall make payments from the escrow account or property held in receivership to the person accused of the crime upon the order of a court of competent jurisdiction after a showing by the person that the money or other property shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against the person, including the appeals process.

5. PAYMENT OF ESCROW FUNDS TO VICTIMS. The remaining proceeds in escrow may be levied upon to satisfy an order for restitution under chapter 910 or a money judgment entered against the convicted felon, by a court of competent jurisdiction, for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted.

6. PRIORITY AND PRORATION OF CLAIMS. Proceeds distributed under subsection 3 shall have first priority, and proceeds distributed for the cost of legal defense under subsection 4 shall have second priority in the distribution of proceeds in the escrow account. If there are multiple orders for restitution and judgments by victims under subsection 5 against the convicted felon, and the remaining proceeds in the escrow account are insufficient to satisfy all of the orders for restitution and judgments, the proceeds shall be distributed on a pro rata basis based on the ratio that the amount of an order for restitution or an individual victim's judgment bears to the total amount of all restitution orders and victims' judgments against the convicted felon which have been claimed under this section.

7. LIMITATION OF ACTION. Notwithstanding section 614.1, a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to this section, may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

8. DURATION OF ESCROW ACCOUNT. Notwithstanding the other provisions of this section, upon a disposition of charges favorable to the person accused of committing the felony, or upon a showing by the person that five years have elapsed from the date of establishment of the escrow account and further that no actions are pending against the person or unpaid orders for restitution or monetary judgments outstanding relating to the felony for which the felon was convicted, the attorney general shall immediately pay over any money in the escrow account to the person.

9. PURPOSE. The purpose of this section is to meet the following compelling state interests:

a. The state has an interest in ensuring that victims of crime are compensated by those who harm them.

b. The state has an interest in ensuring that criminals do not profit from their felonious crimes at the expense of their victims.

Approved April 27, 1992

CHAPTER 1155

UTILITIES — CUSTOMER CONTRIBUTION FUND
H.F. 2424

AN ACT relating to the limitations on the use of the customer contribution fund.

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

Section 1. Section 476.66, subsection 1, Code 1991, is amended to read as follows:

1. The utilities board shall adopt rules which shall require each electric and gas public utility to establish a fund whose purposes shall include the receiving of contributions to assist the utility's low-income customers with weatherization measures to improve energy efficiency related to winter heating and summer cooling, and to supplement the energy assistance received under the federal low-income heating energy assistance program for the payment of winter heating electric or gas utility bills.

Approved April 27, 1992

CHAPTER 1156

INVESTMENT OF PUBLIC FUNDS
S.F. 2036

AN ACT relating to regulating the investment of public funds and providing an effective date.

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

Section 1. Section 11.2, Code 1991, is amended to read as follows:

11.2 ANNUAL SETTLEMENTS.

1. The auditor of state shall annually, and ~~oftener~~ more often if deemed necessary, make a full settlement between the state and all state officers and departments and all persons receiving or expending state funds, and shall annually make a complete audit of the books and accounts of every department of the state.

Provided, that the accounts, records, and documents of the treasury department shall be audited daily.

Provided further, that a preliminary audit of the educational institutions and the state fair board shall be made periodically, at least quarterly, to check the monthly reports submitted to the director of revenue and finance as required by section 421.31, subsection 4 and that a final audit of such state agencies shall be made at the close of each fiscal year.

2. In conjunction with the audit of the state board of regents required under this section, the auditor of state, in accordance with generally accepted auditing standards, shall perform audit testing on the state board of regents' investments. The auditor shall report to the state board of regents concerning compliance with state law and state board of regents' investment policies. The state board of regents is responsible for remedying any reported noncompliance with its own policy or practices.

The state board of regents shall make available to the auditor of state and treasurer of state the most recent annual report of any investment entity or investment professional employed by an institution governed by the board.

All contracts or agreements with an investment entity or investment professional employed by an institution governed by the state board of regents shall require the investment entity or investment professional employed by an institution governed by the state board of regents

to notify in writing the state board of regents within thirty days of receipt of all communication from an independent auditor or the auditor of state or any regulatory authority of the existence of a material weakness in internal control structure, or regulatory orders or sanctions against the investment entity or investment professional, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

The audit under this section shall not be certified until the most recent annual reports of any investment entity or investment professional employed by an institution governed by the state board of regents are reviewed by the auditor of state.

The review of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. § 270.30d-1 or the review, by the person performing the audit, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

As used in this subsection, "investment entity" and "investment professional" exclude a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 453.

Sec. 2. Section 11.6, subsection 1, Code Supplement 1991, is amended to read as follows:

1. a. 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 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.

Subject to the exceptions and requirements of subsection 2 and subsection 4, paragraph "c", examinations shall be made as determined by the governmental subdivision either by the auditor of state or by certified public accountants, certified in the state of Iowa, and they shall be paid from the proper public funds of the governmental subdivision.

b. (1) In conjunction with the audit of the governmental subdivision required under this section, the person performing the audit shall also perform tests for compliance with the investment policy of a reasonable number of investment transactions in relation to the total investments and quantity of transactions in the period audited. The results of the compliance testing shall be reported in accordance with generally accepted auditing standards. The person performing the audit may also make recommendations for changes to investment policy or practices. The governmental subdivision is responsible for the remedy of reported noncompliance with its policy or practices.

(2) As part of its audit, the governmental subdivision is responsible for obtaining and providing to the person performing the audit the audited financial statements and related report on internal control structure of outside persons, performing any of the following during the period under audit for the governmental subdivision:

(a) Investing public funds.

(b) Advising on the investment of public funds.

(c) Directing the deposit or investment of public funds.

(d) Acting in a fiduciary capacity for the governmental subdivision.

The audit under this section shall not be certified until all material information required by this subparagraph is reviewed by the person performing the audit.

(3) The review by the person performing the audit of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. § 270.30d-1 or the review, by the person performing the audit, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

(4) All contracts or agreements with outside persons performing any of the functions listed in subparagraph (2) shall require the outside person to notify in writing the governmental subdivision within thirty days of receipt of all communication from the person performing the audit or any regulatory authority of the existence of a material weakness in internal control structure, or regulatory orders or sanctions against the outside person, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

(5) As used in this subsection, "outside person" excludes a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 453.

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

(7) If during the course of an audit of a joint investment trust organized pursuant to chapter 28E, the auditor determines the existence of a material weakness in the internal control structure or a material violation of the internal control structure, the auditor shall report the determination to the joint investment trust which shall notify the administrator in writing within twenty-four hours, and provide a copy of the notification to the auditor. The auditor shall provide, within twenty-four hours of the receipt of the copy of the notice, written acknowledgement of the receipt to the administrator. If the joint investment trust does not make the notification within twenty-four hours, or the auditor does not receive a copy of the notification within twenty-four hours, the auditor shall immediately notify the administrator in writing of the material weakness in the internal control structure or the material violation of the internal control structure.

Sec. 3. Section 11.6, subsection 4, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An examination under this subsection shall include a determination of whether investments by the governmental subdivision are authorized by state law.

Sec. 4. Section 11.6, subsection 7, Code Supplement 1991, is amended to read as follows:

7. The auditor of state shall make guidelines available to the public setting forth accounting and auditing standards and procedures and audit and legal compliance programs to be applied in the examination of the governmental subdivisions of the state, which shall require a review of the internal control structure and specify testing of transactions for compliance. The guidelines shall include a requirement that the certified public accountant immediately notify the auditor of state regarding any suspected embezzlement or theft. The auditor shall also provide standard reporting formats for use in reporting the results of an examination of a governmental subdivision.

Sec. 5. NEW SECTION. 12.62 INVESTMENTS BY AGENCIES AND POLITICAL SUBDIVISIONS — TECHNICAL INFORMATION AND ASSISTANCE.

The treasurer of state shall adopt rules pursuant to chapter 17A for providing technical information and assistance to political subdivisions, the state board of regents, instrumentalities, and agencies of the state authorized to invest funds which are seeking to invest public funds. The treasurer or the treasurer's designee shall provide technical information and assistance to a political subdivision, the state board of regents, instrumentality, or agency of the state authorized to invest funds at the request of the political subdivision, the state board of regents, instrumentality, or agency of the state authorized to invest funds, including but not limited to technical information regarding the statutory requirements for investments by the political subdivision, the state board of regents, instrumentality, or agency and technical assistance to enable the political subdivision, the state board of regents, instrumentality, or agency to invest funds in accordance with state law. However, the fact that information and assistance are provided under this section to a political subdivision, the state board of regents, instrumentality, or agency authorized to invest funds shall not make the state, the treasurer of state, or the treasurer's designee liable to a political subdivision, the state board of regents, instrumentality, or agency of the state in any manner for any loss, damage, or expense incurred by the political subdivision, the state board of regents, instrumentality, or agency as a result of an investment.

Sec. 6. Section 22.1, unnumbered paragraph 1, Code Supplement 1991, is 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.

"Public records" also includes all records relating to the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.

Sec. 7. Section 22.1, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

The term "lawful custodian" means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds. Each government body shall delegate to particular officials or employees of that government body the responsibility for implementing the requirements of this chapter and shall publicly announce the particular officials or employees to whom responsibility for implementing the requirements of this chapter has been delegated. "Lawful custodian" does not mean an automated data processing unit of a public body if the data processing unit holds the records solely as the agent of another public body, nor does it mean a unit which holds the records of other public bodies solely for storage.

Sec. 8. NEW SECTION. 22.13 PUBLIC FUNDS INVESTMENT RECORDS IN CUSTODY OF THIRD PARTIES.

1. The records of investment transactions made by or on behalf of a public body are public records and are the property of the public body whether in the custody of the public body or in the custody of a fiduciary or other third party.

2. If such records of public investment transactions are in the custody of a fiduciary or other third party, the public body shall obtain from the fiduciary or other third party records requested pursuant to section 22.2.

3. If a fiduciary or other third party with custody of public investment transactions records fails to produce public records within a reasonable period of time as requested by the public body, the public body shall make no new investments with or through the fiduciary or other third party and shall not renew existing investments upon their maturity with or through the fiduciary or other third party. The fiduciary or other third party shall be liable for the penalties imposed under section 22.6 due to the acts or omissions of the fiduciary or other third party and any other remedies available under statute, common law, or contract.

Sec. 9. Section 28E.5, subsection 2, Code 1991, is amended to read as follows:

2. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. However, if the agreement establishes a separate legal or administrative entity, the entity shall, when investing funds, comply with the provisions of sections 452.10 and 452.10A through 452.10C and other applicable law.

Sec. 10. Section 262.14, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board shall have a written investment policy, the goal of which is to provide for the financial health of the institutions governed by the board. The board shall establish investment practices that preserve principal, provide for liquidity sufficient for anticipated needs, and maintain purchasing power of investable assets of the board and its institutions. The policy shall also include a list of authorized investments, maturity guidelines, procedures for selecting and approving investment managers and other investment professionals as described in section 11.2, subsection 2, and provisions for regular and frequent oversight of investment decisions by the board, including audit. The board shall make available to the auditor of state and treasurer of state the most recent annual report of any investment entity or investment professional employed by an institution governed by the board. The investment policy shall cover investments of endowment and nonendowment funds.

Sec. 11. Section 279.29, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Pending audit and allowance of claims under this section, the board shall invest moneys of the corporation to the extent practicable, and the board may provide for the joint investment of moneys with one or more school corporations pursuant to a joint investment agreement. All investments of funds shall be subject to sections 452.10 and 452.10A and other applicable law.

Sec. 12. Section 302.11, Code 1991, is amended to read as follows:

302.11 SCHOOL FUND ACCOUNTS — AUDIT OF LOSSES.

The director of revenue and finance shall keep the permanent school fund accounts in books provided for that purpose, separate and distinct from the revenue books. The auditor of state shall audit losses to the permanent school or university fund caused by the defalcation, mismanagement, or fraud ~~of the agents or officers controlling and managing the fund~~. The auditor of state shall adopt rules pursuant to chapter 17A for those officers as necessary to ascertain the losses.

Sec. 13. Section 331.303, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. Approve the written investment policy for the county required under section 452.10B.

Sec. 14. Section 331.555, subsection 6, Code 1991, is amended to read as follows:

6. The treasurer shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more counties, judicial district departments of correctional services, cities, or city utilities pursuant to a joint investment agreement. All investments of funds shall be subject to sections 452.10 and 452.10A and other applicable law.

Sec. 15. Section 384.21, Code 1991, is amended to read as follows:

384.21 JOINT INVESTMENT OF FUNDS.

A city or a city utility board shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more cities, utility boards, judicial district departments of correctional services, or counties pursuant to a joint investment agreement. All investments of funds shall be subject to sections 452.10 and 452.10A and other applicable law.

Sec. 16. Section 452.10, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

452.10 PUBLIC FUNDS INVESTMENT STANDARDS.

1. In addition to investment standards and requirements otherwise provided by law, the investment of public funds by the treasurer of state, state agencies authorized to invest funds, and political subdivisions of this state, shall comply with this section, except where otherwise provided by another statute specifically referring to this section.

The treasurer of state and the treasurer of each political subdivision shall at all times keep funds coming into their possession as public money in a vault or safe to be provided for that purpose or in one or more depositories approved pursuant to chapter 453. However, the treasurer of state and the treasurer of each political subdivision shall invest, unless otherwise provided, any public funds not currently needed in investments authorized by this section.

2. The treasurer of state, state agencies authorized to invest funds, and political subdivisions of this state, when investing or depositing public funds, 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 goals of this subsection. This standard requires that when making investment decisions, a public entity shall consider the role that the investment or deposit plays within the portfolio of assets of the public entity and the goals of this subsection. The primary goals of investment prudence shall be based in the following order of priority:

a. Safety of principal is the first priority.

b. Maintaining the necessary liquidity to match expected liabilities is the second priority.

c. Obtaining a reasonable return is the third priority.

3. Investments of public funds shall be made in accordance with written policies. A written investment policy shall address the goals set out in subsection 2 and shall also address, but is not limited to, compliance with state law, diversification, maturity, quality, and capability of investment management.

The trading of securities in which any public funds are invested for the purpose of speculation and the realization of short-term trading profits is prohibited.

Investments by a political subdivision must have maturities that are consistent with the needs and use of that political subdivision or agency.

4. The treasurer of state and all other state agencies authorized to invest funds shall only purchase and invest in the following:

a. Obligations of the United States government, its agencies and instrumentalities.

b. Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to chapter 453.

c. Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than thirty percent of the investment portfolio of the treasurer of state or any other state agency shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

d. Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested

in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than thirty percent of the investment portfolio of the treasurer of state or any other state agency shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

e. Repurchase agreements whose underlying collateral consists of the investments set out in paragraphs "a" through "d" if the treasurer of state or state agency takes delivery of the collateral either directly or through an authorized custodian. Repurchase agreements do not include reverse repurchase agreements.

f. Investments authorized for the Iowa public employee retirement system in section 97B.7, subsection 2, paragraph "b", except that investment in common stocks is not permitted.

g. An open-end management investment company organized in trust form registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7.

Futures and options contracts are not permissible investments.

5. Political subdivisions of this state, including entities organized pursuant to chapter 28E whose primary function is other than to jointly invest public funds, shall purchase and invest only in the following:

a. Obligations of the United States government, its agencies and instrumentalities.

b. Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to chapter 453.

c. Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

d. Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

e. Repurchase agreements whose underlying collateral consists of the investments set out in paragraph "a" if the political subdivision takes delivery of the collateral either directly or through an authorized custodian. Repurchase agreements do not include reverse repurchase agreements.

f. An open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7.

g. A joint investment trust organized pursuant to chapter 28E prior to and existing in good standing on the effective date of this Act or a joint investment trust organized pursuant to chapter 28E after the effective date of this Act, provided that the joint investment trust shall either be rated within the two highest classifications by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A and operated in accordance with 17 C.F.R. § 270.2a-7, or be registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7. The manager or investment advisor of the joint investment trust shall be registered with the federal securities and exchange commission under the Investment Advisor Act of 1940, 15 U.S.C. § 80(b).

Futures and options contracts are not permissible investments.

6. The following investments are not subject to this section:

a. Investments by the public safety peace officers' retirement system governed by chapter 97A.

b. Investments by the Iowa public employees' retirement system governed by chapter 97B.

c. Investments by the Iowa finance authority governed by chapter 220.

d. Investments by the state board of regents. However, investments by the state board of regents or institutions governed by the state board of regents are limited to the following:

(1) Those investments set out in section 452.10, subsection 4.

(2) The common fund for nonprofit organizations.

(3) Common stocks.

(4) For investments of short-term operating funds, the funds shall not be invested in investments having maturities exceeding sixty-three months.

e. Investments by the statewide fire and police retirement system governed by chapter 411.

f. Investments by the judicial retirement system governed by chapter 602, article 9.

Sec. 17. NEW SECTION. 452.10A PUBLIC INVESTMENT MATURITY AND PROCEDURAL LIMITATIONS.

1. The investment of public funds which are operating funds by a political subdivision shall be subject to the following:

a. As used in this section, "operating funds" means those funds which are reasonably expected to be expended during a current budget year or within fifteen months of receipt.

b. Operating funds must be identified and distinguished from all other funds available for investment.

c. Operating funds may only be invested in investments which mature within three hundred ninety-seven days or less and which are authorized by law for the investing public entity.

2. All investments of public funds by political subdivisions shall be subject to the following:

a. Each investment must be authorized by applicable law and the written investment policy of the political subdivision.

b. Each political subdivision whose investments involve the use of a public funds custodial agreement, as defined in section 452.10C, shall comply with rules adopted pursuant to section 452.10C relating to those investments. All contracts providing for the investment of public funds shall be in writing and shall contain a provision requiring that all investments shall be made in accordance with the laws of this state.

c. A contract for the investment or deposit of public funds shall not provide for compensation of an agent or fiduciary based upon investment performance.

3. A treasurer of a political subdivision may invest funds of the political subdivision or agency that are not operating funds in investments having maturities longer than three hundred and ninety-seven days.

4. As used in this section, "public funds" means all funds that are public funds within the meaning of section 453.1, subsection 2, paragraph "b", except state funds invested by the treasurer of state.

5. This section shall not be construed to supersede any provision of this chapter or of chapter 453.

6. The following entities are not subject to this section:

a. The public safety peace officers' retirement system governed by chapter 97A.

b. The Iowa public employees' retirement system governed by chapter 97B.

c. The Iowa finance authority governed by chapter 220.

d. The state board of regents. However, investments by the state board of regents or institutions governed by the state board of regents are limited to the following:

(1) Those investments set out in section 452.10, subsection 4.

(2) The common fund for nonprofit organizations.

(3) Common stocks.

(4) For investments of short-term operating funds, the funds shall not be invested in investments having maturities exceeding sixty-three months.

e. The statewide fire and police retirement system governed by chapter 411.

f. The judicial retirement system governed by chapter 602, article 9.

7. A joint investment trust organized pursuant to chapter 28E whose primary function is to invest public funds shall report to the general assembly not later than January 1 of each year the amount of any trust royalty, residual payment, administrative or service fee, or other fee paid by the trust, the services performed for the fee, and the person receiving the fee.

Sec. 18. NEW SECTION. 452.10B WRITTEN INVESTMENT POLICIES.

1. Political subdivisions shall approve written investment policies which incorporate the guidelines specified in section 452.10, sections 452.10A through 452.10C, and any other provisions deemed necessary to adequately safeguard invested public funds.

2. The written investment policy required by section 452.10 shall be delivered to all of the following:

a. The governing body or officer of the public entity to which the policy applies.

b. All depository institutions or fiduciaries for public funds of the public entity.

c. The auditor of the public entity.

3. The following entities are not subject to this section:

a. The public safety peace officers' retirement system governed by chapter 97A.

b. The Iowa public employees' retirement system governed by chapter 97B.

c. The Iowa finance authority governed by chapter 220.

d. The state board of regents governed by chapter 262.

e. The statewide fire and police retirement system governed by chapter 411.

f. The judicial retirement system governed by chapter 602, article 9.

Sec. 19. NEW SECTION. 452.10C REGULATION OF PUBLIC FUNDS CUSTODIAL AGREEMENTS.

The treasurer of state, in consultation with the attorney general, shall adopt rules under chapter 17A requiring the inclusion in public funds custodial agreements of any provisions necessary to prevent loss of public funds.

As used in this section, "public funds custodial agreement" means any contractual arrangement pursuant to which one or more persons, including but not limited to, investment advisors, investment companies, trustees, agents and custodians, are authorized to act as a custodian of or to designate another person to act as a custodian of public funds or any security or document of ownership or title evidencing public funds investments other than custodial agreements between an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and a custodian bank.

As used in this section "public funds" means public funds as defined in section 453.1. However, this section does not apply to public funds that are invested under the provisions of a resolution or indenture for the issuance of bonds, notes, certificates, warrants, or other evidences of indebtedness. To the extent that a provision of this section conflicts with federal law, it shall be construed to avoid the conflict.

The following entities are not subject to this section:

1. The public safety peace officers' retirement system governed by chapter 97A.

2. The Iowa public employees' retirement system governed by chapter 97B.

3. Investments by the Iowa finance authority governed by chapter 220.

4. The statewide fire and police retirement system governed by chapter 411.

5. The judicial retirement system governed by chapter 602, article 9.

Sec. 20. Section 453.1, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. "Depository" means a bank ~~or any office of a bank whose accounts are insured by the federal deposit insurance corporation, or~~, a savings and loan ~~association or a savings bank or any branch of a savings and loan association or savings bank whose accounts are insured by the federal savings and loan insurance corporation~~, or a credit union ~~insured by the national credit union administration~~ in which public funds are deposited under this chapter.

Sec. 21. Section 453.1, subsection 2, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. "Bank" means a corporation engaged in the business of banking authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation and includes any office of a bank.

NEW PARAGRAPH. d. "Savings and loan" means a corporation authorized to operate under chapter 534 or the federal Home Owner's Loan Act of 1933, 12 U.S.C. § 1461, et seq., and includes a savings and loan association, a savings bank, or any branch of a savings and loan association or savings bank.

NEW PARAGRAPH. e. "Credit union" means a cooperative, nonprofit association incorporated under chapter 533 or the federal Credit Union Act, 12 U.S.C. § 1751, et seq., and that is insured by the national credit union administration and includes an office of a credit union.

NEW PARAGRAPH. f. "Financial institution" means a bank, savings and loan, or a credit union.

Sec. 22. Section 453.1, subsection 3, Code 1991, is amended to read as follows:

3. A deposit of public funds in a depository pursuant to this chapter shall be secured as follows:

a. If a depository is a savings and loan ~~association, a savings bank, or an office of a savings and loan association or savings bank~~ or a credit union, then ~~the~~ public deposits in ~~those depositories~~ the savings and loan or credit union shall be secured pursuant to sections 453.16 through 453.19 and sections 453.23 and 453.24.

b. If a depository is a bank, ~~credit union, or an office of a bank or credit union,~~ then ~~the~~ public deposits in ~~those depositories~~ the bank shall be secured pursuant to sections ~~453.22 through~~ 453.21, 453.23, and 453.24.

Sec. 23. Section 453.9, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

453.9 INVESTMENT OF SINKING FUNDS — BOND PROCEEDS.

The treasurer of state and all other state agencies authorized to invest funds 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 investments set out in section 452.10, subsection 4, paragraphs "a" through "g", section 452.10, subsection 5, paragraphs "a" through "g", an investment contract, or tax-exempt bonds. The investment shall be as defined and permitted by section 148 of the Internal Revenue Code and applicable regulations under that section. An investment contract or tax exempt bonds shall be rated within the two highest classifications as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A.

Sec. 24. Section 453.15, Code 1991, is amended to read as follows:

453.15 RESTRICTION ON REQUIRING COLLATERAL.

A local government shall not require a pledge of collateral for that portion of the local government's deposits in a ~~depository institution~~ savings and loan or credit union that is covered by insurance of a federal agency or instrumentality ~~including the federal deposit insurance corporation, the federal savings and loan insurance corporation, or the national credit union administration~~.

Sec. 25. Section 453.16, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Before a deposit of public funds is made by a public officer with a ~~depository institution~~ savings and loan or credit union in excess of the amount federally insured ~~by federal deposit insurance or federal savings and loan insurance, and before the investment of public funds in investments authorized in section 452.10 which either are not obligations of or guaranteed by the United States government or any of its agencies, are in excess of the amount insured~~

~~by federal deposit insurance or federal savings and loan insurance, or are investments by the treasurer of state specifically authorized by section 452.10 to be made as additional investments under section 97B.7, subsection 2, paragraph "b"~~, the public officer shall obtain security for the deposit ~~or investment~~ by one or more of the following:

Sec. 26. Section 453.16, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. The ~~depository institution~~ savings and loan or credit union may give to the public officer a corporate surety bond of a surety corporation approved by the treasury department of the United States and authorized to do business in this state, which bond shall be in an amount equal to the public funds on deposit at any time. The bond shall be conditioned that the deposit shall be paid promptly on the order of the public officer making the deposit and shall be approved by the officer making the deposit.

Sec. 27. Section 453.16, subsection 1, paragraph b, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The ~~depository institution~~ savings and loan or credit union may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the ~~depository institution~~ savings and loan or credit union. The securities shall consist of any of the following:

Sec. 28. Section 453.16, subsection 1, paragraph b, subparagraph (4), Code 1991, is amended to read as follows:

(4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America or the U.S. central credit union, and the rating of the U.S. central credit union remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 29. Section 453.16, subsection 1, paragraph b, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), which is operated in accordance with 17 C.F.R. § 270.2a-7.

Sec. 30. Section 453.16, subsection 2, Code 1991, is amended to read as follows:

2. If public funds are secured by both the assets of a ~~depository institution~~ savings and loan or credit union and a bond of a surety company, the assets and bond shall be held as security for a rateable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.

Sec. 31. Section 453.17, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A ~~depository institution~~ savings and loan or credit union which receives public funds shall pledge securities owned by it as required by this chapter in one of the following methods:

Sec. 32. Section 453.17, subsection 1, paragraph c, Code 1991, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank of Chicago, Illinois, ~~or~~ the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union pursuant to a bailment agreement or a pledge custody agreement.

Sec. 33. Section 453.17, subsections 3 and 4, Code 1991, are amended to read as follows:

3. All deposits of securities, other than deposits of securities with the appropriate public officer, shall have a joint custody receipt taken for the securities with one copy delivered to the public officer and one copy delivered to the ~~depository institution~~ savings and loan or credit

union. A ~~depository institution~~ savings and loan or credit union pledging securities with a public officer may cause the securities to be examined in the officer's office to show the securities are placed with the officer as collateral security and are not transferable except upon the conditions provided in this chapter.

4. Upon written request from the appropriate public officer but not less than quarterly, a ~~depository institution~~ savings and loan or credit union shall report the par value and the market value of any pledged collateral and the total deposits of public funds of that officer in the ~~depository institution~~ savings and loan or credit union.

Sec. 34. Section 453.18, Code 1991, is amended to read as follows:

453.18 CONDITION OF SECURITY.

The condition of the surety bond or the deposit of securities, instruments, or a joint custody receipt, must be that the ~~depository institution~~ savings and loan or credit union will promptly pay to the parties entitled public funds, including any interest on the funds, in its custody upon lawful demand and, when required by law, pay the funds to the public officer who made the deposit.

Sec. 35. Section 453.19, subsections 3 and 4, Code 1991, are amended to read as follows:

3. In the event of substitution or exchange of securities, the holder or custodian of the securities shall, on the same day, forward by certified mail, return receipt requested, to the public officer and the ~~depository institution~~ savings and loan or credit union, a receipt specifically describing and identifying both the substituted securities and those released and returned to the ~~depository institution~~ savings and loan or credit union.

4. The public officer which deposits public funds with a ~~depository institution~~ savings and loan or credit union shall require, if the market value of the securities deposited with or for the benefit of the officer falls below one hundred ten percent of the deposit liability to the public officer, the deposit of additional security to bring the total market value of the security to one hundred ten percent of the amount of public funds held by the ~~depository~~ savings and loan or credit union.

Sec. 36. NEW SECTION. 453.21 REQUIRED COLLATERAL — BANKS.

1. A depository that is a bank shall pledge the required collateral securities to the treasurer of state by depositing before January 31 of each year the collateral securities in restricted accounts of the treasurer of state, including but not limited to pledge-custody accounts, at a federal reserve bank, a trust department of another commercial bank, or with another financial institution which has been designated by the treasurer of state that is not owned or controlled directly or indirectly by the same depository or holding company. The bank shall deliver to the treasurer of state a security agreement which provides the treasurer of state with a valid and perfected security interest in the required collateral. The market value of the required collateral shall be at least ten percent of the average amount of the excess of total public funds over total federally insured public funds on deposit in the bank during the preceding year. The average amount of the excess shall be determined by adding the amounts of excess if any for all public funds deposit accounts as they existed on the date in each calendar quarter used in preparing the report of condition and income for submission to the federal government, adding the subtotals for the four calendar quarters, and dividing that total by four. The calculation of the minimum market value of required collateral shall be made before January 31 of each year.

2. The treasurer of state shall adopt the following rules pursuant to chapter 17A:

a. Providing for valuation of collateral if the market value of a security is not readily determinable.

b. Establishing reporting requirements.

c. Establishing procedures for substituting different securities consistent with subsection 3.

d. Establishing administrative procedures necessary to implement this chapter and other rules as may be necessary to accomplish the purposes of this chapter.

e. Designating financial institutions eligible to be custodian of pledged collateral.

f. Establishing fee schedules to cover costs incurred for opening and closing accounts and substitution of collateral.

3. The securities used to secure public deposits shall be acceptable to the treasurer of state and shall be one or more of the following:

a. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

b. Public bonds or obligations of this state or a political subdivision of this state.

c. Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

d. To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

e. First lien mortgages which are valued according to practices acceptable to the treasurer of state.

f. Corporate bonds rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

g. A bond of a surety company approved by the United States treasury department.

h. Investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), which is operated in accordance with 17 C.F.R. § 270.2a-7.

Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure public deposits under paragraph "a", include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), the portfolio of which is limited to the United States government obligations described in paragraph "a", if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

4. A bank may borrow collateral used for a pledge if the collateral is free of any liens, security interests, claims, or encumbrances.

Sec. 37. Section 453.23, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The acceptance of public funds by a depository pursuant to this chapter constitutes consent by the depository to assessments by the treasurer of state in accordance with this chapter.

Sec. 38. Section 453.23, subsection 2, Code 1991, is amended to read as follows:

2. The depository and the security given for the public funds in its hands are liable for payment if the depository fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificates of deposit, or any public funds entrusted to it if in failing to pay the depository acts contrary to the terms of an agreement between the depository and the public body treasurer or, if the depository fails to pay an assessment, by the treasurer of state when due.

Sec. 39. Section 453.23, subsection 3, paragraph d, subparagraph (1), Code 1991, is amended to read as follows:

(1) If the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the ~~funds are~~ balance in that sinking fund is inadequate to ~~cover~~ pay the entire loss, then the treasurer shall ~~make~~ obtain the additional amount needed by making an assessment against other banks ~~who hold~~ whose public funds deposits exceed deposit insurance coverage. ~~The~~ A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a

percentage that represents ~~the~~ that bank's proportional share of the average of uninsured public funds deposits held by all banks ~~during the preceding twelve month period ending on the last day of the month immediately preceding the month~~ as of the reporting date under section 453.21 immediately preceding the date the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. If the securities pledged by that bank are inadequate to pay the assessment, the treasurer of state shall make additional assessments as may be necessary against other banks which hold uninsured public funds to satisfy any unpaid assessment. Any additional assessments shall be determined, collected, and satisfied in the same manner as the first assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund ~~are to~~ shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter ~~will~~ shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

Sec. 40. Section 453.23, subsection 3, paragraph d, subparagraph (2), Code 1991, is amended to read as follows:

(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. ~~If a credit union fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that credit union.~~ If a credit union fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a credit union is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

Sec. 41. NEW SECTION. 502.701 PUBLIC JOINT INVESTMENT TRUSTS.

1. A joint investment trust organized pursuant to chapter 28E for the purposes of joint investment of public funds is subject to the jurisdiction and authority of the administrator, including all requirements of this chapter, except the registration provisions of section 502.201 and 502.218.

2. The administrator may make examinations within or without the state, of the business and records of each joint investment trust, at the times and in the scope as the administrator determines. The administrator shall have the authority to contract for outside professional services in the conduct of examinations. The examinations may be made without prior notice to the joint investment trust or the trust's investment advisor. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to the examination shall be paid by the joint investment trusts whose business is examined. For the purpose of avoiding unnecessary duplication of examinations, the administrator may cooperate with other regulatory authorities.

Sec. 42. Section 453.22, Code 1991, is repealed.

Sec. 43. The guidelines under section 4 of this Act shall be made available by February 1, 1993.

Sec. 44. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment. The requirements for adoption of rules, written investment policies, audit standards, and other administrative duties shall be implemented as soon as possible but not later than September 1, 1992.

Section 16 of this Act does not apply to an investment made prior to the effective date of this Act. A joint investment trust organized pursuant to chapter 28E existing prior to the effective date of this Act, shall fully comply with this Act, on and after the effective date of this Act, including but not limited to complying with the requirement in section 452.10, subsection 5, paragraph "g", that it be operated in accordance with 17 C.F.R. § 270.2a-7, except that such a joint investment trust shall have until July 1, 1993, to become rated or registered as required by section 452.10, subsection 5, paragraph "g".

Approved April 28, 1992

CHAPTER 1157

VIOLATIONS OF INDIVIDUAL'S RIGHTS – HATE CRIMES

S.F. 2065

AN ACT relating to violations of an individual's rights, and establishing additional criminal offenses.

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

Section 1. Section 80B.11, subsection 3, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In-service training under this subsection shall include the requirement that by December 31, 1994, all law enforcement officers complete a course on investigation, identification, and reporting of public offenses based on the race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability of the victim. The director shall consult with the civil rights commission, the department of public safety, and the prosecuting attorneys training coordinator in developing the requirements for this course and may contract with outside providers for this course.

Sec. 2. Section 692.15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The hate crimes listed in section 729A.2 are subject to the reporting requirements of this section.

Sec. 3. NEW SECTION. 708.2C ASSAULT IN VIOLATION OF INDIVIDUAL RIGHTS – PENALTIES.

1. For the purposes of this chapter, "assault in violation of individual rights" means an assault, as defined in section 708.1, which is a hate crime as defined in section 729A.2.

2. A person who commits an assault in violation of individual rights, with the intent to inflict a serious injury upon another, is guilty of a class "D" felony.

3. A person who commits an assault in violation of individual rights without the intent to inflict a serious injury upon another, and who causes bodily injury or disabling mental illness, is guilty of an aggravated misdemeanor.

4. A person who commits an assault in violation of individual rights and uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

5. Any other assault in violation of individual rights, except as otherwise provided, is a serious misdemeanor.

Sec. 4. NEW SECTION. 712.9 VIOLATIONS OF INDIVIDUAL RIGHTS – PENALTIES.
A violation of sections 712.3 through 712.8, which is also a hate crime as defined in section 729A.2, shall be classified and punished as an offense one degree higher than the underlying offense.

Sec. 5. NEW SECTION. 716.7A CRIMINAL MISCHIEF IN VIOLATION OF INDIVIDUAL RIGHTS.
A violation of sections 716.5 through 716.6, which is also a hate crime as defined in section 729A.2, shall be classified and punished as an offense one degree higher than the underlying offense.

Sec. 6. Section 716.8, Code 1991, is amended by adding the following new subsections:
NEW SUBSECTION. 3. A person who knowingly trespasses on the property of another with the intent to commit a hate crime, as defined in section 729A.2, commits a serious misdemeanor.
NEW SUBSECTION. 4. A person committing a trespass as defined in section 716.7 with the intent to commit a hate crime which results in injury to any person or damage in an amount more than one hundred dollars to anything, animate or inanimate, located thereon or therein commits an aggravated misdemeanor.

Sec. 7. Section 729.5, subsections 1, 3, 4, and 5, Code 1991, are amended by striking the subsections.

Sec. 8. NEW SECTION. 729A.1 VIOLATIONS OF AN INDIVIDUAL'S RIGHTS PROHIBITED.
1. Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability.

Sec. 9. NEW SECTION. 729A.2 VIOLATION OF INDIVIDUAL RIGHTS – HATE CRIME.
"Hate crime" means one of the following public offenses when committed against a person or a person's property because of the person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability, or the person's association with a person of a certain race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability:
1. Assault in violation of individual rights under section 708.2C.
2. Violations of individual rights under section 712.9.
3. Criminal mischief in violation of individual rights under section 716.7A.
4. Trespass in violation of individual rights under section 716.8, subsections 3 and 4.

Sec. 10. NEW SECTION. 729A.3 LOCAL ORDINANCES.
This chapter does not prohibit political subdivisions from enacting ordinances which are consistent with this chapter. Local ordinances reasonably regulating the time, place, or manner of the exercise of constitutional rights are permissible.

Sec. 11. NEW SECTION. 729A.4 VIOLATION OF INDIVIDUAL RIGHTS – SENSITIVITY TRAINING.
The prosecuting attorneys training coordinator shall develop a course of instruction for law enforcement personnel and prosecuting attorneys designed to sensitize those persons to the existence of violations of individual rights and the criteria for determining whether a violation of individual rights has occurred. The prosecuting attorneys training coordinator shall consult with the civil rights commission, the office of the attorney general, and the department of public safety regarding the content and provision of this course of instruction.

Sec. 12. NEW SECTION. 729A.5 CIVIL REMEDIES.

A victim who has suffered physical, emotional, or financial harm as a result of a violation of this chapter due to the commission of a hate crime is entitled to and may bring an action for injunctive relief, general and special damages, reasonable attorneys fees, and costs.

An action brought pursuant to this section must be brought within two years after the date of the violation of this chapter.

In an action brought pursuant to this section, the burden of proof shall be the same as in other civil actions for similar relief.

This section does not apply to complaints or discriminatory or unfair practices under chapter 601A.

Sec. 13. Section 80.40, Code 1991, is repealed.

Approved April 28, 1992

CHAPTER 1158

EDUCATIONAL FAMILY SUPPORT PROGRAMS

S.F. 2167

AN ACT to establish a family support program, making teachers participating in the program eligible for receipt of funds under phase III of the educational excellence program, and providing effective dates.

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

Section 1. LEGISLATIVE INTENT. The general assembly finds that research in child development shows that the single most important factor in success in school and life is the involvement of parents in their children's education in order to meet the goal that every child in Iowa will be ready for school. It is the intent of the general assembly to ensure that all children are ready for school and that parents have the opportunity to learn about the developmental needs of young children and values which will benefit the children and society at large. These values include, but are not limited to, self-discipline, responsibility for oneself, hard work, kindness, honesty, respect for authority, and respect for the views of others. It is also the intent of the general assembly to provide access to appropriate health care from birth through age five.

Sec. 2. Section 256.7, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Adopt rules to be effective by July 1, 1993, which set standards for approval of family support preservice and in-service training programs, offered by area education agencies and practitioner preparation institutions, and family support programs offered by or through local school districts.

Sec. 3. Section 256.9, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 46. Develop and provide by July 1, 1993, in-service and preservice training programs through the area education agencies and practitioner preparation institutions and guidelines for school districts for the establishment of family support programs. Guidelines developed shall describe barriers to learning and development which can affect children served by family support programs.

Sec. 4. NEW SECTION. 256A.4 FAMILY SUPPORT PROGRAMS.

1. The board of directors of each school district may develop and offer a program which provides outreach and incentives for the voluntary participation of expectant parents and parents of children in the period of life from birth through age five, who reside within district boundaries, in educational family support experiences designed to assist parents in learning about the physical, mental, and emotional development of their children. A district providing a family support program, which seeks additional funding under sections 294A.13 through 294A.16, shall meet the requirements of this section and the program shall be subject to approval by the department of education. A board may contract with another school district or public or private nonprofit agency for provision of the approved program or program site.

A family support program shall meet multicultural nonsexist guidelines. The program shall encourage parents to be aware of practices that may affect equitable development of children. The program shall include parents in the planning, implementation, and evaluation of the program. A program shall be designed to meet the needs of the residents of the participating district and may use unique approaches to provide for those needs. The goals of a family support program shall include, but are not limited to, the following:

a. Family involvement as a key component of school improvement with an emphasis on communication and active family participation in family support programming.

b. Family participation in the planning and decision-making process for the program and encouragement of long-term parental involvement in their children's education.

c. Meeting the educational and developmental needs of expectant parents and parents of young children.

d. Developmentally appropriate activities for children that include those skills necessary for adaptation to both the home and school environments.

2. The department of education shall develop guidelines for family support programs. Program components may include, but are not limited to, all of the following:

a. Instruction, techniques, and materials designed to educate parents about the physical, mental, character, and emotional development of children.

b. Instruction, techniques, and materials designed to enhance the skills of parents in assisting in their children's learning and development.

c. Assistance to parents about learning experiences for both children and parents.

d. Activities, such as developmental screenings, designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems and referrals to appropriate agencies, authorities, or service providers.

e. Activities and materials designed to encourage parents' and children's self-esteem and to enhance parenting skills and both parents' and children's appreciation of the benefits of education.

f. Information on related community resources, programs, or activities.

g. Role modeling and mentoring techniques for families of children who meet one or more of the criteria established for the definition of at-risk children by the child development coordinating council.

3. Family support programs shall be provided by family support program educators who have completed a minimum of thirty clock hours of an approved family support preservice or in-service training program and meet one of the following requirements:

a. The family support program educator is licensed in elementary education, early childhood education, early childhood special education, home economics, or consumer and homemaking education, or is licensed or certified in occupational child care services and has demonstrated an ability to work with young children and their parents.

b. The family support program educator has achieved child development associate recognition in early childhood education, has completed programming in child development and nursing, and has demonstrated an ability to work with young children and their parents.

c. The family support program educator has completed sixty college credit hours and possesses two years of experience in a program working with young children and their parents.

d. The family support program educator possesses five years of experience in a program working with young children and their parents.

4. Each district shall maintain a separate account within the district budget for moneys allocated for family support programs. A district may receive moneys from state and federal sources, and may solicit funds from private sources, for deposit into the account.

5. A district shall coordinate a family support program with district special education and vocational education programs and with any related services or programs provided by other state, federal, or private nonprofit agencies.

Sec. 5. NEW SECTION. 256A.5 DISTRICT ADVISORY COMMITTEES.

The board of directors of a school district shall appoint an advisory committee for each family support program. The members shall include participating parents and members of the community which participates in the program, such as members of the district's local early childhood education committees and representatives of local businesses, service organizations, educators, head start educators, parents, private child care providers, county home extension economists, area education agencies, the school board, the community education advisory board, local social services organizations, the local board of health, public health care practitioners, maternal and child health care providers, and persons knowledgeable about developmentally appropriate learning and parent or family education programs. The committee shall be responsible for assessing current programs and services for expectant parents and parents of children who are less than six years of age. The committee shall also assist the board in developing, planning, and monitoring the program and shall submit any recommendations in a report to the board.

The child development coordinating council shall develop a resource directory of parent involvement programs to assist districts in planning family support programs.

Sec. 6. Section 294A.14, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Notwithstanding the amount per pupil of the payments specified in this section, for the fiscal year beginning July 1, 1991, and each succeeding fiscal year, if a school district's or area education agency's approved phase III plan for a fiscal year contains a component that includes a performance-based pay plan which provides for salary increases for teachers who demonstrate superior performance in completing assigned duties or by participating in innovative education programs, including but not limited to family support programs, or comprehensive school transformation programs, the per pupil amount upon which the phase III moneys are based shall be increased by an amount equal to the product of the state percent of growth calculated under section 257.8 and the per pupil amount for the previous fiscal year.

Sec. 7. Section 4 of this Act takes effect July 1, 1993.

Approved April 28, 1992

CHAPTER 1159

EDUCATIONAL STANDARDS

S.F. 2190

AN ACT relating to educational standards, to permit the director of the department of education to waive compliance with the minimum education standards for accredited schools under certain circumstances, and providing a repealer.

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

Section 1. Section 256.9, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 46. Grant annual exemptions from one or more of the minimum education standards contained in section 256.11 and rules adopted by the state board of education to nonpublic schools or public school districts who are engaging in comprehensive school transformation efforts that are broadly consistent with the current standards, but require exemption from one or more standards in order to implement the comprehensive school transformation effort within the nonpublic school or school district. Nonpublic schools or public school districts wishing to be exempted from one or more of the minimum standards contained in section 256.11 and rules adopted by the state board of education shall file a request for an exemption with the department. Requests for exemption shall include all of the following:

a. A description of the nonpublic school or public school district's school transformation plan, including but not limited to new structures, methodologies, and creative approaches designed to help students achieve at higher levels.

b. Identification of the standard or standards for which the exemption is being sought, including a statement of the reasons for requesting the exemption from the standard or standards.

c. Identification of a method for periodic demonstration that student achievement will not be lessened by the granting of the exemption.

The director shall develop a procedure for application for exemption and receipt, review, and evaluation of nonpublic school and public school district requests, including but not limited to development of criteria for the granting or denying of requests for exemptions and a time line for the submission, review, and granting or denying of requests for exemption from one or more standards.

Sec. 2. Section 256.11, subsection 5, paragraph e, Code Supplement 1991, is amended to read as follows:

e. Two additional units of ~~general~~ mathematics.

Sec. 3. Section 256.11A, subsection 3, unnumbered paragraph 1, and subsection 4, unnumbered paragraph 1, Code 1991, are amended to read as follows:

Schools and school districts unable to meet the standard adopted by the state board under section 256.17, Code Supplement 1987, and contained in section 256.11, subsection 9A, effective July 1, 1989, requiring that on July 1, 1989, each board operating a kindergarten through grade twelve program provide an articulated sequential elementary-secondary guidance program may, not later than January 1, 1989, for the school year beginning July 1, 1989, file a written request to the department of education that the department waive the requirement for that school or school district. The procedures specified in subsection 5 apply to the request. Not later than ~~January 1, 1990~~ August 1, 1992, for the school year beginning July 1, ~~1990~~ 1992, the board or authorities may request a one-year extension of the waiver. ~~Not later than January 1, 1991, for the school year beginning July 1, 1991, the board or authorities may request an additional one-year extension of the waiver.~~

Schools and school districts are not required to meet the standard adopted by the state board of education under section 256.17, Code Supplement 1987, and contained in section 256.11, subsection 9, paragraph "b", effective July 1, 1990, that requires the board to establish and

operate a media services program to support the total curriculum until July 1, 1990, except as otherwise provided in this subsection. Not later than ~~January~~ August 1, ~~1990~~ 1992, for the school year beginning July 1, ~~1990~~ 1992, the board of directors of a school district, or authorities in charge of a nonpublic school, may file a written request with the department of education that the department waive the requirement for that district or school. The procedures specified in subsection 5 apply to the request. ~~Not later than January 1, 1991, for the school year beginning July 1, 1991, the board of directors of a school district, or authorities in charge of a nonpublic school, may file a request for a one-year extension of the waiver.~~

Sec. 4. NEW SECTION. 256.37 SCHOOL RESTRUCTURING AND EFFECTIVENESS – POLICY – FINDINGS.

It is the policy of the state of Iowa to provide an education system that prepares the children of this state to meet and exceed the technological, informational, and communications demands of our society. The general assembly finds that the current education system must be transformed to deliver the enriched educational program that the adults of the future will need to have to compete in tomorrow's world. The general assembly further finds that the education system must strive to reach the following goals:

1. All children in Iowa must start school ready to learn.
2. Iowa's high school graduation rate must increase to at least ninety percent.
3. Students graduating from Iowa's education system must demonstrate competency in challenging subject matter, and must have learned to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in a global economy.
4. Iowa students must be first in the world in science and mathematics achievement.
5. Every adult Iowan must be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.
6. Every school in Iowa must be free of drugs and violence and offer a disciplined environment conducive to learning.

Sec. 5. DEPARTMENTAL REPORT. The department of education shall, by January 1, 1993, submit a report to the general assembly which contains proposed statutory language and departmental guidelines or proposed rules which provide for the granting of exemptions to schools and school districts which are engaged in comprehensive school transformation efforts. The proposed statutory language or the departmental guidelines or proposed rules shall include, but are not limited to, the criteria which will be used in determining which schools or school districts qualify for the granting of an exemption and identification of the method which will be used by the department to determine that student achievement in the schools or school districts will not be lessened by the granting of the exemption.

Sec. 6. Section 1 of this Act is repealed on July 1, 1993.

Approved April 28, 1992

CHAPTER 1160

HUNTING PRESERVES

S.F. 2257

AN ACT relating to the regulation of hunting preserves and providing penalties for violations.

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

Section 1. NEW SECTION. 110C.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Commission" means the natural resource commission.
2. "Department" means the department of natural resources.
3. "Director" means the director of the department.
4. "Game birds" means pen-reared birds of the family gallinae and mallard ducks.
5. "Hunting preserve" means property and facilities either privately owned or leased for holding, rearing, releasing, or processing captive-raised game for the purpose of hunting, for a fee, over an extended season.
6. "Pen-reared" means the propagation and holding of game birds and game animals whose origins are from captive populations.
7. "Season" means hunting preserve season.
8. "Ungulate" means hoofed nondomesticated mammal.

Sec. 2. NEW SECTION. 110C.2 RULES.

The commission may adopt rules under chapter 17A as necessary to carry out this chapter.

Sec. 3. NEW SECTION. 110C.3 AUTHORITY OF THE DIRECTOR.

The director shall develop, administer, and enforce hunting preserve programs and requirements within the state which implement the provisions of this chapter and the rules adopted by the commission.

Sec. 4. NEW SECTION. 110C.4 APPLICATION AND LICENSE REQUIREMENTS.

1. A person who owns or controls by lease or otherwise for five or more years, a contiguous tract of land having an area of not less than three hundred twenty acres, and who desires to establish a hunting preserve, to propagate and sell game birds and their young or unhatched eggs, and shoot game birds and ungulates on the land under this chapter or the rules of the commission, shall make application to the department, for an operator's license. The application shall be made under oath of the applicant or under oath of one of its principal officers if the applicant is an association, corporation, or copartnership. Under the authority of this license, any property or facilities to be used for propagating, holding, processing, or pasturing of game birds or ungulates shall not be required to be contained within the contiguous land area used for hunting purposes. The application shall be accompanied by an operator's license fee of two hundred dollars.

2. Upon receipt of an application, the department or its authorized agent shall inspect the proposed hunting preserve and facilities described in the application. If the department finds that the proposed hunting preserve meets the following requirements, the department may approve the application and issue a hunting preserve operator's license for the operation of the property and facilities described in the application with the rights and subject to the limitations in this chapter and the rules adopted by the commission:

a. The proposed hunting preserve contains at least three hundred twenty acres but not more than two thousand five hundred sixty acres.

b. The area of the proposed hunting preserve is contiguous.

c. There is no other licensed hunting preserve in the township.

d. The total area of all licensed hunting preserves and the proposed hunting preserve will not exceed three percent of the land area of the county.

e. The game birds or ungulates released on the preserve will not be detrimental to wildlife.

f. The proposed hunting preserve will not interfere with the normal activities of migratory birds.

3. All hunting preserve operator's licenses shall expire on March 31 of each year.

Sec. 5. NEW SECTION. 110C.5 BOUNDARIES SIGNED — FENCED.

Upon receipt of a hunting preserve license, the licensee shall promptly sign the licensed property with signs prescribed by the department. A licensee holding and releasing ungulates shall construct and maintain boundary fences prescribed by the department so as to enclose and contain all released ungulates and exclude all ungulates which are property of the state from becoming a part of the hunting preserve enterprise.

Sec. 6. NEW SECTION. 110C.6 GAME BIRDS RELEASED.

The licensee of a licensed hunting preserve may take, or authorize to be taken within the season, the numbers of game birds as provided in this section:

1. A licensed hunting preserve may take up to eighty percent of the total number of pheasant and quail released. One hundred percent of all other game birds released may be taken.

2. A minimum of five hundred game birds shall be released during the hunting preserve season by each licensed hunting preserve authorized to release game birds.

3. A licensee operating two or more licensed hunting preserve areas shall release a cumulative minimum of eight hundred game birds during the hunting preserve season.

4. If hen ring-necked pheasants are shot on the licensed hunting preserve, no less than thirty-five percent of all ring-necked pheasants released shall be hens.

Sec. 7. NEW SECTION. 110C.7 RECORDS — REPORTS — INSPECTIONS.

1. Each hunting preserve licensee shall keep the records and make the reports required on forms prepared and provided by the department. All records shall be open for inspection at any reasonable time by the department or its authorized agents.

2. Each licensee shall file an annual report with the department on or before April 30. The report shall detail the hunting preserve operations during the preceding license year. The original report shall be forwarded to the department and a copy shall be retained in the hunting preserve's file for three years from the date of expiration of the hunting preserve's last license issued. Records required by this section shall be entered in the annual report record within twenty-four hours of the event. Failure to keep or submit the required records and reports is grounds for refusal to renew a license for the succeeding year. An on-site inspection of property and facilities shall be conducted by an authorized agent of the department prior to the initial issuance of a hunting preserve license. The hunting preserve may be reinspected by an agent of the department at any reasonable time. A licensed hunting preserve shall maintain adequate facilities for all designated birds and ungulates held under the hunting preserve license.

Sec. 8. NEW SECTION. 110C.8 GAME BIRD TRANSPORTATION TAGS — MARKINGS.

The department shall prepare transportation tags suitable for use upon the legs of game birds described in this chapter. The tags shall be of a type which are not removable without breaking and mutilating the tag. The tags shall be used to designate all game birds taken by hunters upon a licensed hunting preserve. The department shall provide licensees with the tags. All dead game birds removed from a licensed hunting preserve shall have a hunting preserve tag affixed to one leg prior to being transported from the licensed hunting preserve, except as otherwise provided by rule of the commission. All mallards released for hunting purposes shall be physically marked by the removal of the hind toe from the right foot at not more than four weeks of age, so as to provide for permanent identification. Game bird tags issued to a hunting preserve are not transferable.

Sec. 9. NEW SECTION. 110C.9 UNGULATE TRANSPORTATION TAGS — MARKINGS.

The department shall prepare transportation tags suitable for use upon the carcass of ungulates described in this chapter. The tags shall be used to designate all ungulates taken by

hunters upon a licensed hunting preserve. The department shall provide licensees with the tags. All ungulates taken on a licensed hunting preserve shall be tagged with a numbered tag prior to being removed from the hunting preserve. The hunter shall tag the ungulate taken in accordance with the rules as determined by the department. The tag shall remain attached to the carcass of the dead ungulate until processed for consumption. The hunter shall be provided with a bill of sale by the licensee. The bill of sale shall remain in the possession of the hunter. Ungulate tags issued to a hunting preserve are not transferable.

Sec. 10. NEW SECTION. 110C.10 SEASON — HUNTING LICENSE.

1. A person shall not take a game bird or ungulate upon a hunting preserve, by shooting in any manner, except during the established season or as authorized by section 109.56. The established season shall be September 1 through March 31 of the succeeding year, both dates inclusive.

2. Waterfowl shall not be shot over any area where pen-reared mallards may serve as live decoys for wild waterfowl. All persons hunting game birds or ungulates upon a licensed hunting preserve shall secure a hunting license to do so in accordance with the game laws of Iowa, with the exception that an unlicensed person may secure an annual hunting preserve license restricted to hunting preserves only for a license fee of five dollars. A wildlife habitat stamp shall be required of all persons who hunt on hunting preserves.

Sec. 11. NEW SECTION. 110C.11 HEALTH REQUIREMENTS — GAME BIRDS.

All game birds, including breeders and nonbreeders; or their chicks or unhatched eggs either purchased, propagated, confined, released, or sold by a licensed hunting preserve shall be free of diseases considered significant for wildlife, poultry, or livestock and shall comply with all game bird, mallard, and turkey requirements as designated by the national poultry improvement plan (NPIP) and in accordance with the United States department of agriculture and requirements of the Iowa department of agriculture and land stewardship.

Sec. 12. NEW SECTION. 110C.12 HEALTH REQUIREMENTS — UNGULATES.

All ungulates other than livestock as described by the Iowa department of agriculture and land stewardship which are purchased, propagated, confined, released, or sold by a licensed hunting preserve shall be free of diseases considered significant for wildlife, poultry, or livestock. The Iowa department of agriculture and land stewardship shall administer the inspection and disease control regulations of ungulates that are livestock.

Sec. 13. NEW SECTION. 110C.13 LICENSE REFUSAL.

The department may either refuse to issue, refuse to renew, or suspend or revoke a hunting preserve license if the department finds that the licensed area or the operator or employees of the licensed area are not in compliance with this chapter, or that the property or area is operated in violation of this chapter or administrative rules adopted under this chapter.

Sec. 14. NEW SECTION. 110C.14 PENALTIES.

A person who violates a provision of this chapter or a rule adopted under this chapter is guilty of a simple misdemeanor.

Sec. 15. Section 107.14, Code 1991, is amended to read as follows:

107.14 TEMPORARY APPOINTMENTS — PEACE OFFICER STATUS.

The director may appoint temporary officers for a period not to exceed six months and may adopt minimum physical, educational, mental, and moral requirements for the temporary officers. Chapter 80B does not apply to the temporary officers. Temporary officers have all the powers of peace officers in the enforcement of chapters 106 through 110, 110B through 111, 111B, and 321G, and the trespass laws.

Sec. 16. Section 107.24, subsection 12, Code Supplement 1991, is amended to read as follows:

12. Adopt rules authorizing officers and employees of the department who are peace officers to issue warning citations for violations of chapters 106 through 110, 110B through 112, and chapter 321G.

Sec. 17. Section 109.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Words and phrases as used in chapters 106 ~~to~~ through 110, 110B through 112, and such other chapters as relate to the subject matter of these chapters shall be construed as follows:

Sec. 18. Section 109.38, subsection 2, Code 1991, is amended to read as follows:

2. If the commission finds that the number of hunters licensed or the type of license issued to take deer or wild turkey should be limited or further regulated the commission shall conduct a drawing to determine which applicants shall receive a license and the type of license. Applications for licenses shall be received during a period established by the commission. At the end of the period a drawing shall be conducted. The commission may establish rules to issue licenses after the established application period. If an applicant receives a deer license which is more restrictive than licenses issued to others for the same period and place, the applicant shall receive a certificate with the license entitling the applicant to priority in the drawing for the less restrictive deer licenses the following year. The certificate must accompany that person's application the following year, or the applicant will not receive this priority. Persons purchasing a deer license for the gun season under this section and under section 110.1 are not eligible for a gun deer-hunting license under section 110.24, except as authorized by rules of the department. This subsection does not apply to the hunting of wild turkey on ~~game breeding and shooting preserves~~ a hunting preserve licensed under chapter ~~110A~~ 110C.

Sec. 19. Section 109.134, Code 1991, is amended to read as follows:

109.134 AUTHORITY TO SUSPEND OR REVOKE LICENSE — POINT SYSTEM.

The department shall establish rules pursuant to chapter 17A providing for the suspension or revocation of licenses issued by the department. For purposes of determining when to suspend or revoke a license issued by the department under this section, the department shall adopt a point system pursuant to chapter 17A for the purpose of weighing the seriousness of violations of the provisions of chapter 109, 109A, 109B, 110, ~~110A, or~~ 110B, or 110C. The weighted scale may be amended from time to time as experience dictates.

Sec. 20. Section 109.135, subsections 2, 3, and 4, Code 1991, is amended to read as follows:

2. A person who pleads guilty or is convicted of a violation of any provision of chapter 109, 109A, 109B, 110, ~~110A, or~~ 110B, or 110C while the person's license or licenses are suspended or revoked is guilty of a simple misdemeanor if the person has no other violations within the previous three years which occurred while the person's license or licenses have been suspended or revoked.

3. A person who pleads guilty or is convicted of a violation of any provision of chapter 109, 109A, 109B, 110, ~~110A, or~~ 110B, or 110C while the person's license or licenses are suspended or revoked is guilty of a serious misdemeanor if the person has one other violation within the previous three years which occurred while the person's license or licenses have been suspended or revoked.

4. A person who pleads guilty or is convicted of a violation of any provision of chapter 109, 109A, 109B, 110, ~~110A, or~~ 110B, or 110C while the person's license or licenses are suspended or revoked is guilty of an aggravated misdemeanor when the person has had two or more convictions within the previous three years which occurred while the person's license or licenses have been suspended or revoked.

Sec. 21. Section 232.8, subsection 1, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Violations by a child of provisions of chapter 98, 106, 106A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 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 paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

Sec. 22. Section 455A.4, subsection 1, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Provide overall supervision, direction, and coordination of functions to be administered by the administrators under chapters 84, 93, 106, 107, 108, 108A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 111, 111B, 111D, 112, 305, 321G, 455B, and 455C.

Sec. 23. Section 455A.5, subsection 6, paragraphs a, b, and d, Code Supplement 1991, are amended to read as follows:

a. Establish policy and adopt rules, pursuant to chapter 17A, necessary to provide for the effective administration of chapter 106, 107, 108, 108A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 111, 111B, 111D, 112, or 321G.

b. Hear appeals in contested cases pursuant to chapter 17A on matters relating to actions taken by the director under chapter 106, 107, 108, 108A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 111, 111B, 111D, 112, or 321G.

d. Approve the budget request prepared by the director for the programs authorized by chapters 106, 107, 108, 108A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 111, 111D, 112, and 321G. The commission may increase, decrease, or strike any item within the department budget request for the specified programs before granting approval.

Sec. 24. Section 805.16, subsection 1, Code 1991, is amended to read as follows:

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 111, 321, or 321G, section 123.47, or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

Sec. 25. Section 903.1, subsection 3, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A person under eighteen years of age convicted of a simple misdemeanor under chapter 98, 106, 106A, 109, 109A, 110, ~~110A,~~ 110B, 110C, 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.

Sec. 26. Chapter 110A, Code 1991, is repealed.

Approved April 28, 1992

CHAPTER 1161

REGULATION OF STATE BANKS

S.F. 2339

AN ACT relating to the regulation of state banks by increasing the minimum time within which an examination of a state bank must occur, amending certain provisions relating to investment authority and asset valuation of a state bank, providing greater flexibility regarding public hearings, and providing for the continued suspension of certain banking laws.

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

Section 1. Section 524.217, subsection 1, Code 1991, is amended to read as follows:

1. The superintendent shall have power to make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each ~~eighteen-month~~ two-year period. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe. The superintendent shall also have power to make or cause to be made such limited examinations at such times and with such frequency as the superintendent may deem necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of this chapter.

Sec. 2. Section 524.305, subsection 3, Code 1991, is amended to read as follows:

3. Within ninety days after the second publication of the notice referred to in section 524.304 any person opposing the pending application shall file written objections ~~thereto~~ with the superintendent. Following the expiration of the ninety-day period ~~referred to in the previous sentence~~ and prior to making a determination on the pending application, the superintendent shall, ~~upon~~ give adequate notice of the pending application, and may afford all interested persons, including the incorporators, an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.

The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing.

Sec. 3. Section 524.902, subsection 2, Code 1991, is amended to read as follows:

2. Nothing in this chapter ~~shall be~~ is deemed to permit a state bank to purchase a ~~vendor's or~~ vendee's interest in a real property sales contract, provided, however, that a state bank may loan or extend credit on the security of such an interest.

Sec. 4. Section 524.910, subsection 2, Code 1991, is amended to read as follows:

2. Real property purchased by a state bank at sales upon foreclosure of mortgages or deeds of trust owned by it, or acquired upon judgments or decrees obtained or rendered for debts due it, or real property conveyed to it in satisfaction of debts previously contracted in the course of its business, or real property obtained by it through redemption as a junior mortgagee or judgment creditor, shall be sold or otherwise disposed of by the state bank within five years after title is vested in the state bank, unless the time is extended by the superintendent. ~~Agricultural land held by a state bank pursuant to this subsection shall be valued on the books of the bank at a value determined by obtaining the per acre average of the valuations for the current year and the four previous years for agricultural land in the county in which the agricultural land is located as published by Iowa state university of science and technology. If an appraisal conducted by an independent real estate appraiser is available for the current year, the five-year county average shall be adjusted by either adding or subtracting from the five-year average the percentage by which the particular farm's current appraised~~

~~value exceeds or is less than the current year's county average value. To the extent permitted by federal law, national banks may value agricultural land on the same basis as state banks.~~

Sec. 5. Section 524.1303, subsection 3, Code 1991, is amended to read as follows:

3. When a state bank has proposed to dissolve by adopting a plan of dissolution involving a provision for acquisition of its assets and assumption of its liabilities by another state bank, ~~it~~ the dissolving bank shall publish a notice of the proposed transaction. The notice shall be published once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the dissolving bank has its principal place of business, and in the municipal corporation or unincorporated area in which the acquiring state bank has its principal place of business, or if there is none, a newspaper of general circulation published in the county or counties, or in a county adjoining the county or counties, in which the dissolving bank and the acquiring bank have their principal place of business. ~~Such~~ The publication of notice shall be made within thirty days after making application to the superintendent for approval of the plan of dissolution, and proof of publication of the notice shall be delivered to the superintendent. The notice shall set forth the name of the dissolving state bank and of the acquiring state bank, the location and post-office address of the principal place of business of the dissolving state bank and of the acquiring state bank and of each office to be maintained by the acquiring state bank and a brief statement of the nature of the proposed transaction. Prior to making a determination on the pending application, the superintendent shall, ~~upon~~ give adequate notice of the pending application, and may afford all interested parties an opportunity for a stenographically reported hearing during which such parties shall be allowed to present evidence in support of, or in opposition to, the pending application.

The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing. If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of the dissolving bank, the superintendent may proceed without requiring publication of the notice ~~and without providing for the hearing~~ referred to in this subsection.

Sec. 6. Section 524.1403, subsection 2, Code 1991, is amended to read as follows:

2. Within one hundred eighty days after receipt of the application, or within an additional period of not more than sixty days after receipt of an amendment of the application, the superintendent shall ~~make a determination~~ determine whether to approve or disapprove the application on the basis of the investigation. The plan shall not be modified at any time after approval of the application by the superintendent. Prior to making a determination on the pending application the superintendent shall, ~~upon~~ give adequate notice of the pending application, and may afford all interested persons an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.

The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing. If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of any party to the plan, the superintendent may proceed without requiring publication of the notice ~~and without providing for the hearing~~ referred to in this subsection. Before receiving the decision of the superintendent with respect to the pending application, the parties to the plan shall, upon notice, reimburse the superintendent to the extent of the expenses incurred in connection with the application. Thereafter the superintendent shall give to the parties to the plan written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A.

Sec. 7. 1990 Iowa Acts, chapter 1274, unnumbered paragraph 1 after the enacting clause, as amended by 1991 Iowa Acts, chapter 220, section 7, 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, ~~1992~~ 1993. On and after July 1, ~~1992~~ 1993, the restrictions in Code chapter 524 shall be applied as though acquisitions made pursuant to this resolution had not been made.

Approved April 28, 1992

CHAPTER 1162

INSURANCE DIVISION – MISCELLANEOUS PROVISIONS

S.F. 2354

AN ACT relating to the regulation of insurance, requiring certain reports to the commissioner, establishing and continuing certain requirements for insurance companies doing business in Iowa and for agents, amending provisions relating to guaranty funds, self-insurers, and charitable organizations, increasing allowable credit life insurance amounts, amending provisions relating to the regulation of health maintenance organizations, increasing certain fees, and establishing penalties.

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

Section 1. Section 79.17, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Any annuity purchased with moneys deducted pursuant to this section is deemed to be an individual annuity for purposes of chapter 508C, and not an unallocated annuity.

Sec. 2. NEW SECTION. 506.12 PRINCIPAL EXECUTIVE OFFICE.

An insurance company incorporated under the laws of this state for the purpose of engaging in the business of insurance shall maintain a principal executive office in this state unless otherwise allowed by the commissioner of insurance. The location of the principal executive office in this state of an insurance company incorporated under chapter 490 shall be identified in the insurance company's articles of incorporation.

Sec. 3. Section 507B.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. Failing to designate on an insurance policy application the licensee who has solicited and written the policy.

Sec. 4. Section 508.9, Code 1991, is amended to read as follows:

508.9 MUTUAL COMPANIES – CONDITIONS.

Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of five million dollars shall be made with the commissioner, which shall constitute a ~~guaranty~~ security fund for the protection of policyholders. The contribution to the

~~guaranty~~ security fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The ~~guaranty~~ security fund may be repaid to the contributors to the ~~guaranty~~ security fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of ~~two~~ five million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter.

Sec. 5. Section 508.29, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A company insuring risks authorized by this section shall invest or hold in cash, funds equal to seventy-five percent of the aggregate reserves and policy and contract claims for such risks. Investments required by this paragraph shall only be made in securities enumerated in section 511.8, and are subject to the same limitations as provided for the investment of legal reserve, and are subject to section 511.8, subsections 16, 17, and 21.

Sec. 6. Section 508C.3, subsection 3, paragraph a, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Any portion of a policy or contract to the extent that the rate of interest on which it is based, averaged over the period of four years prior to the date on which the association becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average for the same four-year period or over such lesser period if the policy or contract was issued less than four years before the association became obligated; and on or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

Sec. 7. Section 508C.3, subsection 3, paragraph h, Code 1991, is amended to read as follows:

h. An annuity contract issued to a government lottery ~~or to a liability insurer in connection with a structured settlement~~.

Sec. 8. Section 508C.8, subsection 3, paragraph d, Code Supplement 1991, is amended to read as follows:

d. The association may offer modifications to the owners of policies or contracts or classes of policies or contracts issued by the insolvent insurer, if the association finds that under the policies or contracts the benefits provided, provisions pertaining to renewal, or the premiums charged or which may be charged are not reasonable. If the owner of a policy or contract to be modified fails or refuses to accept the modification as approved by the court, the association may terminate the policy or contract as of a date not less than one hundred eighty days after the modification is sent to the owner. The association shall have no liability under the policy or contract for any claim incurred or continuing beyond the termination date. However, this paragraph does not apply to interest adjustments made pursuant to section 508C.3, subsection 3, paragraph "a".

Sec. 9. Section 508C.9, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. Class A assessments in excess of one hundred dollars per company per calendar year and class B assessments against member insurers for each account shall be in the proportion that the average of the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts related to that account for the three most recent calendar years for which information is available, preceding the year in which the insurer became impaired or insolvent, is to the average of the aggregate premiums received on business in this state by all assessed member insurers on policies related to that account for the three most recent calendar years for which information is available preceding the assessment.

Sec. 10. Section 508C.9, subsection 5, paragraph a, Code 1991, is amended to read as follows:

a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the average of the insurer's premiums received in this state during the three most recent calendar years for which information is available, preceding the year in which the insurer becomes impaired or insolvent, on the policies related to that account. If the maximum assessment for an account, together with the other assets of the association in the account, does not provide in any one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account in succeeding years as soon as permitted by this chapter.

Sec. 11. Section 509.1, subsection 3, paragraph d, Code Supplement 1991, is amended to read as follows:

d. The amount of insurance on the life of a debtor shall not exceed the amount owed by the debtor to the creditor, or the face amount of a totally or partially executed loan or loan commitment creating personal liability and made in good faith for general agricultural or horticultural purposes to a debtor with seasonal income. However, in no event shall the amount of insurance exceed ~~fifty~~ two hundred thousand dollars.

Sec. 12. Section 509A.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

509A.14 APPROVAL OF SELF-INSURANCE PLANS.

The commissioner of insurance shall adopt rules for self-insurance plans for life insurance and accident and health insurance for ~~the state,~~ a political subdivision of the state~~,~~ or a school corporation~~, or any other public body in the state~~. The rules adopted shall include, but are not limited to, the following:

Sec. 13. NEW SECTION. 509.17A COLLATERAL INSURANCE AND FORCED PLACEMENT.

1. The commissioner shall review all collateral insurance forms and rates to assure that the rates are not excessive in comparison to the benefits provided to consumers.

2. The commissioner may adopt by rule procedures and restrictions to protect consumers from abusive practices in forced placement or collateral insurance. Rules may include, but are not limited to, the following:

a. Notice requirements, to assure that consumers have an opportunity to exercise reasonable choice in the placement, of a collateral insurance policy.

b. A prohibition or limitation on the receipt of a sales commission or other fee by the person making a forced placement, or the person's employer.

3. For purposes of this section, unless the context otherwise requires:

a. "Collateral insurance" means an insurance policy solely or primarily intended to provide security for a loan or to insure collateral for a loan.

b. "Forced placement" means the purchase of an insurance policy by a third person when the law or a contract obligates another person to pay the insurance premium.

Sec. 14. Section 509A.15, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Within ~~thirty~~ ninety days following the end of a ~~self-insurance plan's~~ fiscal year, the governing body of a self-insurance plan of a political subdivision or a school corporation shall file with the commissioner of insurance a certificate of compliance. The certificate of compliance shall be accompanied by a filing fee of one hundred dollars. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

Sec. 15. Section 511.28, Code 1991, is amended to read as follows:

511.28 SERVICE OF PROCESS.

~~Such~~ Any notice or process, with ~~a copy thereof~~ three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the

commissioner by the commissioner's official title, ~~and the~~. The commissioner shall ~~immediately upon its receipt~~ acknowledge service ~~thereon~~ on behalf of the defendant foreign insurance company by writing ~~thereon~~, giving the date ~~thereof~~ of receipt of the notice or process, and shall ~~immediately~~ return ~~such~~ the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also ~~forthwith~~ mail ~~such~~ a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation ~~who shall be~~ named or designated by such company in ~~such~~ the written instrument. Notice or process received prior to 12 noon shall be forwarded the same working day. Notice or process received after 12 noon shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 16. NEW SECTION. 511.39 CHARITABLE ORGANIZATIONS – INSURABLE INTEREST.

A charitable organization described in section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3, has an insurable interest in the life of a person who, when purchasing a life insurance policy, makes a donation to the charitable organization or makes the charitable organization the beneficiary of all or a part of the proceeds of the policy or joins with a charitable organization in applying for an insurance policy which when issued will insure that person's life and name the organization as owner or beneficiary of all or any portion of the benefits of the life insurance policy.

Sec. 17. Section 512B.24, subsection 1, Code 1991, is amended to read as follows:

1. A society transacting business in this state, on or before March 1 annually, unless for cause shown the time has been extended by the commissioner, shall file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and shall pay a fee of ~~twenty-five~~ fifty dollars. The statement ~~shall~~ may be in general form and content as approved by the national association of insurance commissioners for fraternal benefit societies and shall be supplemented by additional information as adopted by rule of the commissioner.

Sec. 18. Section 512B.25, Code 1991, is amended to read as follows:

512B.25 ANNUAL LICENSE.

A society which is authorized to transact business in this state on January 1, 1991, and a society licensed on or after January 1, 1991, may continue in business until ~~April 30~~ June 1, 1991. The authority of the society may thereafter be renewed annually. A license terminates on the succeeding ~~April 30~~ June 1. However, a license issued shall continue in full force and effect until a new license is issued or specifically refused. For each license or renewal the society shall pay the commissioner a fee of ~~twenty-five~~ fifty dollars. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 19. Section 513A.5, Code Supplement 1991, is amended to read as follows:

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 including, but not limited to, filing with and approval by the commissioner of the form of the health benefit policy, contract, or certificate.

Sec. 20. Section 514A.13, Code Supplement 1991, is amended to read as follows:

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. Subsequent rate changes are also subject to this section.

Sec. 21. Section 514B.4, Code 1991, is amended to read as follows:

514B.4 ~~DUTIES OF THE DIRECTOR OF PUBLIC HEALTH~~ APPLICANT FOR CERTIFICATE OF AUTHORITY.

The ~~director of public health~~ commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

1. Has demonstrated the willingness and potential ability to assure the availability, accessibility, and continuity of service through adequate personnel and facilities.

2. Has arrangements established in accordance with ~~regulations promulgated~~ rules adopted by the ~~director of public health~~ commissioner for a continuous review of health care processes and outcomes.

3. Has a procedure established in accordance with ~~regulations of~~ rules adopted by the ~~director of public health~~ commissioner to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and other matters as may be reasonably required by the ~~director of public health~~ commissioner.

The ~~director of public health~~ commissioner, in ~~carrying out the obligations under~~ administering this section and sections 514B.25 and 514B.26, may contract with qualified persons to make recommendations concerning the determinations required to be made by the ~~director of public health~~ commissioner. Such recommendations may be accepted in full or in part by the ~~director of public health~~ commissioner.

~~Within a reasonable period of time from the receipt of the application for a certificate of authority, the director of public health shall certify to the commissioner whether the proposed health maintenance organization meets the requirements of this section. If the director of public health certifies that the health maintenance organization does not meet these requirements, the director of public health shall specify in what respects it is deficient.~~

Sec. 22. Section 514B.5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 514B.3 within a reasonable period of time ~~after receiving certification from the director of public health~~. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 514B.22 if the commissioner is satisfied that the following conditions are met:

Sec. 23. Section 514B.5, subsections 2 and 7, Code 1991, are amended to read as follows:

2. The ~~director of public health certifies~~ commissioner finds that the health maintenance organization's proposed plan of operation meets the requirements of section 514B.4.

~~7. Any deficiencies certified by the director of public health have been corrected.~~

Sec. 24. Section 514B.6, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A health maintenance organization shall file notice with the commissioner before the exercise of any power granted in subsections 1 and 2. ~~The notice shall be accompanied by adequate supporting information obtained from the director of public health relating to the health maintenance organization's need for physical facilities.~~ The commissioner shall disapprove the exercise of power if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may ~~promulgate~~ adopt rules exempting from the filing requirement of this section those activities having a minimum effect.

Sec. 25. Section 514B.12, Code 1991, is amended to read as follows:

514B.12 ANNUAL REPORT.

A health maintenance organization shall annually before the first day of March file with the commissioner, ~~with a copy to the director of public health,~~ a report verified by at least two of its principal officers and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

1. Financial statements of the organization including a balance sheet as of the end of the preceding calendar year and statement of profit and loss for the year then ended, certified by a certified public accountant or an independent public accountant.

2. Any material changes in the information submitted pursuant to section 514B.3.

3. The number of persons enrolled during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year.

4. ~~A summary of information compiled pursuant to section 514B.4, subsection 3, in the form required by the director of public health.~~

~~5.~~ Other information relating to the performance of the health maintenance organization as is necessary to enable the commissioner to carry out the commissioner's duties under this chapter.

Sec. 26. Section 514B.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A health maintenance organization shall establish and maintain a complaint system which has been approved by the commissioner ~~in consultation with the director of public health~~ and which shall provide for the resolution of written complaints initiated by enrollees concerning health care services. A health maintenance organization shall submit to the commissioner ~~and to the director of public health~~ an annual report in a form prescribed by the commissioner ~~in consultation with the director of public health,~~ which shall include:

Sec. 27. Section 514B.23, Code 1991, is amended to read as follows:

514B.23 RULES.

The commissioner ~~and the director of public health may promulgate~~ shall adopt rules, pursuant to chapter 17A, as are necessary to ~~carry out the provisions of~~ administer this chapter, ~~subject to review in accordance with chapter 17A.~~

Sec. 28. Section 514B.24, Code 1991, is amended to read as follows:

514B.24 EXAMINATIONS PERMITTED.

The commissioner shall make an examination of the affairs of any health maintenance organization and its providers as often as the commissioner deems necessary for the protection of the interests of the people of this state, but not less frequently than once every three years.

~~The director of public health shall make an examination concerning the quality of health care services provided through any health maintenance organization as often as the director of public health deems necessary for the protection of the interests of the people of this state, but not less frequently than once every three years.~~

Every health maintenance organization and provider shall submit its books and records to the commissioner ~~and the director of public health~~ and in every way facilitate the examination. For the purpose of examinations, the commissioner ~~of insurance and the director of public health~~ may administer oaths to and examine the officers and agents of the health maintenance organization and the principals of its providers concerning their business. The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner ~~or director of public health as the case may be~~.

In lieu of the examination required by this section, the commissioner ~~of insurance or the director of public health~~ may accept the report of an examination made by the appropriate departments in other states.

Sec. 29. Section 514B.26, unnumbered paragraphs 1 and 3, Code 1991, are amended to read as follows:

When the commissioner has cause to believe that grounds for the denial, suspension, or revocation of a certificate of authority exist, the commissioner shall notify the health maintenance organization in writing of the particular grounds for denial, suspension, or revocation and shall issue a notice of a time fixed for a hearing, which shall be held not less than ten days after the receipt by the health maintenance organization of the notice. ~~The director of public health or the director of public health's designee shall participate in the proceedings of the hearing and the director of public health's recommendation and findings with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority, or in connection with an order to the health maintenance organization by the commissioner to cease from methods or practices in violation of this chapter, shall be conclusive and binding upon the commissioner.~~

After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the commissioner shall take action as the commissioner deems advisable and which is permitted by the commissioner under the provisions of this chapter and shall reduce the findings to writing. Copies of the written findings shall be mailed to the health maintenance organization charged with violation of this chapter ~~and to the director of public health~~.

Sec. 30. Section 514B.27, Code 1991, is amended to read as follows:

514B.27 JUDICIAL REVIEW.

The action of the commissioner ~~and the recommendation and findings of the director of public health~~ under section 514B.26 ~~shall be~~ is subject to judicial review in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A.

Sec. 31. Section 514B.30, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~No~~ An officer, director, trustee, partner, or employee of a health maintenance organization shall not testify as to ~~nor~~ or make other public disclosure of any communication made to a provider and deemed privileged under section 622.10, and which communication has come into the knowledge or possession of such officer, director, trustee, partner, or employee by reason of employment with ~~said~~ the health maintenance organization. To the extent necessary to effectuate the examinations provided in section 514B.24 only, the commissioner ~~or the director of public health shall have the right to~~ may examine medical or hospital records of a person receiving basic health care services under the provisions of this chapter but shall not testify as to such confidential communications or make other public disclosure thereof without the express consent of ~~said~~ the person or the person's legal representative, if the person ~~be~~ is deceased or incompetent. The provisions of section 622.10 respecting waiver shall apply to this section.

Sec. 32. Section 514C.4, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.

Sec. 33. Section 514C.4, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 34. Section 514D.4, subsection 5, Code 1991, is amended to read as follows:

5. The commissioner may upon notice and hearing at any time after the initial filing or approval of any individual accident and sickness policy or subscriber contract form, withdraw approval or suspend further sale of the form if the benefits provided are unreasonable in relation to the premium charge. The commissioner shall establish reasonable and creditable anticipated minimum loss ratios for medicare supplement and other accident and sickness insurance policies. ~~For purposes of establishing loss ratios, policies issued as a result of solicitations of individuals through the mails or by mass media advertising, including both print and broadcast advertising, shall be deemed to be individual policies, including any certificates issued under these policies.~~

Sec. 35. Section 514H.12, subsection 6, Code Supplement 1991, is amended to read as follows:

6. The premium credit provided by this section is only available in connection with ~~a~~ either of the following:

a. A basic benefit plan approved by the commissioner ~~which satisfies~~

b. A major medical policy approved by the commissioner providing coverage to an eligible individual either on a group or individual basis.

The policy shall also satisfy 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.

Sec. 36. Section 515.69, Code 1991, is amended to read as follows:

515.69 FOREIGN COMPANIES — CAPITAL REQUIRED.

A stock insurance company organized under or by the laws of any other state or foreign government for the purpose specified in this chapter, shall not, directly or indirectly, take risks or transact business of insurance in this state unless the company has ~~one~~ two and one-half million dollars of actual paid-up capital, and a surplus in cash or invested in securities authorized by law of not less than ~~one~~ two and one-half million dollars, exclusive of assets deposited in a state, territory, district, or country for the special benefit or security of those insured ~~therein~~ in that state, territory, district, or country.

Sec. 37. Section 515.71, Code 1991, is amended to read as follows:

515.71 DEPOSIT OF SECURITIES — AMOUNT.

Every alien insurer authorized to transact business in this state shall at all times maintain a deposit with the commissioner of insurance in cash or in securities in which insurance companies are authorized to invest, of a sum equal to the ~~unearned premium~~ greater of the reserve on all policies covering risks located in this state or one million dollars. ~~Such~~ The securities shall be approved, and the amount of ~~such~~ the deposit shall be determined, by the commissioner in accordance with section 515.47~~, provided, that the minimum amount of any deposit shall be twenty-five thousand dollars~~. The commissioner, in the commissioner's discretion, may permit the withdrawal of interest earnings.

In lieu of the deposit provided ~~herein any such~~ in this section, an alien insurer may file with the commissioner a bond of equal amount executed by a licensed United States surety company, so conditioned for the protection of Iowa creditors and policyholders.

~~No such~~ An alien insurer shall not be granted a certificate of authority to transact business in this state, or a renewal ~~thereof~~ of the certificate, until such deposit ~~shall have been~~ is made, and the commissioner may revoke the certificate of authority of ~~any such~~ an alien insurer which fails to make ~~such~~ the deposit within a reasonable period of time ~~after April 23, 1941~~.

Sec. 38. Section 515.74, Code 1991, is amended to read as follows:

515.74 ~~MANNER OF~~ SERVICE OF PROCESS.

~~Such~~ Any notice or process, with ~~a copy thereof~~ three copies of the notice or process, may be mailed to the commissioner ~~of insurance~~ at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title, ~~and the~~. The commissioner shall ~~immediately upon its receipt~~ acknowledge service ~~thereon~~ on behalf of the defendant foreign insurance company by writing ~~thereon~~, giving the date ~~thereof~~ of receipt of the notice or process, and shall ~~immediately~~ return ~~such~~ the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also ~~forthwith~~ mail ~~such~~ a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation ~~who shall be~~ named or designated by such company in ~~such~~ the written instrument. Notice or process received prior to 12 noon shall be forwarded the same working day. Notice or process received after 12 noon shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 39. Section 515A.4, subsection 4, Code 1991, is amended to read as follows:

4. Subject to the exception specified in subsection 5 of this section, each filing shall be on file for a waiting period of ~~fifteen~~ thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if the

commissioner gives written notice within ~~such~~ the waiting period to the insurer or rating organization which made the filing that the commissioner needs ~~such~~ additional time for the consideration of ~~such~~ the filing. Upon written application by ~~such~~ the insurer or rating organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension ~~thereof~~ of the period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within thirty days of receipt ~~thereof~~ by the commissioner.

Sec. 40. Section 515B.5, subsection 1, paragraph b, Code Supplement 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Be obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy of the insolvent insurer.

Sec. 41. Section 515B.5, subsection 2, paragraph g, Code Supplement 1991, is amended to read as follows:

g. ~~If at any time the board of directors finds that the amount assessed for any insolvency exceeds the actual and projected liabilities of that insolvency, it may refund such excess to member insurers in the same proportion that each contributed to the original assessment or assessments~~ The board of directors, in its discretion, may from time to time refund excess amounts to member insurers that are not needed for current or projected liabilities of a particular insolvency. The amount of each refund is equal to the net direct written premiums of the member insurer for the preceding calendar year divided by the net written premiums of all member insurers for the preceding calendar year, multiplied by the total amount to be refunded to all members. Any assessments or refunds of any member insurer in amounts not to exceed twenty-five dollars may, at the discretion of the board of directors, be waived.

Sec. 42. Section 515B.15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As to any covered claims based on the default of an insurer who is or who becomes insolvent, or based on the failure of an insurer to defend an insured, the association, on its own behalf or on behalf of the insured, is entitled to set the default aside and defend such claim on its merits.

Sec. 43. Section 515E.3, Code 1991, is amended to read as follows:

515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.

To be organized as a risk retention group in this state, the group must be organized and licensed as a liability insurance company authorized by the insurance laws of this state. Except as provided elsewhere in this chapter, a risk retention group organized in this state must comply with all of the laws, rules, and requirements applicable to liability insurers organized in this state. Additionally, a risk retention group organized in this state must comply with section 515E.4. These requirements do not exempt risk retention groups from a duty imposed by any other law or rule of the state. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of insurance of this state a plan of operation or a feasibility study, and revisions of the plan or study, within ten days of any change. The name under which a risk retention group may be chartered and licensed shall be a brief description of its membership followed by the phrase "risk retention group" and, unless its membership consists solely of insurers, shall not include the terms "insurance", "mutual", "reciprocal", or any similar term. All risk retention groups chartered in this state shall file with the division and the national association of insurance commissioners an annual statement blank prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual statement 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. 44. Section 515E.8, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The commissioner may require the notice to be in a form prescribed by the national association of insurance commissioners.

Sec. 45. Section 515F.5, subsection 3, Code 1991, is amended to read as follows:

3. Subject to the exception in subsection 4, a filing shall be on file for a waiting period of ~~fifteen~~ thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if written notice is given within the waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or an extension of the waiting period. A filing ~~shall be~~ is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or an extension of the waiting period.

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

An insurer's insolvency protection 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 after the accident.

Sec. 47. Section 522.1, unnumbered paragraph 1, Code Supplement 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 reinsurance, 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 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 for those lines of insurance for which the person is transacting or engaging in business. This requirement includes a person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance which could be issued in this state.

This chapter applies to the following professionals except when in the course of their professional capacity they provide information, recommendations, advice, or services, not including solicitation, relating to the business of insurance:

1. An attorney licensed to practice law in this state.
2. A certified public accountant licensed pursuant to chapter 116.
3. An actuary who is a member in good standing of the American academy of actuaries, the society of actuaries, or the casualty actuarial society.
4. A bank trust officer.

Sec. 48. Section 522.4, Code 1991, is amended to read as follows:

522.4 FEE — INSURERS TO CERTIFY AGENTS.

The fee charged for an agent's license shall be ~~ten~~ fifty dollars. Every insurer authorized to transact business in this state shall certify its agents to the commissioner who shall keep a list of the agents and charge an annual appointment fee of five dollars for each agent. The commissioner shall remit the fees collected to the treasurer of state for deposit in the general fund of the state.

Sec. 49. RULES. The commissioner shall adopt by rule objective standards as necessary to facilitate implementation of section 20 of this Act.

Sec. 50. Section 32 of this Act shall not apply to a medicare supplemental policy delivered, issued for delivery, continued, or renewed before January 1, 1992.

Sec. 51. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, is amended to read as follows:

SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, ~~1993~~ 1994.

Sec. 52. Section 508.9, as amended by this Act, does not affect a life insurance company authorized to transact business in Iowa on or before July 1, 1990.

Approved April 28, 1992

CHAPTER 1163

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 2172

AN ACT relating to nonsubstantive code corrections.

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

Section 1. Section 7E.5, subsection 1, paragraph t, Code 1991, is amended to read as follows:

t. The department of human rights, created in section 601K.1, which has primary responsibility for services relating to Latino persons, ~~children, youth, and families,~~ women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of ~~blacks~~ African-Americans, and deaf persons.

Sec. 2. Section 9B.1, subsection 5, Code Supplement 1991, is amended to read as follows:

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.

Sec. 3. Section 13B.2A, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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~~ nominations made by the Iowa state bar association, and two members from ~~nominees~~ nominations 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~~ nominations made by the Iowa county attorneys 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.

Sec. 4. Section 17.21, Code 1991, is amended to read as follows:

17.21 LEGAL PUBLICATIONS.

The Iowa Code, Iowa Code Supplement, or other supplements ~~thereto~~, Iowa administrative code, rules of civil procedure, rules of appellate procedure, and supreme court rules, session laws, annotations, tables of corresponding sections and reports of the supreme court, unless otherwise specifically provided by law, shall be printed, and paid for in the same manner as other public printing.

Sec. 5. Section 17.22, Code 1991, is amended to read as follows:

17.22 PRICE.

The publications listed in this section shall be sold at a price to be established by the legislative council. In determining these prices, the legislative council shall consider the costs of printing, binding, distribution, paper stock, and compilation and editing labor costs. The legislative council shall also consider the number of volumes to be printed, sold, and distributed in the determination of these prices.

1. The Iowa Code, Iowa Code Supplement, or ~~its~~ other supplements, the Iowa administrative code or its supplements, and the Iowa administrative bulletin.
2. Session laws.
3. Daily journals and bills.
~~4. Book of annotations to the Code.~~
~~5. Supplements to the book of annotations.~~
~~6. Tables of corresponding sections to the Code.~~
~~7~~ 4. Iowa court rules.

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

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

Sec. 6. Section 17.25, Code 1991, is amended to read as follows:

17.25 NEW EDITIONS.

New editions of the Iowa Code, Iowa Code Supplement, or other supplements ~~thereto, book of annotations,~~ reports of the supreme court, and reports of the court of appeals may be published by the superintendent of printing when the supply on hand of the last edition becomes exhausted and when a new edition is necessary in order to meet the demand.

Sec. 7. Section 17.26, Code 1991, is amended to read as follows:

17.26 NUMBER PRINTED.

The number of each edition of the Iowa Code, Iowa Code Supplement, or other supplements ~~thereto, tables of corresponding sections~~ and session laws shall be determined by the superintendent of printing and the Iowa Code editor unless expressly determined by presiding officers of the general assembly.

Sec. 8. Section 18.9, subsection 2, Code 1991, is amended to read as follows:

2. Statements rendered to the various state agencies shall be paid by the state agencies in the manner determined by the department of ~~management~~ revenue and finance. When the statements are paid the sums shall be credited to the general service revolving fund. If any funds accrued to the revolving fund in excess of two hundred twenty-five thousand dollars and there is no anticipated need or use for such funds, the governor shall order the excess funds credited to the general fund of the state.

Sec. 9. Section 28C.5, subsection 1, Code Supplement 1991, is amended to read as follows:

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~~ legislative service bureau and legislative fiscal bureau to carry out ~~its~~ their powers and duties.

Sec. 10. Section 41.1, subsection 23, paragraph b, Code Supplement 1991, is amended to read as follows:

b. That portion of the city of Cedar Falls ~~bound~~ bounded 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~~ Tucson drive, then proceeding north along ~~Tuscon~~ Tucson 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.

Sec. 11. Section 41.1, subsection 54, Code Supplement 1991, is amended to read as follows:

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~~ southwesterly 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 northeasterly 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.

Sec. 12. Section 43.42, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Each change or declaration of a qualified elector's party affiliation so received shall be reported by the precinct election officials to the county commissioner of registration who shall enter a notation of the change on the registration records.

Sec. 13. Section 53.23, subsections 1 and 3, Code 1991, are amended to read as follows:

1. The election board of the absentee ballot and special voters precinct shall be appointed by the commissioner in the manner prescribed by sections 49.12 and 49.13, except that the number of precinct election officials appointed to the board shall be sufficient to complete the counting of absentee ballots by ten ~~o'clock~~ p.m. on election day.

3. The commissioner shall set the convening time for the board, allowing a reasonable amount of time to complete counting all absentee ballots by ten ~~o'clock~~ p.m. on election day. The commissioner may direct the board to meet on the day prior to the election solely for the purpose of reviewing the absentee voters' affidavits appearing on the sealed ballot envelopes if in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, but under no circumstances shall a sealed ballot envelope be opened before the board convenes on election day.

Sec. 14. Section 56.10, subsection 6, paragraph c, Code Supplement 1991, is amended to read as follows:

c. Distribute the necessary forms to each county commissioner to be furnished to persons required to file reports and statements.

Sec. 15. Section 56.10, subsection 7, Code Supplement 1991, is amended to read as follows:

7. The county commissioners shall furnish the necessary forms to persons required to file reports and statements in their office.

Sec. 16. Section 56.10, subsection 8, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

The commission and the ~~commissioner~~ county commissioners shall:

Sec. 17. Section 56.10, subsection 9, Code Supplement 1991, is amended to read as follows:

9. The commission and the county commissioners shall provide proper forms to each committee which is required to file a report with them. A form packet shall be mailed to each active committee on or about April 25 of each year.

Sec. 18. Section 87.11A, Code Supplement 1991, is amended to read as follows:

87.11A EXAMINATION REQUIRED.

The commissioner of insurance 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. 19. Section 87.11B, Code Supplement 1991, is amended to read as follows:

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~~ the examination to the extent possible. The commissioner of insurance, or the commissioner's legally authorized representative in charge of the examination, may administer oaths and take testimony bearing upon the affairs of ~~any~~ an employer under examination.

Sec. 20. Section 88B.3, subsection 3, Code 1991, is amended to read as follows:

3. The commissioner shall prescribe fees for the issuance and renewal of licenses and ~~certificates~~ permits. The fees shall be based on the costs of licensing~~,~~ ~~certification~~ and permitting and other costs of administering this chapter.

Sec. 21. Section 93.16, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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~~ as provided in section ~~93.14~~ 93.11, subsection 1, paragraph "f".

Sec. 22. Section 98.8, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department may make refunds on unused stamps to the person who purchased ~~said~~ the stamps at a price equal to the amount paid for ~~such~~ the stamps when proof satisfactory to the department is furnished that any stamps upon which a refund is requested were properly purchased from the department and paid for by the person requesting ~~such~~ the refund. In making ~~such~~ the refund, the department shall prepare a voucher showing the amount of refund due and to whom payable and ~~the comptroller shall then~~ issue a warrant upon order of the director to pay ~~such~~ the refund out of any funds in the state treasury not otherwise appropriated.

Sec. 23. Section 99D.11, subsection 6, paragraph b, Code Supplement 1991, is amended to read as follows:

b. The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure, for the 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 a licensee 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. 24. Section 99D.17, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Funds received pursuant to sections 99D.14 and 99D.15 shall be deposited in the pari-mutuel regulation fund created in the racing and gaming commission. These funds shall first be used to the extent appropriated by the general assembly ~~and as provided in section 99D.18~~. The remainder shall be transferred to the treasurer of state to be deposited in the general fund of the state. The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

Sec. 25. Section 100.1, subsection 4, paragraph b, Code 1991, is amended to read as follows:

b. The storage, transportation, handling, and use of ~~inflammable~~ flammable liquids, combustibles, and explosives;

Sec. 26. Section 106.9, subsection 10, Code 1991, is amended to read as follows:

10. Every motorboat, except open boats, using any liquid of a volatile nature as fuel, shall be provided with ~~such~~ the means ~~as may be~~ prescribed by the rules ~~and regulations~~ of the commission for properly and efficiently ventilating the bilges of the engines and fuel tank compartments so as to remove any explosive or ~~inflammable~~ flammable gases.

Sec. 27. Section 106.35, Code Supplement 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~~ a vessel required to be registered under ~~the provisions of~~ this chapter may operate the ~~same~~ vessel for purposes of transporting, testing, demonstrating, or selling the ~~same~~ vessel without registering each such vessel, provided that any such vessel displays thereon a special certificate issued to ~~such owner~~ the manufacturer or dealer as provided in this chapter. This special certificate ~~may~~ shall not be used for any vessel offered for hire or for any work or service vessels owned by a manufacturer or dealer.

Sec. 28. Section 111.79, subsection 4, Code Supplement 1991, is amended to read as follows:

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. 29. Section 116.5, unnumbered paragraph 3, Code 1991, is amended by striking the paragraph.

Sec. 30. Section 116.6, subsection 1, paragraph a, Code Supplement 1991, is amended to read as follows:

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 certified public accountant pursuant to section 116.5 who practices as a sole proprietorship.

Sec. 31. Section 116.6, subsection 5, paragraph a, Code Supplement 1991, is amended to read as follows:

a. Peer review records are privileged and confidential, and 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.

Sec. 32. Section 116.8, Code Supplement 1991, is amended to read as follows:

116.8 EXAMINATION REQUIRED.

An applicant not qualified under section 116.7 shall be granted a license if the applicant passes a written examination prescribed by the board, and meets one of the following requirements:

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 or an accounting practitioner, ~~or~~.

2. If the applicant was employed for at least twenty-four months prior to July 1, 1975 by the United States government, by this state, or by a political subdivision of this state in an accounting or auditing position for which an examination in accounting knowledge or qualifying education or experience in practice as an accounting practitioner was required. The applicant shall submit to the board an official copy of the job description and educational or experience qualifications required, or an affidavit of the immediate superior of the applicant attesting to the applicant's accounting or auditing duties. Any evidence which indicates that the applicant has performed only clerical or bookkeeping work shall not be deemed sufficient for the purposes of this subsection, ~~or~~.

3. If the applicant submits evidence satisfactory to the board that the applicant is a graduate of a four-year college or university accredited by the north central accreditation association or other regional accreditation association having equivalent standards, with a major in accounting, or that the applicant is a graduate in accountancy from a business or correspondence school accredited by the accrediting commission for business schools or the accrediting commission of the national home study council.

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

Sec. 33. Section 125.14A, subsection 1, Code Supplement 1991, is 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 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 of human services 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.

Sec. 34. Section 135.11A, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

The professional licensure division and the licensing boards may expend ~~additional~~ funds in addition to amounts budgeted, if those additional expenditures are directly the ~~cause~~ result 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. 35. Section 135H.7, subsection 2, paragraph a, Code Supplement 1991, is 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 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 of human services 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.

Sec. 36. Section 136C.3, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine, or licensure as a physician assistant pursuant to chapter 148C, or certification by the board of dental examiners in dental radiography, or by the board of podiatry examiners in podiatric ~~radiology~~ radiography, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

Sec. 37. Section 147.107, subsection 5, Code Supplement 1991, is amended to read as follows:

5. 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 7 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 7 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 board of 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.

Sec. 38. Section 159.1, subsections 2 and 3, Code Supplement 1991, are amended by striking the subsections.

Sec. 39. Section 159.20, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

As used in this subchapter, "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~~ an agricultural commodity or unprocessed product from the ~~farm~~ agricultural commodity to any person, public or private, who resells the ~~farm~~ agricultural commodity for breeding, processing, slaughter, or distribution.

Sec. 40. Section 159A.5, subsection 4, Code Supplement 1991, is amended to read as follows:

4. The committee shall review the annual report to the secretary regarding ~~ethanol~~ renewable 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.

Sec. 41. Section 159A.6, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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~~ committee and approved by the office.

Sec. 42. Section 166D.2, subsection 7, 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 as required under chapter 163 with a certificate of inspection.

Sec. 43. Section 166D.16, unnumbered paragraph 2, Code Supplement 1991, is amended by striking the unnumbered paragraph.

Sec. 44. Section 189.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

189.1 DEFINITIONS CONTROLLING TITLE.

For the purpose of this title:

1. "Article" includes food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, paint, linseed oil, turpentine, and illuminating oil, in the sense in which they are defined in the various provisions of this title.

2. "Department" means the department of agriculture and land stewardship, and if the department is required or authorized to do an act, the act may be performed by a regular assistant or a duly authorized agent of the department.

3. "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.

4. "Package" or "container", unless otherwise defined, includes wrapper, box, carton, case, basket, hamper, can, bottle, jar, tube, cask, vessel, tub, firkin, keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and the expression "offered or exposed for sale or sold in package or wrapped form" means the offering or exposing for sale, or selling of an article which is contained in a package or container as defined in this section.

5. "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 192.102.

6. "Person" includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of this title.

7. "Rules" includes regulations and orders by the department.

8. "Secretary" means the secretary of agriculture.

9. "United States Pharmacopoeia" or "National Formulary" means the latest revision of these publications official at the time of a transaction which is in question.

Sec. 45. Section 191.2, subsection 5, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

All bottles, containers, and packages enclosing milk or milk products ~~as defined in section 190.1, subsections 6 and 38 to 57,~~ shall be conspicuously labeled or marked with:

Sec. 46. Section 192.111, subsection 2, Code Supplement 1991, is amended to read as follows:

2. A purchaser of milk from a grade "A" milk producer shall pay an inspection fee not greater than one point five cents per hundredweight. The fee shall be payable monthly to the secretary in a manner prescribed by the secretary. ~~A fee imposed under this subsection shall not be paid on milk subject to inspection by a municipal corporation pursuant to section 192.103.~~

Sec. 47. Section 194.20, Code Supplement 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 department at a time prescribed by the department. A fee imposed by this section shall not be paid on milk inspected by a person administering the inspection pursuant to an inspection contract as provided in section 192.108. Fees collected under this section shall be deposited in the milk fund established in section 192.111.

Sec. 48. Section 214A.10, Code 1991, is amended to read as follows:

214A.10 TRANSFER PIPES.

A wholesale dealer, retail dealer, or other person shall not, within this state, use the same pipeline, for transferring motor vehicle fuel, including gasoline, or oxygenate octane enhancer from one container to another, if the pipeline is used for transferring kerosene or other ~~inflammable~~ flammable product used for open flame illuminating or heating purposes.

Sec. 49. Section 217.9A, subsection 1, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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.

Sec. 50. Section 235B.6, subsection 2, paragraph e, subparagraph (3), Code Supplement 1991, is amended to read as follows:

(3) 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. 51. Section 235B.16, subsection 1, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Providing ~~care givers~~ caretakers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the ~~care giver~~ caretaker and dependent adult relationship.

Sec. 52. Section 236.12, subsection 2, Code Supplement 1991, is amended to read as follows:

2. a. A peace officer may, with or without a warrant, arrest a person under section ~~708.2~~ 708.2A, subsection ~~4~~ 2, paragraph "a", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which did not result in any injury to the alleged victim.

b. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section ~~708.2~~ 708.2A, subsection 2, paragraph "b", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which resulted in the alleged victim's suffering a bodily injury.

c. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section ~~708.2~~ 708.2A, subsection ~~1~~ 2, paragraph "c", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed with the intent to inflict a serious injury.

d. Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section ~~708.2~~ 708.2A, subsection ~~3~~ 2, paragraph "c", if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

Sec. 53. Section 236.14, subsection 2, unnumbered paragraph 3, Code Supplement 1991, is 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.

Sec. 54. Section 237A.2, unnumbered paragraph 6, Code Supplement 1991, is amended by striking the unnumbered paragraph.

Sec. 55. Section 237A.3, subsection 5, Code Supplement 1991, is amended by striking the subsection.

Sec. 56. Section 246.104, Code 1991, is amended to read as follows:

246.104 BOARD CREATED.

A board of corrections is created within the department. The board shall consist of seven members appointed by the governor subject to confirmation by the senate. Not more than four of the members shall be from the same political party. Members shall be electors of this state. ~~Six~~ Five of the seven members shall each be a resident of a different congressional district. Members of the board shall serve four-year staggered terms.

Sec. 57. Section 246.513, subsection 1, paragraph a, Code Supplement 1991, is amended to read as follows:

a. The department of corrections in cooperation with judicial district departments of correctional services shall establish in each judicial district a continuum of programming, including residential facilities and institutions, for the 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 chapter. The facilities established shall meet all the following requirements:

(1) ~~Is a treatment facility meeting the licensure~~ Licensure standards of the division of substance abuse of the department of public health.

(2) ~~Is a facility meeting applicable~~ Applicable standards of the American corrections association.

(3) ~~Is a facility which meets any~~ Any other rule or requirement adopted by the department pursuant to chapter 17A.

Sec. 58. Section 256.11, subsection 10, unnumbered paragraphs 1 and 2, Code Supplement 1991, are amended to read as follows:

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~~ 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 biennial on-site visits to each accredited school and school district to review the educational programs and the information included in the compliance forms.

Sec. 59. Section 256.20, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Pursuant to section 279.10, subsection 1, relating to the maintenance of school during an entire year, the board of directors of a school district may request approval from the state board of education for a pilot project for a year around three semester school year. ~~The deadlines for approval of a pilot project under this section are the deadlines specified in section 256.18 for approval of a modified block scheduling pilot project.~~

Sec. 60. Section 257.28, Code 1991, is amended to read as follows:

257.28 ENRICHMENT LEVY.

If a school district has approved the use of the instructional support program for a budget year, the district shall not also collect moneys under the additional enrichment amount approved by the voters under chapter 442, as it appeared in Code 1991, for ~~that~~ the budget year.

Sec. 61. Section 257.33, Code 1991, is amended to read as follows:

257.33 PRIOR ENRICHMENT APPROVAL.

If the electors of a school district approved the use of the additional enrichment amount prior to July 1, 1991, under chapter 442, or section 279.43, as they appeared in Code 1991, the approval for use of the enrichment amount shall continue in effect until the expiration of the period for which it was approved and districts may use the additional enrichment amount during that period. However, section 257.28 applies to the use of the additional enrichment amount.

Sec. 62. Section 275.31, unnumbered paragraph 2, Code 1991, is amended to read as follows:

For the school year beginning July 1, 1987 and succeeding school years, there is appropriated from the general fund of the state to the department of management an amount sufficient to pay the debt service aid under this section. Debt service aid shall be paid in the manner provided in section ~~442.26~~ 257.16.

Sec. 63. Section 281.2, subsection 3, unnumbered paragraph 3, Code 1991, is amended to read as follows:

Every child requiring special education shall, if reasonably possible, receive a level of education commensurate with the level provided each child who does not require special education. The cost of providing such an education shall be paid as provided in section 273.9, this chapter and chapter ~~442~~ 257. It shall be the primary responsibility of each school district to provide special education to children who reside in that district if the children requiring special education are properly identified, the educational program or service has been approved, the teacher or instructor has been licensed, the number of children requiring special education needing that educational program or service is sufficient to make offering the program or service feasible, and the program or service cannot more economically and equably be obtained from the area education agency, another school district, another group of school districts, a qualified private agency, or in co-operation with one or more other districts.

Sec. 64. Section 282.18, subsection 8, Code Supplement 1991, is amended to read as follows:

8. A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section means a residence under section 282.1. The board of directors of the district of residence shall pay to the receiving district the lower district cost per pupil of the two districts, plus any moneys received for the pupil as a result of non-English speaking weighting under section ~~442.4~~ 280.4, subsection ~~6~~ 4, for each school year. The district of residence shall also transmit the phase III moneys allocated to the district for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer.

Sec. 65. Section 282.28, Code 1991, is amended to read as follows:

282.28 CHILDREN AT ELDORA AND TOLEDO.

Annually, the area education agency in which the state training school and the Iowa juvenile home are located and the department of human services on behalf of the training school and juvenile home shall submit an annual joint application by January 1 for the next succeeding school year to the department of education describing the proposed special education instructional and support programs and service improvements for the training school and juvenile home. The department of education shall review and approve or modify the program and proposed budget by February 1 and shall notify the department of revenue and finance, the area education agency, and the department of human services of the approved budget amount. The moneys for the approved budget shall supplement and not supplant moneys equal to the moneys expended for education for the fiscal year beginning July 1, 1986 by the department of human services. The moneys for the approved budget shall be used to ensure that the training school and juvenile home comply with appropriate administrative rules relating to special education adopted by the department of education. Beginning with the fiscal year commencing July 1, 1990, and ending June 30, 1991, and in succeeding years, the department of revenue and finance shall pay the approved budget amount for an area education agency in monthly installments beginning on September 15 and ending on June 15 of the next succeeding school 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's resources. The department of revenue and finance shall transfer the approved budget amount for an area education agency from the moneys appropriated under ~~section~~ ~~442.26~~ ~~or~~ section 257.16 and make the payment to the area education agency.

The area education agency shall submit an accounting to the department of education by August 1 following the school year for the actual costs of the special education programs and services provided at the training school and juvenile home. The department shall review and approve or modify the accounting by September 1 and shall notify the department of revenue and finance of the approved accounting amount. The department of revenue and finance shall adjust the September payment to the area education agency for the next fiscal year by the difference between the amount of the proposed budget paid to the area education agency and the amount of the actual costs as reflected in the area education agency's accounting. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under ~~section~~ ~~442.26~~ ~~or~~ section 257.16 during that fiscal year to all school districts in the state. The portion of the total amount of the approved accounting amount that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year.

Sec. 66. Section 282.31, subsections 1 and 3, Code 1991, are amended to read as follows:

1. a. A child who lives in a facility pursuant to section 282.30, subsection 1, paragraph "a", and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The area education agency shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program

and proposed budget and shall notify the department of revenue and finance and the area education agency of its action by February 1. Beginning with the fiscal year commencing July 1, 1990, and ending June 30, 1991, and in succeeding years, the department of revenue and finance shall pay the approved budget amount for an area education agency in monthly installments beginning September 15 and ending June 15 of the next succeeding school 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's resources. The department of revenue and finance shall transfer the approved budget amount for an area education agency from the moneys appropriated under ~~section 442.26 or~~ section 257.16 and make the payment to the area education agency. The area education agency shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines pursuant to section 256.7, subsection 12, and shall notify the department of revenue and finance of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of revenue and finance to the area education agency and any differences added to or subtracted from the October payment made under this paragraph for the next school year. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under ~~section 442.26 or~~ section 257.16 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year.

b. A child who lives in a facility or home pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located.

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the third Friday of September of that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of revenue and finance to the school district by October 1. The department of revenue and finance shall transfer the total amount of the approved claim of a school district from the moneys appropriated under ~~section 442.26 or under~~ section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid during the remainder of that fiscal year to all school districts in the state in the manner provided in paragraph "a".

3. The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 281.9, and the payment pursuant to subsection 2, paragraph "a" was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of

revenue and finance to the school district by October 1. The total amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section ~~442.26~~ 257.16 during the remainder of that fiscal year to all school districts in the state. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the budget year. The department of revenue and finance shall transfer the total amount of the approved claims from moneys appropriated under section ~~442.26~~ 257.16 for payment to the school district.

Sec. 67. Section 294A.16, unnumbered paragraph 5, Code 1991, is amended to read as follows:

Any moneys allocated or retained for an approved phase III plan, and any interest accrued on the moneys, shall not be commingled with state aid payments made, under sections ~~442.25 and 442.26~~ 257.16 and 257.35, to a school district or area education agency and shall be accounted for by the school district or area education agency separately from state aid payment accounts.

Sec. 68. Section 299A.4, Code Supplement 1991, is amended to read as follows:

299A.4 ANNUAL ACHIEVEMENT ~~TESTS~~ EVALUATIONS – 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~~ evaluation or other assessment tool developed or recognized by the department of education and chosen by the child's parent, guardian, or legal custodian from a list of approved ~~tests~~ evaluations 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~~ evaluations. The department shall provide, as part of approval procedures for ~~tests~~ evaluations 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~~ an evaluation 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~~ evaluation 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 299A.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 299A.9.

7. In lieu of annual achievement ~~tests~~ evaluations, 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~~ evaluations completed by the child which have been produced by the parent, guardian, or legal custodian.

c. Completed assessment ~~tests~~ evaluations, other than the annual achievement ~~test~~ evaluation, if assessment ~~tests~~ evaluations 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. 69. Section 299A.5, Code Supplement 1991, is amended to read as follows:

299A.5 REPORTING OF ~~TEST~~ EVALUATION RESULTS.

The results of ~~tests~~ evaluations administered to children of compulsory attendance age who are under competent private instruction shall be reported by the ~~test~~ evaluation 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~~ evaluation 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. 70. Section 299A.8, Code Supplement 1991, is amended to read as follows:

299A.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~~ evaluation 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~~ section 257.6 and shall be counted as one pupil.

Sec. 71. Section 306.22, subsection 7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Any tract of land sold on contract shall be listed on the tax rolls by and taxed to the contract purchaser, as provided in chapters 428 and 443; assessed and valued as provided in chapter 441; taxes levied as provided in chapter 444; collected as provided in chapter 445; and subject to tax sale, redemption, and apportionment of taxes as provided in chapters 446 to ~~448~~ 449. ~~It shall be the duty of the~~ The contract purchaser ~~to~~ shall discharge and pay all taxes.

Sec. 72. Section 306.25, Code 1991, is amended to read as follows:

306.25 EXECUTION OF CONVEYANCE.

~~Where~~ If a sale of land in connection with ~~any~~ a primary road, ~~or~~ state park road, or institutional road has been authorized as ~~herein~~ provided in this chapter, written conveyances containing the conditions as prescribed by the ~~executive council~~ controlling state agency shall be made in the name of the state and signed by the governor and secretary of state, ~~and~~ with the great seal of the state of Iowa attached ~~thereto~~. ~~Where~~ If a sale of land in connection with ~~any~~ a secondary road has been authorized by the board of supervisors as ~~herein~~ provided in

this chapter, written conveyances containing the provisions prescribed by the board of supervisors shall be made in the name of the county and signed by the chairperson of the board of supervisors and the county auditor.

Sec. 73. Section 306.40, Code 1991, is amended to read as follows:

306.40 EASEMENTS CONVEYED.

~~Where such~~ If an easement authorized under section 306.39 is conveyed in connection with ~~any~~ a primary road, ~~or~~ state park road, or institutional road, written conveyances containing the conditions as prescribed by the ~~executive council~~ controlling state agency shall be made in the name of the state and signed by the governor and secretary of state, ~~and~~ with the seal of the state of Iowa attached ~~thereto~~. ~~Where such~~ If the easement is conveyed in connection with ~~any~~ a secondary road, written conveyances containing the provisions prescribed by the board of supervisors shall be made in the name of the county and signed by the chairperson of the board and the county auditor.

Sec. 74. Section 313.4, subsection 3, Code 1991, is amended to read as follows:

3. ~~It is further provided that there~~ There is appropriated from funds appropriated to the department which would otherwise revert to the primary road fund pursuant to the provisions of the Act appropriating the funds or chapter 8, an amount sufficient to pay the increase in salaries, which increase is not otherwise provided for by the general assembly in an appropriation bill, resulting from the annual review of the merit pay plan as provided in subsection 2 of section 19A.9. The appropriation herein provided shall be in effect from the effective date of ~~approval by the executive council~~ the revised pay plan to the end of the fiscal biennium in which it becomes effective.

Sec. 75. Section 321.178, subsection 2, paragraph a, Code Supplement 1991, is amended to read as follows:

a. ~~Any~~ A 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~~ to and from 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~~ reentering school prior to age eighteen ~~provided~~ if the student enrolls in and completes the classroom portion of an approved driver's education course as soon as a course is available.

Sec. 76. Section 321.376, subsection 1, Code Supplement 1991, is amended to read as follows:

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 of transportation 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 of education 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.

Sec. 77. Section 321I.1, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 78. Section 321I.10, Code 1991, is amended to read as follows:

321I.10 MISREPRESENTATIONS OF STATE APPROVAL.

It is unlawful for ~~any~~ a motor vehicle service contract provider to represent or imply in any manner that the provider has been sponsored, recommended, or approved or that the provider's abilities or qualifications have in any respect been passed upon by the securities ~~department~~ bureau, the insurance division, or the state of Iowa.

Sec. 79. Section 324.6, Code 1991, is amended to read as follows:

324.6 ~~GASOHOL BLENDERS~~ ETHANOL BLENDED GASOLINE BLENDER'S LICENSE.

~~Any~~ A person other than a distributor licensed under this division, who blends motor fuel containing at least ten percent alcohol distilled from agricultural products, shall obtain a blender's license. The license shall be obtained by following the procedure as set forth in section 324.4 and the license ~~shall be~~ is subject to the same restrictions as contained ~~therein~~ in that section. Each blender shall maintain records as required by section 324.10 as to motor fuel, alcohol, and ~~gasohol~~ ethanol blended gasoline.

Sec. 80. Section 327F.39, subsection 2, paragraph c, Code 1991, is amended to read as follows:

c. Be operated in compliance with all state and federal regulations pertaining to driving, loading, carrying freight and employees, road warning devices, and the transportation of flammable ~~and inflammable~~ material.

Sec. 81. Section 330B.7, subsection 4, Code Supplement 1991, is amended to read as follows:

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. 82. Section 330B.9, subsection 3, Code Supplement 1991, is amended to read as follows:

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.

Sec. 83. Section 331.602, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Record all instruments presented to the recorder's office for recordation upon payment of the proper fees and compliance with other recording requirements as provided by law. The instruments presented for filing or recordation shall be legible and reproducible, and shall have typed or legibly printed on them the names of all signatories including the names of acknowledging officers and witnesses beneath the original signatures. The instruments shall be no larger than eight and one-half inches by fourteen inches except as otherwise provided in section ~~409.31, subsection 2~~ 409A.18, or except as otherwise authorized by the recorder.

Sec. 84. Section 364.16, Code 1991, is amended to read as follows:

364.16 MUNICIPAL FIRE PROTECTION.

Each city shall provide for the protection of life and property against fire and may establish, house, equip, staff, uniform and maintain a fire department. A city may establish fire limits and may, consistent with code standards promulgated by nationally recognized fire prevention agencies, regulate the storage, handling, use, and transportation of all ~~inflammables~~ flammables, combustibles, and explosives within the corporate limits and inspect for and abate fire hazards. A city may provide conditions upon which the fire department will answer calls outside the corporate limits or the territorial jurisdiction and boundary limits of this state. A

city ~~shall have~~ has the same governmental immunity outside its corporate limits when providing fire protection as when operating within the corporate limits. Fire fighters operating equipment on calls outside the corporate limits ~~shall be~~ are entitled to the benefits of chapter 410 or 411 when otherwise qualified.

Sec. 85. Section 445.1, subsections 2 and 7, Code Supplement 1991, are amended to read as follows:

2. "Compromise" means to enter into a contractual agreement for the payment of taxes, ~~interests~~ interest, fees, and costs in amounts different from those specified by law.

7. "Total amount due" means the aggregate total of all taxes, penalties, ~~interests~~ interest, costs, and fees due on a parcel.

Sec. 86. Section 446.19, Code Supplement 1991, is amended to read as follows:

446.19 COUNTY OR CITY AS PURCHASER.

When a parcel is offered at a tax sale under section 446.18, and no bid is received, or if the bid received is less than the total amount due, the county in which the parcel is located, through its board of supervisors, shall bid for the parcel a sum equal to the total amount due. Money shall not be paid by the county or other tax-levying ~~and~~ or tax-certifying body for the purchase, 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-levying or tax-certifying body as its just share of the purchase price.

This section does not prohibit a governmental agency or political subdivision from bidding at the sale for a parcel to protect its interests. When a bid is received ~~by~~ from 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-levying or tax-certifying ~~bodies~~ body as its just share of the purchase price.

Sec. 87. Section 455B.133, subsection 2, Code Supplement 1991, is amended to read as follows:

2. Adopt, amend, or repeal rules pertaining to the evaluation, abatement, control, and prevention of air pollution. The rules may include those that are necessary to obtain approval of the state implementation plan under section 110 of the federal Clean Air Act as amended through January 1, ~~1979~~ 1991.

Sec. 88. Section 455B.133, subsection 4, unnumbered paragraph 1, and paragraph a, subparagraph (1), Code Supplement 1991, are 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~~ through January 1, ~~1990~~ 1991. 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~~ through 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~~ through 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.

(1) The commission shall establish standards of performance unless in the judgment of the commission it is not feasible to adopt or enforce a standard of performance. If it is not feasible to adopt or enforce a standard of performance, the commission may adopt a design, equipment,

material, work practice or operational standard, or combination of those standards in order to establish reasonably available control technology or the lowest achievable emission rate in nonattainment areas, or in order to establish best available control technology in areas subject to prevention of significant deterioration review, or in order to adopt the emission limitations promulgated by the administrator of the United States environmental protection agency under section 111 or 112 of the federal Clean Air Act as amended ~~to~~ through January 1, ~~1979~~ 1991.

Sec. 89. Section 455B.133, subsection 8, Code Supplement 1991, is amended to read as follows:

8. Adopt rules consistent with the federal Clean Air Act Amendments 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 Amendments 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 Amendments 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 Amendments 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. 90. Section 455B.133A, subsection 1, Code Supplement 1991, is amended to read as follows:

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 Amendments 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 Amendments 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 Amendments of 1990, based upon the facility's estimates of emissions as required by section 313 of EPCRA including threshold determinations and de minimus exclusions.

Sec. 91. Section 455B.133B, subsection 1, Code Supplement 1991, is amended to read as follows:

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 Amendments 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.

Sec. 92. Section 455B.133B, subsection 2, paragraph a, Code Supplement 1991, is amended to read as follows:

a. To prepare, submit, and obtain approval of the permit program plan required by section 502(d) of the federal Clean Air Act Amendments of 1990.

Sec. 93. Section 455B.149, Code 1991, is amended to read as follows:

455B.149 ENERGY OR ECONOMIC EMERGENCY.

1. Upon application by the owner or operator of a fuel-burning stationary source, and after notice and opportunity for public hearing, the commission may petition the president, under section 110, subsection "f," paragraph 1 of the federal Clean Air Act as amended ~~to~~ through January 1, ~~1979~~ 1991, for a determination that a national or regional energy emergency exists. If the president determines an emergency exists, the commission may suspend any requirement of this division or a rule or permit issued under this division. A temporary emergency suspension under this subsection shall be issued only if there exists in the vicinity of the source a temporary emergency involving high levels of unemployment or loss of necessary energy supplies for residential buildings and if the unemployment or loss can be totally or partially alleviated by the suspension. Only one suspension may be issued for a source on the basis of the same set of circumstances or on the basis of the same emergency. A suspension shall remain in effect for a maximum of four months. The commission may include in a suspension a provision directing the director to delay for a period identical to the period of the suspension a compliance schedule or increment of progress to which the source is subject under section 455B.138, if the source is unable to comply with the schedule or increment solely because of the conditions on the basis of which the suspension was issued.

2. If a plan revision has been submitted to the administrator of the United States environmental protection agency under section 110 of the federal Clean Air Act as amended ~~to~~ through January 1, ~~1979~~ 1991, and if the commission determines that the revision meets the requirements of that section and the revision is necessary to prevent the closing of an air contaminant source for one year or more and to prevent substantial increases in unemployment which would result from the closing, and if the administrator has not approved or disapproved within the required four-month period, the commission may issue a temporary emergency suspension of the part of the applicable implementation plan which is proposed to be revised with respect to the source. The determination under this subsection shall not be made with respect to a source which would close without regard to whether or not the proposed plan revision is approved. A temporary emergency suspension issued under this subsection shall remain in effect for a maximum of four months. A temporary emergency suspension under this subsection may include a provision directing the director to delay for a period identical to the period of the suspension a compliance schedule or increment of progress to which the source is subject under section 119 of the federal Clean Air Act as in effect prior to August 7, 1977, or section 113, subsection "d" of the federal Clean Air Act as amended ~~to~~ through January 1, ~~1979~~ 1991, upon a finding that the source is unable to comply with the schedule or increment solely because of the conditions on the basis of which a suspension was issued under this subsection.

Sec. 94. Section 455B.390, subsection 3, Code 1991, is amended to read as follows:

3. The storage, transportation, handling, or use of ~~inflammable~~ flammable liquids, combustibles, and explosives, control over which is exercised by the state fire marshal under chapter 100.

Sec. 95. Section 455B.474, subsection 1, paragraph h, Code Supplement 1991, is amended to read as follows:

h. Issuance of a monitoring certificate for sites classified as low risk pursuant to paragraph "f". A monitoring certificate ~~shall be~~ is valid until the site is reclassified as a no action required site. A site which has been issued a monitoring certificate ~~shall~~ is not ~~be~~ eligible to receive a clean site certificate under section 455B.304, subsection 15, until the site is reclassified as a no ~~risk~~ action required site.

Sec. 96. Section 468.27, Code Supplement 1991, is amended to read as follows:

468.27 DISMISSAL OR ESTABLISHMENT — PERMANENT EASEMENT.

The board shall at ~~said~~ the meeting, or at an adjourned session ~~thereof~~ of the meeting, consider the costs of construction of ~~said~~ the improvement as shown by the reports of the engineer and the amount of damages and compensation awarded to all claimants, and if, in its opinion, ~~such~~ the costs of construction and amount of damages awarded create a greater burden than should justly be borne by the lands benefited by the improvement, it shall then dismiss the petition and assess the costs and expenses to the petitioners and their sureties, but if it finds that ~~such~~ the cost and expense is not a greater burden than should be justly borne by the land benefited by the improvement, it shall finally and permanently locate and establish ~~said~~ the district and improvement.

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~~ Upon the establishment of the district, the petitioners shall file with the county auditor the survey and report or permanent survey, plat, and profile, as set forth in sections 468.172 and 468.173~~, shall constitute~~. This filing constitutes 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.

~~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. 97. Section 476.44, subsection 2, Code 1991, is amended to read as follows:

2. An electric utility shall not be required to purchase, at any one time, more than fifteen megawatts of power from alternate energy production and small hydro facilities.

Sec. 98. Section 477.9A, Code 1991, is amended to read as follows:

477.9A DEREGULATED SERVICES.

A telegraph or telephone company whose services are deregulated by the board under section ~~476.1~~ 476.1D may use public notice as a means of conveying terms and conditions to customers where identification of those customers is infeasible or impractical. Public notice may also be used to convey changes in terms and conditions, other than price increases or limitations of liability, to all other customers, but only if those customers were put on notice that this means would be used to convey subsequent changes. Notwithstanding section 477.7, when services are deregulated by the board under section ~~476.1~~ 476.1D, a telegraph or telephone company, in any contract, agreement, or by means of public notice, may reasonably limit its liability under section 477.7 in the course of providing the deregulated communications services to its customers, except for acts of willful misconduct. However, this section ~~shall~~ does not ~~be construed to~~ allow a greater limitation on liability than exists in any contract or approved tariff as of the effective date of the deregulation of the services.

Sec. 99. Section 477C.7, subsection 2, Code Supplement 1991, is amended to read as follows:

2. The assessment shall be levied upon revenues from all intrastate regulated, deregulated ~~services~~, and exempt telephone services under ~~section~~ sections 476.1 and 476.1D.

Sec. 100. Section 515.150, subsection 4, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A reserve for demolition costs is no longer required if ~~as a result of~~ either of the following is true:

Sec. 101. Section 516D.3, subsection 7, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

"Material restriction" means a restriction, limitation, or other requirement which significantly affects the price of, normal anticipated use of, or a ~~consumer's~~ customer'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:

Sec. 102. Section 523D.6, subsection 1, paragraph o, Code Supplement 1991, is amended to read as follows:

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 or 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.

Sec. 103. Section 534.103, subsection 3, Code Supplement 1991, is amended to read as follows:

3. LOCK BOXES. Any association may own~~,~~ and rent to its members~~,~~ lock boxes for storage or safekeeping of securities and valuables.

Sec. 104. Section 534.408, subsection 1, unnumbered paragraph 2, Code Supplement 1991, is amended by striking the unnumbered paragraph.

Sec. 105. Section 546.7, Code Supplement 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, 477C, 478, 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. 106. Section 546.11, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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. 107. Section 598.42, Code Supplement 1991, is amended to read as follows:

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. 108. Section 601A.15A, subsection 2, paragraph d, Code Supplement 1991, is amended to read as follows:

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~~ discriminatory practices in housing or real estate.

Sec. 109. Section 602.1206, subsection 2, Code 1991, is amended to read as follows:

2. Supreme court rules shall be published as provided in section ~~14.12,~~ ~~subsection~~ ~~7~~ 14.5.

Sec. 110. Section 602.4201, subsection 2, Code 1991, is amended to read as follows:

2. Rules of appellate procedure relating to appeals to and review by the supreme court, discretionary review by the courts of small claims actions, review by the supreme court by writ of certiorari to inferior courts, appeal to or review by the court of appeals of a matter transferred to that court by the supreme court, and further review by the supreme court of decisions of the court of appeals, shall be known as "Rules of Appellate Procedure", and shall be published as provided in section ~~14.12,~~ ~~subsection~~ ~~7~~ 14.5.

Sec. 111. Section 602.8102, subsection 79, Code Supplement 1991, is amended to read as follows:

79. Collect on behalf of, and pay to, the ~~auditor~~ treasurer the fee for the transfer of real estate as provided in section 558.66.

Sec. 112. Section 602.8102, subsection 152, Code Supplement 1991, is amended to read as follows:

152. Maintain a ~~ready calendar~~ trial certificate list as provided in R.C.P. 181.1, Ia. Ct. Rules, 3d ed.

Sec. 113. Section 602.8102, subsection 153, Code Supplement 1991, is amended by striking the subsection.

Sec. 114. Section 602.8102, subsection 156, Code Supplement 1991, is amended to read as follows:

156. Mail ~~a copy~~ notice of the filing of the referee's, auditor's, or examiner's report to the attorneys of record as provided in R.C.P. 214, Ia. Ct. Rules, 3d ed.

Sec. 115. Section 614.14, subsection 2, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

However, this ~~section~~ subsection shall not apply if the legal action is commenced by filing a petition ~~of~~ and service of notice within ten years of the recording of the conveyance.

Sec. 116. Section 657.2, subsection 10, Code 1991, is amended to read as follows:

10. The depositing or storing of ~~inflammable~~ flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of ~~any~~ a city, unless ~~it be~~ in a building of fireproof construction, is a public nuisance.

Sec. 117. Section 702.11, Code Supplement 1991, is amended to read as follows:

702.11 FORCIBLE FELONY.

A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. 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~~ abuse by a counselor or therapist in violation of section 709.15, is not a "forcible felony".

Sec. 118. Section 708.2A, subsection 5, Code Supplement 1991, is amended to read as follows:

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.

Sec. 119. Section 709.15, subsection 1, paragraph f, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

"Sexual abuse by a counselor or therapist" occurs when ~~either~~ one or ~~both~~ more of the following are found:

Sec. 120. Section 727.2, Code 1991, is amended to read as follows:

727.2 FIREWORKS.

The term "fireworks" ~~shall mean and include~~ includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and ~~shall include~~ includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and ~~any~~ fireworks containing any explosive or ~~inflammable~~ flammable compound, or other device containing any explosive substance. The term "fireworks" ~~shall~~ does not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, ~~no~~ flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, ~~nor~~ toy snakes which contain no mercury, ~~nor~~ or caps used in cap pistols.

PARAGRAPH DIVIDED. ~~Except as hereinafter provided, any~~ A person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a serious misdemeanor; ~~provided~~. However, the council of ~~any~~ a city or ~~the~~ a county board of supervisors may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by ~~such~~ the city or ~~such~~ the county board of supervisors when ~~such~~ the fireworks display will be handled by a competent operator, but no such permit shall be required for ~~such~~ the display of fireworks at the Iowa state fairgrounds by the Iowa state fair board, ~~nor of~~ at incorporated county fairs, ~~nor of~~ or at district fairs receiving state aid. Sales of fireworks for such display may be made for that purpose only; ~~provided further, that nothing in this section shall be construed to~~.

PARAGRAPH DIVIDED. This section does not prohibit ~~any~~ the sale by a resident, dealer, manufacturer, or jobber ~~from selling~~ of such fireworks as are not ~~herein~~ prohibited; by this section, or the sale of any kind of fireworks ~~provided the same~~ if they are to be shipped out of the state;, or the sale or use of blank cartridges for a show or the theater, or for signal purposes in athletic sports or by railroads or trucks, for signal purposes, or by a recognized military organization; ~~and provided further that nothing in this section shall~~.

PARAGRAPH DIVIDED. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

Sec. 121. Section 902.9, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The criminal penalty surcharge required by section 911.2 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by that section, and is not a part of or subject to the maximums set in this section.

Sec. 122. Section 910A.11, subsection 5, Code Supplement 1991, is amended to read as follows:

5. The clerk of the district 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. 123. Section 18.98, Code 1991, is repealed.

Approved April 28, 1992

CHAPTER 1164

COUNTY JAIL SPACE AND SPACE FOR DISTRICT COURT

H.F. 2195

AN ACT providing that certain counties need not maintain a county jail or space for the district court.

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

Section 1. Section 331.381, subsection 17, Code 1991, is amended to read as follows:

17. a. Furnish a place for the confinement of prisoners as required in section 903.4, and in accordance with chapter 356 or 356A.

b. Notwithstanding paragraph "a", after consulting with and obtaining the approval of the chief judge of the judicial district, the board of a county with a population of less than fifteen thousand according to the 1990 census may enter into an agreement with a contiguous county to share costs and to provide space for the county's prisoners and space for the district court.

Sec. 2. Section 602.1303, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a county board of supervisors, with the approval of the supreme court, elects not to maintain space for the district court, the county may enter into an agreement with a contiguous county in the same judicial district to share the costs under subsections 1 through 8. For the purposes of this subsection, two counties are contiguous if they share a common boundary, including a corner.

Sec. 3. Section 602.6103, Code 1991, is amended to read as follows:

602.6103 COURT IN CONTINUOUS SESSION.

The district court of each judicial district shall be in continuous session ~~in~~ for all of the several counties comprising the district.

Sec. 4. Section 602.6105, subsection 1, Code 1991, is amended to read as follows:

1. Courts shall be held at the places in each county maintaining space for the district court as designated by the chief judge of the judicial district, except that the determination of actions, special proceedings, and other matters not requiring a jury may be done at some other place in the district with the consent of the parties. For the purposes of this subsection, contiguous counties which have entered into an agreement to share costs pursuant to section 331.381, subsection 17, paragraph "b", shall be considered as one unit for the purpose of conducting all matters except as otherwise provided in this subsection.

Approved April 28, 1992

CHAPTER 1165

PROCEDURES FOR INVOLUNTARY HOSPITALIZATION

H.F. 2308

AN ACT relating to procedures for the involuntary hospitalization of chronic substance abusers and persons who are seriously mentally impaired.

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

Section 1. Section 125.81, subsection 3, Code Supplement 1991, is amended to read as follows:

3. In ~~a~~ the nearest facility ~~in the community~~ which is ~~suitably equipped and staffed for the purpose~~ licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime

shall not be ordered, except in cases of actual emergency if no other secure resource is accessible, and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 2. Section 229.11, subsection 3, Code 1991, is amended to read as follows:

3. In ~~a public or private~~ the nearest facility in the community which is ~~suitably equipped and staffed for the purpose~~ licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of crime may not be ordered except in cases of actual emergency when no other secure facility is accessible and then only for a period of not more than twenty-four hours and under close supervision.

Sec. 3. Section 229.13, Code Supplement 1991, is amended to read as follows:

229.13 ~~HOSPITALIZATION FOR~~ EVALUATION ORDER — UNAUTHORIZED DEPARTURE.

If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has been sustained by clear and convincing evidence, it shall order the respondent placed in a hospital or ~~other suitable~~ a facility licensed to care for persons with mental illness or substance abuse or under the care of a facility that is licensed to care for persons with mental illness or substance abuse on an outpatient basis as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. If the respondent is ordered at the hearing to undergo outpatient treatment, the outpatient treatment provider must be notified and agree to provide the treatment prior to placement of the respondent under the treatment provider's care. The court shall furnish to the hospital or facility at the time the respondent arrives ~~there~~ at the hospital or facility a written finding of fact setting forth the evidence on which the finding is based. If the respondent is ordered to undergo outpatient treatment, the order shall also require the respondent to cooperate with the treatment provider and comply with the course of treatment. The chief medical officer of the hospital or facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted for not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. Extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is admitted to or placed under the care of the hospital or facility, and no extension of time has been requested, the chief medical officer is guilty of contempt and shall be punished under chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be held at or placed under the care of the facility.

If, after placement and admission of a respondent in or under the care of a hospital or other suitable facility, the respondent departs from the hospital or facility or fails to appear for treatment as ordered without prior proper authorization from the chief medical officer, upon receipt of notification of the respondent's departure or failure to appear 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. 4. Section 229.14, subsection 3, Code Supplement 1991, is amended to read as follows:

3. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court shall enter an order which may direct the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses

to submit to treatment as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as a patient requiring full-time custody, care and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court. If a patient is transferred for treatment to another provider under this subsection, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with relevant court orders by the former treatment provider.

Sec. 5. Section 229.15, subsection 4, Code 1991, is amended to read as follows:

4. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave or by transfer to a different hospital for continued full-time custody, care and treatment, the chief medical officer may authorize the leave or arrange and complete the transfer but shall promptly report the leave or transfer to the court. The patient's attorney or advocate may request a hearing on a transfer. Nothing in this section shall be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of human services. If a patient is transferred under this subsection, the treatment provider to whom the patient is transferred shall be provided with copies of relevant court orders by the former treatment provider.

Sec. 6. Section 229.21, subsection 2, Code Supplement 1991, is amended to read as follows:

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, 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 the court by sections 229.7 to 229.22 or sections 125.75 to 125.94 in the proceeding so initiated. Subject to the provisions of subsection 4, orders issued by a referee, in discharge of duties imposed under this section, shall have the same force and effect as if ordered by a district judge. However, any commitment to a facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

Sec. 7. NEW SECTION. 229.44 VENUE.

1. Venue for hospitalization proceedings shall be in the county where the respondent is found, unless the matter is transferred pursuant to supreme court rule 16 for the involuntary hospitalization of the mentally ill, in which case venue shall be in the county where the matter is transferred for hearing.

2. After an order is entered pursuant to section 229.34, the court may transfer proceedings to the court of any county having venue at any further stage in the proceeding as follows:

a. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the respondent's residence.

b. When it appears that the best interests of the respondent or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county where the respondent is found.

3. If a proceeding is transferred, the court shall contact the court in the county which is to be the recipient of the transfer before entering the order to transfer the case. The court shall then transfer the case by ordering a transfer of the matter to the recipient county, by ordering a continuance of the matter in the transferring county, and by forwarding to the clerk of the receiving court a certified copy of all papers filed, together with the order of transfer. The

referee of the receiving court may accept the filings of the transferring court or may direct the filing of a new application and may hear the case anew.

Approved April 28, 1992

CHAPTER 1166

ELECTRIC UTILITIES – REQUIRED PURCHASE OF POWER
H.F. 2330

AN ACT relating to the required purchase by electric utilities of megawatts of power.

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

Section 1. Section 476.44, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. An electric utility subject to this division, except a utility which elects rate regulation pursuant to section 476.1A, shall not be required to purchase, at any one time, more than its share of one hundred five megawatts of power from alternative energy production facilities or small hydro facilities at the rates established pursuant to section 476.43. The board shall allocate the one hundred five megawatts based upon each utility's percentage of the total Iowa retail peak demand, for the year beginning January 1, 1990, of all utilities subject to this section. If a utility undergoes reorganization as defined in section 476.76, the board shall combine the allocated purchases of power for each utility involved in the reorganization.

Notwithstanding the one hundred five megawatt maximum, the board may increase the amount of power that a utility is required to purchase at the rates established pursuant to section 476.43 if the board finds that a utility, including a reorganized utility, exceeds its 1990 Iowa retail peak demand by twenty percent and the additional power the utility is required to purchase will encourage the development of alternate energy production facilities and small hydro facilities. The increase shall not exceed the utility's increase in peak demand multiplied by the ratio of the utility's share of the one hundred five megawatt maximum to its 1990 Iowa retail peak demand.

Approved April 28, 1992

CHAPTER 1167

SMALL GROUP HEALTH BENEFIT PLANS

H.F. 2370

AN ACT relating to health insurance availability to employees of small employers and providing for certain assessments.

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

Section 1. Section 513B.2, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Basic health benefit plan" means a plan which is offered pursuant to section 513B.7E.

NEW SUBSECTION. 7A. "Eligible employee" means an employee who works on a full-time basis and has a normal work week of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary, or substitute basis.

NEW SUBSECTION. 9A. "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period for which such individual is entitled to enroll under the terms of the health benefit plan, provided the initial enrollment period is a period of at least thirty days. An eligible employee or dependent shall not be considered a late enrollee if any of the following apply:

a. The individual meets all of the following:

(1) The individual was covered under qualifying previous coverage at the time of the initial enrollment.

(2) The individual lost coverage under qualifying previous coverage as a result of termination of the individual's employment or eligibility, the involuntary termination of the qualifying previous coverage, death of the individual's spouse, or the individual's divorce.

(3) The individual requests enrollment within thirty days after termination of the qualifying previous coverage.

b. The individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.

c. A court has ordered that coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and the request for enrollment is made within thirty days after issuance of the court order.

NEW SUBSECTION. 10A. "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under any of the following:

a. Medicaid pursuant to Title XIX of the Social Security Act, medicare pursuant to Title XVIII of the Social Security Act, or coverage pursuant to the person's service as a member of a branch of the armed forces of the United States.

b. An employer-based health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under a basic health benefit plan.

c. An individual health insurance policy or contract issued by a carrier which provides benefits similar to or exceeding the benefits provided under the basic health benefit plan, provided the policy or contract has been in effect for a period of at least one year.

NEW SUBSECTION. 14. "Standard health benefit plan" means a plan which is offered pursuant to section 513B.7E.

Sec. 2. Section 513B.3, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

513B.3 APPLICABILITY AND SCOPE.

This chapter applies to a health benefit plan providing coverage to the employees of a small employer in this state if any of the following apply:

1. Any portion of the premium or benefits is paid by or on behalf of the small employer.

2. An eligible employee or dependent is reimbursed in any manner by or on behalf of the small employer for any portion of the premium or benefits.

3. The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of section 106, 125, or 162 of the Internal Revenue Code as defined in section 422.3.

4. a. Except as provided in paragraph "b", for purposes of this chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this chapter shall apply as if all health benefit plans delivered or issued for delivery to small employers in this state by such carriers were issued by one carrier.

b. An affiliated carrier which is a health maintenance organization possessing a certificate of authority issued pursuant to chapter 514B shall be considered to be a separate carrier for the purposes of this chapter.

c. Unless otherwise authorized by the commissioner, a small employer carrier shall not enter into one or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to small employers in this state if the arrangements would result in less than fifty percent of the insurance obligation or risk for such health benefit plans being retained by the ceding carrier.

Sec. 3. Section 513B.4, subsection 1, paragraph c, subparagraph (1), Code Supplement 1991, is amended to read as follows:

(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, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new insureds who are small employers.

Sec. 4. Section 513B.4, subsection 1, paragraph d, Code Supplement 1991, is amended to read as follows:

d. In the case of health benefit plans issued prior to July 1, 1991, 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~~ three years following July 1, ~~1991~~ 1992. 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, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new insureds who are small employers.

(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.

Sec. 5. Section 513B.4, subsection 1, paragraph e, Code Supplement 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

e. Any adjustment in rates for claims experience, health status, and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

Sec. 6. Section 513B.4, subsection 2, Code Supplement 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, case characteristics may include industry classification, provided that the highest rate factor associated with any industry classification shall not exceed the lowest rate factor associated with any industry classification by more than fifteen percent. However, case characteristics other than age, industry classification, geographic area, family composition, and group size shall not be used by a small employer carrier without the prior approval of the commissioner. Gender may be used by a small employer carrier as a case characteristic provided the insurance division has conducted an independent actuarial study that determined the use of gender to be actuarially justified and, therefore, an allowed case characteristic. The study shall be based upon Iowa data to the extent the data is statistically valid or actuarially sound. The commissioner may assess the cost of the study to health insurance carriers admitted to this state pursuant to the procedures established for the assessment of fees and charges against certain insurers under section 507D.4. The commissioner, upon receipt of the findings of the study, shall adopt rules prohibiting or permitting the use of gender as an allowed case characteristic as determined by the study.

NEW UNNUMBERED PARAGRAPH. Rating factors shall produce premiums for identical groups which differ only by amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans. A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

Sec. 7. Section 513B.4, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For purposes of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

Sec. 8. Section 513B.5, subsection 1, Code Supplement 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. Repeated misuse of a provider network provision.

NEW PARAGRAPH. g. The commissioner finds that the continuation of the coverage is not in the best interests of the policyholders or certificate holders, or would impair the carrier's ability to meet its contractual obligations. If nonrenewal occurs as a result of findings pursuant to this paragraph, the commissioner shall assist affected small employers in finding replacement coverage.

Sec. 9. Section 513B.5, subsection 2, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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~~ one hundred eighty 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:

Sec. 10. Section 513B.6, subsection 3, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. The provisions relating to any preexisting condition provision.

Sec. 11. NEW SECTION. 513B.7A AVAILABILITY OF COVERAGE.

1. a. A small employer carrier, as a condition of transacting business in this state with small employers, shall actively offer to small employers at least two health benefit plans. One health benefit plan offered by each small employer carrier shall be a basic health benefit plan and one plan shall be a standard health benefit plan.

b. (1) A small employer carrier shall issue a basic health benefit plan or a standard health benefit plan to an eligible small employer that applies for either plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with this chapter.

(2) A small employer carrier establishing more than one class of business shall maintain and issue to eligible small employers at least one basic health benefit plan and at least one standard health benefit plan in each class of business established. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer provided all of the following apply:

(a) The criteria are not intended to discourage or prevent acceptance of small employers applying for a basic or standard health benefit plan.

(b) The criteria are not related to the health status or claims experience of the small employer.

(c) The criteria are applied consistently to all small employers applying for coverage in the class of business.

(d) The small employer carrier provides for the acceptance of all eligible small employers into one or more classes of business.

The provisions of this subparagraph do not apply to a class of business into which the small employer carrier is no longer enrolling new insureds who are small employers.

(3) For purposes of this lettered paragraph, a small employer is eligible if it employed at least two or more eligible employees within this state on at least fifty percent of its days of operation during the preceding calendar quarter. The provisions of this lettered paragraph shall be effective one hundred eighty days after the commissioner's approval of the basic health benefit plan and the standard health benefit plan.

2. a. A small employer carrier shall file with the commissioner, in a form and manner prescribed by the commissioner, the basic health benefit plans and the standard health benefit plans to be used by the carrier. A health benefit plan filed pursuant to this paragraph may be used by a small employer carrier beginning thirty days after it is filed unless the commissioner disapproves its use.

b. The commissioner at any time after providing notice and opportunity for hearing may disapprove the continued use of a basic or standard health benefit plan by a small employer carrier on the grounds that the plan does not meet the requirements of this chapter.

3. A health benefit plan providing coverage for small employers shall satisfy all of the following:

a. The plan shall not deny, exclude, or limit benefits for a covered individual for losses incurred more than twelve months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than the following:

(1) A condition that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the six months immediately preceding the effective date of coverage.

(2) A condition for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately preceding the effective date of coverage.

(3) A pregnancy existing on the effective date of coverage.

b. The plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such service, provided that the qualifying previous coverage was continuous to a date not less than thirty days prior to the effective date of the new coverage. This paragraph does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

c. The plan may exclude coverage for late enrollees for the greater of eighteen months or an eighteen-month preexisting condition period, provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed eighteen months from the date the individual enrolls for coverage under the health benefit plan.

d. (1) Except as provided in subparagraph (3), requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(2) A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

(3) Except as provided in this subparagraph, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met under the applicable minimum participation requirements. However, with respect to a small employer with ten or fewer eligible employees, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by the small employer when applying minimum participation requirements.

(4) A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage. For any plan issued prior to July 1, 1992, a carrier may, upon approval of the commissioner, increase a minimum employee participation requirement or a minimum employer contribution requirement consistent with chapter 509.

e. (1) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all eligible employees of the small employer and the employees' dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group or to only part of the group, except as permitted with regard to late enrollees.

(2) A small employer carrier shall not modify a basic or standard health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements, or other means, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

4. a. A small employer carrier shall not be required to offer coverage or accept applications pursuant to this section where any of the following apply:

(1) To a small employer, where the small employer is not physically located in the carrier's established geographic service area.

(2) To an employee, when the employee does not work or reside within the carrier's established geographic service area.

(3) Within an area where the small employer carrier reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have the capacity within the carrier's established geographic service area to deliver service adequately to the members of such groups because of the carrier's obligations to existing group policyholders and enrollees.

b. A small employer carrier not required to offer coverage or accept applications pursuant to paragraph "a", subparagraph (3), shall not offer coverage in the applicable area to new employer groups with more than twenty-five eligible employees or to any small employer groups until the later of one hundred eighty days following such refusal or the date on which the carrier notifies the commissioner that it has regained capacity to deliver services to small employer groups.

5. A small employer carrier shall not be required to offer coverage to small employers pursuant to subsection 1 for any period of time where the commissioner determines that the acceptance of the offers by small employers in accordance with subsection 1 would place the small employer carrier in a financially impaired condition.

Sec. 12. NEW SECTION. 513B.7B NOTICE OF INTENT TO OPERATE AS A RISK-ASSUMING CARRIER OR REINSURING CARRIER.

1. a. A small employer carrier authorized to transact the business of insurance in this state shall notify the commissioner at the time of authorization of the carrier's intention to operate

as a risk-assuming carrier or a reinsuring carrier. A small employer carrier seeking to operate as a risk-assuming carrier shall make an application pursuant to section 513B.7C.

b. The notification of the commissioner concerning the carrier's intention pursuant to paragraph "a" is binding for a five-year period from the date notification is given, except that the initial notification given by carriers after the effective date of this Act is binding for a two-year period. The commissioner may permit a carrier to modify the carrier's decision at any time for good cause.

c. The commissioner shall establish an application process for small employer carriers seeking to change their status pursuant to this subsection.

2. A reinsuring carrier that applies and is approved to operate as a risk-assuming carrier shall not be permitted to continue to reinsure any health benefit plan with the program. The carrier shall pay a prorated assessment based upon business issued as a reinsuring carrier for any portion of the year that the business was reinsured.

Sec. 13. NEW SECTION. 513B.7C APPLICATION TO BECOME A RISK-ASSUMING CARRIER.

1. A small employer carrier may apply to become a risk-assuming carrier by filing an application with the commissioner in a form and manner prescribed by the commissioner.

2. In evaluating an application made pursuant to this section, the commissioner shall consider the following factors:

a. The carrier's financial condition.

b. The carrier's history of rating and underwriting small employer groups.

c. The carrier's commitment to market fairly to all small employers in the state or the carrier's established geographic service area, as applicable.

d. The carrier's experience with managing the risk of small employer groups.

3. The commissioner shall provide public notice of an application by a small employer carrier to be a risk-assuming carrier and shall provide at least a sixty-day period for public comment prior to making a decision on the application. If the application is not acted upon within ninety days of the receipt of the application by the commissioner, the carrier may request a hearing.

4. The commissioner may rescind the approval granted to a risk-assuming carrier under this section if the commissioner finds any of the following:

a. The carrier's financial condition will no longer support the assumption of risk from issuing coverage to small employers in compliance with section 513B.7A without the protection provided by the program.

b. The carrier has failed to market fairly to all small employers in the state or the carrier's established geographic service area, as applicable.

c. The carrier has failed to provide coverage to eligible small employers as required under section 513B.7A.

5. A small employer carrier electing to be a risk-assuming carrier shall not be subject to the provisions of section 513B.7D.

Sec. 14. NEW SECTION. 513B.7D SMALL EMPLOYER CARRIER REINSURANCE PROGRAM.

1. A nonprofit corporation is established to be known as the Iowa small employer health reinsurance program.

2. A reinsuring carrier is subject to this program.

3. a. The program shall operate subject to the supervision and control of a board. Subject to the provisions of paragraph "b", the board shall consist of nine members appointed by the commissioner, and the commissioner or the commissioner's designee, who shall serve as an ex officio member and as chairperson of the board.

b. In appointing the members of the board, the commissioner shall include representatives of small employers and small employer carriers and such other individuals as determined to

be qualified by the commissioner. At least five of the members of the board shall be representatives of reinsuring carriers and shall be selected from individuals nominated by small employer carriers in this state pursuant to procedures and guidelines provided by rule of the commissioner.

c. The initial board members shall be appointed as follows:

(1) Three members shall be appointed for a term of two years.

(2) Three members shall be appointed for a term of four years.

(3) Three members shall be appointed for a term of six years.

d. Subsequent members shall be appointed for terms of three years. A board member's term shall continue until the member's successor is appointed.

e. A vacancy in the board shall be filled by the commissioner for the remainder of the term. A member of the board may be removed by the commissioner for cause.

4. The board, within one hundred eighty days after the initial appointments, shall submit a plan of operation to the commissioner. The commissioner, after notice and hearing, may approve the plan of operation if the commissioner determines that the plan is suitable to assure the fair, reasonable, and equitable administration of the program, and provides for the sharing of program gains and losses on an equitable and proportionate basis in accordance with the provisions of this section. The plan of operation is effective upon written approval of the commissioner. After the initial plan of operation is submitted and approved by the commissioner, the board may submit to the commissioner any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the program.

5. If the board fails to submit a plan of operation within one hundred eighty days after the board's appointment, the commissioner, after notice and hearing, shall establish and adopt a temporary plan of operation. The commissioner shall amend or rescind a plan adopted pursuant to this subsection at the time a plan is submitted by the board and approved by the commissioner.

6. The plan of operation shall do all of the following:

a. Establish procedures for the handling and accounting of program assets and moneys, and for an annual fiscal reporting to the commissioner.

b. Establish procedures for selecting an administering carrier and setting forth the powers and duties of the administering carrier.

c. Establish procedures for reinsuring risks in accordance with the provisions of this section.

d. Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program.

e. Provide for any additional matters necessary to implement and administer the program.

7. The same general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business in this state may be exercised by the board under the program, except the power to issue health benefit plans directly to either groups or individuals. Additionally, the board is granted the specific authority to do all or any of the following:

a. Enter into contracts as necessary or proper to administer the provisions and purposes of this chapter, including the authority, with the approval of the commissioner, to enter into contracts with similar programs in other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions.

b. Sue or be sued, including taking any legal action necessary or proper to recover any assessments and penalties for, on behalf of, or against the program or any reinsuring carriers.

c. Take any legal action necessary to avoid the payment of improper claims made against the program.

d. Define the health benefit plans for which reinsurance will be provided, and issue reinsurance policies, pursuant to this chapter.

e. Establish rules, conditions, and procedures for reinsuring risks under the program.

f. Establish and implement actuarial functions as appropriate for the operation of the program.

g. Assess reinsuring carriers in accordance with the provisions of subsection 11, and make advance interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the calendar year.

h. Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program.

i. Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default are legal investments for carriers and may be carried as admitted assets.

8. A reinsuring carrier may reinsure with the program as provided in this section.

a. With respect to a basic health benefit plan or a standard health benefit plan, the program shall reinsure the level of coverage provided and, with respect to other plans, the program shall reinsure up to the level of coverage provided in a basic or standard health benefit plan.

b. A small employer carrier may reinsure an entire employer group within sixty days of the commencement of the group's coverage under a health benefit plan.

c. A reinsuring carrier may reinsure an eligible employee or dependent within a period of sixty days following the commencement of the coverage with the small employer. A newly eligible employee or dependent of a reinsured small employer may be reinsured within sixty days of the commencement of such person's coverage.

d. (1) The program shall not reimburse a reinsuring carrier with respect to the claims of a reinsured employee or dependent until the small employer carrier has incurred an initial level of claims for such employee or dependent of five thousand dollars in a calendar year for benefits covered by the program. In addition, the reinsuring carrier is responsible for ten percent of the next fifty thousand dollars of incurred claims during a calendar year and the program shall reinsure the remainder. A reinsuring carrier's liability under this subparagraph shall not exceed a maximum limit of ten thousand dollars in any one calendar year with respect to any reinsured individual.

(2) The board annually shall adjust the initial level of claims and the maximum limit to be retained by the small employer carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "consumer price index for all urban consumers" of the United States department of labor, bureau of labor statistics, unless the board proposes and the commissioner approves a lower adjustment factor.

e. A small employer carrier may terminate reinsurance for one or more of the reinsured employees or dependents of small employer on any plan anniversary date.

f. Premium rates charged for reinsurance by the program to a health maintenance organization that is federally qualified under 42 U.S.C. § 300c(c)(2)(A), and is thereby subject to requirements that limit the amount of risk that may be ceded to the program that are more restrictive than those specified in paragraph "d", shall be reduced to reflect that portion of the risk above the amount set forth in paragraph "d" that may not be ceded to the program, if any.

9. a. The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers and individuals pursuant to this section. The methodology shall include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, which shall be multiplied by the factors set forth in paragraph "b" to determine the premium rates for the program. The base reinsurance premium rates shall be established by the board, subject to the approval of the commissioner, and shall be set at levels which reasonably approximate gross premiums charged to small employers by small employer carriers for health benefit plans with benefits similar to the standard health benefit plan.

b. Premiums for the program shall be as follows:

(1) An entire small employer group may be reinsured for a rate that is one and one-half times the base reinsurance premium rate for the group established pursuant to this subsection.

(2) An eligible employee or dependent may be reinsured for a rate that is five times the base reinsurance premium rate for the individual established pursuant to this subsection.

c. The board periodically shall review the methodology established under paragraph "a", including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the commissioner.

10. If a health benefit plan for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 513B.4.

11. a. Prior to March 1 of each year, the board shall determine and report to the commissioner the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

b. Any net loss for the year shall be recouped by assessments of reinsuring carriers.

(1) The board shall establish, as part of the plan of operation, a formula by which to make assessments against reinsuring carriers. The assessment formula shall be based on both of the following:

(a) Each reinsuring carrier's share of the total premiums earned in the preceding calendar year from health benefit plans delivered or issued for delivery to small employers in this state by reinsuring carriers.

(b) Each reinsuring carrier's share of the premiums earned in the preceding calendar year from newly issued health benefit plans delivered or issued for delivery during such calendar year to small employers in this state by reinsuring carriers.

(2) The formula established pursuant to subparagraph (1) shall not result in any reinsuring carrier having an assessment share that is less than fifty percent nor more than one hundred fifty percent of an amount which is based on the proportion of the reinsuring carrier's total premiums earned in the preceding calendar year from health benefit plans delivered or issued for delivery to small employers in this state by reinsuring carriers to total premiums earned in the preceding calendar year from health benefit plans delivered or issued for delivery to small employers in this state by all reinsuring carriers.

(3) The board, with approval of the commissioner, may change the assessment formula established pursuant to subparagraph (1) from time to time as appropriate. The board may provide for the shares of the assessment base attributable to premiums from all health benefit plans and to premiums from newly issued health benefit plans to vary during a transition period.

(4) Subject to the approval of the commissioner, the board shall make an adjustment to the assessment formula for reinsuring carriers that are approved health maintenance organizations which are federally qualified under 42 U.S.C. § 300 et seq., to the extent, if any, that restrictions are placed on them that are not imposed on other small employer carriers.

(5) Premiums and benefits paid by a reinsuring carrier that are less than an amount determined by the board to justify the cost of collection shall not be considered for purposes of determining assessments.

c. (1) Prior to March 1 of each year, the board shall determine and file with the commissioner an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(2) If the board determines that the assessments needed to fund the losses incurred by the program in the previous calendar year will exceed the amount specified in subparagraph (3), the board shall evaluate the operation of the program and report its findings, including any recommendations for changes to the plan of operation, to the commissioner within ninety days following the end of the calendar year in which the losses were incurred. The evaluation shall include: an estimate of future assessments, the administrative costs of the program, the

appropriateness of the premiums charged, and the level of insurer retention under the program and the costs of coverage for small employers. If the board fails to file the report with the commissioner within ninety days following the end of the applicable calendar year, the commissioner may evaluate the operations of the program and implement such amendments to the plan of operation the commissioner deems necessary to reduce future losses and assessments.

(3) For any calendar year, the amount specified in this subparagraph is five percent of total premiums earned in the previous year from health benefit plans delivered or issued for delivery to small employers in this state by reinsuring carriers.

(4) If assessments in each of two consecutive calendar years exceed by ten percent the amount specified in subparagraph (3), the commissioner may relieve carriers from any or all of the regulations of this chapter or take such other actions as the commissioner deems equitable and necessary to spread the risk of loss and assure portability of coverages and continuity of benefits so as to reduce assessments to ten percent or less of that amount specified in subparagraph (3).

d. If assessments exceed net losses of the program, the excess shall be held in an interest-bearing account and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

e. Each reinsuring carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the reinsuring carriers with the board.

f. The plan of operation shall provide for the imposition of an interest penalty for late payment of assessments.

g. A reinsuring carrier may seek from the commissioner a deferment from all or part of an assessment imposed by the board. The commissioner may defer all or part of the assessment of a reinsuring carrier if the commissioner determines that the payment of the assessment would place the reinsuring carrier in a financially impaired condition. If all or part of an assessment against a reinsuring carrier is deferred, the amount deferred shall be assessed against the other participating carriers in a manner consistent with the basis for assessment set forth in this subsection. The reinsuring carrier receiving such deferment shall remain liable to the program for the amount deferred and shall be prohibited from reinsuring any individuals or groups in the program until such time as it pays such assessments.

12. The participation in the program as reinsuring carriers, the establishment of rates, forms, or procedures, or any other joint or collective action required by this chapter shall not be the basis of any legal action, criminal or civil liability, or penalty against the program or any of its reinsuring carriers either jointly or separately.

13. The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to producers for the sale of basic and standard health benefit plans. In establishing such standards, the board shall take into consideration all of the following:

a. The need to assure the broad availability of coverages.

b. The objectives of the program.

c. The time and effort expended in placing the coverage.

d. The need to provide ongoing service to the small employer.

e. The levels of compensation currently used in the industry.

f. The overall costs of coverage to small employers selecting these plans.

14. The program is exempt from any and all state or local taxes.

Sec. 15. NEW SECTION. 513B.7E HEALTH BENEFIT PLAN STANDARDS.

1. The commissioner shall adopt by rule the form and level of coverage of the basic health benefit plan and the standard health benefit plan to be made available by a small employer carrier pursuant to section 513B.7A. The commissioner's rules shall include the benefit levels, cost sharing levels, exclusions, and limitations for the basic health benefit plan and the

standard health benefit plan, and shall define for purposes of this chapter, a basic health benefit plan and a standard health benefit plan which contain benefit and cost sharing levels that are consistent with the basic method of operation and the benefit plans of health maintenance organizations, including any restrictions imposed by federal law.

2. The commissioner's rules may include cost containment features such as the following:

a. Utilization review of health care services, including review of medical necessity of hospital and physician services.

b. Case management.

c. Selective contracting with hospitals, physicians, and other health care providers.

d. Reasonable benefit differentials applicable to providers that participate or do not participate in arrangements using restricted network provisions.

e. Other managed care provisions.

Sec. 16. NEW SECTION. 513B.7F PERIODIC MARKET EVALUATION.

The board shall study and report at least every three years to the commissioner on the effectiveness of this chapter. The report shall analyze the effectiveness of the chapter in promoting rate stability, product availability, and coverage affordability. The report may contain recommendations for actions to improve the overall effectiveness, efficiency, and fairness of the small group health insurance marketplace. The report shall address whether carriers and producers are fairly and actively marketing or issuing health benefit plans to small employers in fulfillment of the purposes of this chapter. The report may contain recommendations for market conduct or other regulatory standards or action.

Sec. 17. NEW SECTION. 513B.7G APPLICABILITY OF CERTAIN STATE LAWS.

The provisions of chapter 514H shall not apply to basic health benefit plans and standard health benefit plans as provided for in this chapter, except for section 514H.8.

Sec. 18. Section 513B.8, Code Supplement 1991, is amended to read as follows:

513B.8 DISCRETION OF THE COMMISSIONER.

1. 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.

2. The commissioner may suspend or modify the normal work week requirement of thirty or more hours under the definition of eligible employee upon a finding by the commissioner that the suspension would enhance the availability of health insurance to employees of small employers.

3. The commissioner may adopt, by rule or order, transition provisions to facilitate the orderly and coordinated implementation of this Act.

Approved April 28, 1992

CHAPTER 1168

ALL-TERRAIN VEHICLES AND SNOWMOBILES

H.F. 2413

AN ACT relating to operation by all-terrain vehicles and snowmobiles on certain underpasses and roadways.

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

Section 1. Section 321G.9, subsection 1, Code 1991, is amended to read as follows:

1. ~~Except as provided in section 321.234A, an~~ An all-terrain vehicle or snowmobile shall not be operated at any time within the right of way of any interstate highway or freeway within this state~~.~~ except under either of the following circumstances:

a. As provided in section 321.234A.

b. When using an underpass located on an interstate highway or freeway if all of the following apply:

(1) The underpass has been abandoned and is no longer being used by motor vehicles or trains.

(2) Use of the underpass is the only alternative to the use of a traveled roadway.

(3) Notwithstanding the provisions of chapter 321, use of the underpass does not conflict with any rules or regulations adopted by a federal governmental entity or this state or a political subdivision of this state.

Approved April 28, 1992

CHAPTER 1169

LEGALIZATION OF ESTABLISHMENT OF CERTAIN COUNTY ROADS

S.F. 460

AN ACT relating to the establishment of certain county roads and legalizing the proceedings concerning the establishment of certain county roads.

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

Section 1. NEW SECTION. 589.30 ESTABLISHMENT OF ANCIENT COUNTY ROADS.

Effective January 1, 1993, the establishment of a county road pursuant to proceedings by a board of supervisors, in which the proceedings, plans, or plats were on file or recorded with the county auditor or county recorder prior to January 1, 1920, are not ineffectual because of the failure of the board of supervisors to comply with any of the steps necessary for the establishment of the road, and these proceedings are legalized and valid as if the record showed that the law had been complied with, unless the adjacent property owner, or an attorney, agent, guardian, conservator, trustee, or parent of a minor adjacent property owner, files in the office of the county recorder in the county where the property is located, a statement in writing, which is duly acknowledged, and which specifically describes the property involved, the nature and extent of the right of the interest claimed, and the nature of the alleged failure to comply with any of the steps necessary for the establishment of the road, on or before December 31, 1992.

Approved April 29, 1992

CHAPTER 1170

OVERWEIGHT VEHICLES TRANSPORTING SOLID WASTE

S.F. 2061

AN ACT exempting overweight vehicles transporting solid waste from unloading requirements.

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

Section 1. Section 321.465, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Whenever~~ If an officer upon weighing a vehicle and load, ~~as above provided,~~ determines that the weight is unlawful, ~~such~~ the officer may require the driver to stop the vehicle in a suitable place ~~and remain standing~~ until such portion of the load is removed as may be necessary to reduce the gross weight of ~~such~~ the vehicle to ~~such~~ the limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of ~~such~~ the vehicle at the risk of ~~such~~ the owner or operator. The owner or operator of an overweight vehicle, designed to compact and transport solid waste and domiciled within the state, which is transporting solid waste shall not be required to unload any portion of the load, if the load is indivisible, in a place other than a facility which is permitted to handle solid waste disposal, processing, or recycling. For purposes of this section "solid waste" means waste which is acceptable at a local sanitary landfill and solid waste which has been compacted shall be considered to be an indivisible load.

Approved April 29, 1992

CHAPTER 1171

PROGRAMS IN NEWLY REORGANIZED SCHOOL DISTRICTS

S.F. 2238

AN ACT to permit the participation in the instructional support and educational improvement programs by newly reorganized school districts.

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

Section 1. Section 257.18, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Participation in an instructional support program is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in a school reorganization under chapter 275 has approved an instructional support program, and if the voters have not voted upon the question of participation in the program in the reorganized district, the instructional support program shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts.

Sec. 2. Section 257.29, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Participation in an educational improvement program is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in school reorganization under chapter 275 has approved an educational improvement program, and if the voters have not voted upon the question of participation in the program in the reorganized district, the educational improvement program shall be in effect for the reorganized district that has been approved for the least amount and the shortest time in any of the districts.

Approved April 29, 1992

CHAPTER 1172

STUDY OF CERTAIN CONTRACTS FOR CARE AND FEEDING OF SWINE
S.F. 2244

AN ACT relating to the care and feeding of swine by cooperative associations by providing for a study, and providing an effective date.

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

Section 1. LEGISLATIVE STUDY – CONTRACTS FOR THE CARE AND FEEDING OF SWINE.

1. The legislative council is requested to establish an interim committee to study restrictions, practices, and procedures, relating to contracts for the care and feeding of swine, including the care and feeding of swine by cooperative associations.

2. The legislative council is requested to appoint members to the interim committee which may include two members of the senate, two members of the house of representatives, and one member representing each of the following: the attorney general's office, the Iowa institute of cooperatives, the Iowa pork producers association, and the Iowa business council's Iowa animal agriculture council whose representative shall be actively engaged in the production of swine.

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

Approved April 29, 1992

CHAPTER 1173

MOVEMENT OF MOBILE HOMES ON HIGHWAYS
S.F. 2248

AN ACT relating to escorts for the movement of mobile homes and other factory-built structures.

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

Section 1. Section 321E.8, subsection 4, Code Supplement 1991, is amended to read as follows:

4. All movements of mobile homes and other vehicles the width of which, including any load, exceeds the roadway lane width of the street or highway being traversed, shall be under escort, except that mobile homes and other factory-built structures with an overall width not exceeding sixteen feet six inches shall not be required to have an escort if travel is on an interstate or four-lane highway and if the mobile home or factory-built structure displays an amber revolving light or strobe light on the rear of the mobile home or factory-built structure and if the toting vehicle also displays an amber revolving light or strobe light.

Approved April 29, 1992

CHAPTER 1174

CITY DEVELOPMENT – SOLID WASTE COLLECTION SERVICES
S.F. 2290

AN ACT relating to the procedures for city development and to the provision of solid waste collection.

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

Section 1. Section 368.1, subsection 6, Code Supplement 1991, is amended to read as follows:

6. "Committee" means the board members, and the local representatives appointed as provided in ~~section~~ sections 368.14 and 368.14A, to hear and make a decision on a petition or plan for city development.

Sec. 2. Section 368.7, unnumbered paragraphs 2, 3, and 4, Code Supplement 1991, are amended to read as follows:

An application for annexation of territory not within ~~the~~ an 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.

An application for annexation of territory within ~~the~~ an 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. ~~A copy~~ Notice of the application shall be mailed by certified mail, by the city to which the annexation is directed, at least ten days prior to ~~the filing of the application with the city council~~, any action by the city council on the application 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~~ any action by the city council on 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. The annexation is completed when the board has filed copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

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 date the first application or petition was submitted to the board, 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.

Sec. 3. Section 368.8, Code 1991, is amended to read as follows:

368.8 VOLUNTARY SEVERING OF TERRITORY.

Any territory may be severed upon the unanimous consent of all owners of the territory and approval by resolution of the council of the city in which the territory is located. The council shall provide in the resolution for the equitable distribution of assets and equitable distribution and assumption of liabilities of the territory as between the city and the severed territory. The city clerk shall file a copy of the resolution, map, and a 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 severance which would create an island. The severance is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.

Sec. 4. Section 368.11, unnumbered paragraph 4, Code Supplement 1991, is amended to read as follows:

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 within the urbanized area if the territory is within an urbanized area, or, if the territory is not within an urbanized area, to the council of each city within two miles of the territory, 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.

Sec. 5. Section 368.17, subsections 6 and 7, Code Supplement 1991, are amended to read as follows:

6. An incorporation of territory, any part of which is within ~~an urbanized area of a~~ two miles of an existing city, unless a petition for annexation of substantially the same territory to such city has been dismissed, disapproved, or voted upon unfavorably within the last five years.

7. ~~An annexation~~ A city development action which creates an island.

Sec. 6. NEW SECTION. 455B.306A ANNEXATION OF TERRITORY — EXPANSION OF SERVICES.

1. A city which annexes an area pursuant to chapter 368, or plans to operate or expand solid waste collection services into an area where the collection of solid waste is presently being provided by a private entity, shall notify the private entity by certified mail at least sixty days before its annexation or expansion of its intent to provide solid waste collection services in the area.

2. A city shall not commence alternative solid waste collection in such an area for one year from the effective date of the annexation or one year from the effective date of the notice that the city intends to operate or expand solid waste collection services in the area, unless the city contracts with the private entity to continue the services for that period.

3. A private entity providing solid waste collection services pursuant to this section shall provide solid waste collection services in the area in accordance with the city's comprehensive plan.

Approved April 29, 1992

CHAPTER 1175

MOTOR VEHICLE LAWS — MISCELLANEOUS PROVISIONS

S.F. 2343

AN ACT relating to motor vehicle laws by changing to multiyear licensing for certain motor vehicle-related dealers and changing fees, making certain changes related to commercial drivers' licensing, expanding the definition of motor vehicle license, creating a penalty for violating a license restriction, relating to the operation of new motor vehicle models by a dealer licensed as a wholesaler, requiring consideration of safety concerns for location of roadways, allowing special registration plates for leased motor vehicles, relating to the sale of certain antique vehicles, relating to lighting devices and citations issued for failing to have certain lighting devices, increasing the penalty for failure to have a valid license or permit, providing for a physician's report of incompetency to operate a motor vehicle, expanding the seat belt exemption, exempting certain commercial vehicles from motor carrier safety regulations, eliminating a yield to honking passer requirement, and making other technical changes.

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

DIVISION I

Section 1. Section 321.57, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A dealer licensed as a wholesaler for a new motor vehicle model under chapter 322 may operate a new motor vehicle of that model, owned by the wholesaler, upon the highway when there is displayed on the vehicle a special plate issued to the wholesaler as provided in sections 321.58 through 321.62 and when operated solely for the purposes of demonstration, show, or exhibition.

Sec. 2. Section 321.58, Code 1991, is amended to read as follows:

321.58 APPLICATION.

All dealers, transporters, and mobile home dealers licensed under chapter 322B ~~may~~, upon payment of a fee of ~~thirty-five~~ seventy dollars for two years, one hundred forty dollars for four years, or two hundred ten dollars for six years, may make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, mobile home dealer licensed under chapter 322B, or dealer, as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership. A dealer licensed as a wholesaler for a new motor vehicle model pursuant to chapter 322, shall furnish satisfactory evidence of valid written authorization from the manufacturer of the new motor vehicle of the dealer's status as a wholesaler of the new motor vehicle model.

Sec. 3. Section 321.60, Code 1991, is amended to read as follows:

321.60 ISSUANCE OF SPECIAL PLATES.

The department shall also issue special plates as applied for, which shall display the general distinguishing number assigned to the applicant. Each plate so issued shall also contain a number or symbol identifying the plate and distinguishing it from every other plate bearing the same general distinguishing number. The fee for each special plate ~~shall be twenty~~ is forty dollars for two years, eighty dollars for four years, or one hundred twenty dollars for six years.

Special plates may be validated in the same manner as regular registration plates under this chapter ~~at an annual fee of twenty dollars~~.

Sec. 4. Section 321.61, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

321.61 EXPIRATION OF SPECIAL PLATES.

A special plate shall expire at midnight on the last day of the last month of the dealer's license expiration period, and upon application and payment of the fee the department shall validate the special plate in the same manner as regular registration plates.

Sec. 5. NEW SECTION. 321.64 IMPLEMENTATION OF MULTIYEAR LICENSING AND ISSUANCE OF SPECIAL PLATES.

To implement the change from a calendar year to multiyear certificate as provided in section 321.58 and to implement the change from calendar year to multiyear special plates as provided in section 321.60, each certificate or special plate shall have an expiration month as established by the department with fees prorated based upon the number of months for which the certificate or special plate was issued.

Sec. 6. Section 321F.4, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

321F.4 FEES AND EXPIRATION.

1. The license fee for a license to engage in the business of leasing vehicles in this state is thirty dollars for a two-year license, sixty dollars for a four-year license, and ninety dollars for a six-year license, to be paid at the time the application for a license is filed. If the application is denied, the amount of the fee shall be refunded to the applicant.

2. A license is valid for two years, four years, or six years and expires on the last day of the last month of the two-year, four-year, or six-year period, as applicable.

Sec. 7. NEW SECTION. 321F.4A IMPLEMENTATION OF MULTIYEAR LICENSING.

To implement the change from calendar year to multiyear licensing provided in section 321F.4, a license shall have an expiration month as established by the department with fees prorated based upon the number of months for which the license was issued.

Sec. 8. Section 321F.6, Code 1991, is amended to read as follows:

321F.6 CERTIFICATE OF RESPONSIBILITY.

Within ten days after delivery of a motor vehicle under a lease entered into by a lessor, ~~such~~ the lessor shall file with the director evidence of financial responsibility and a copy of the lease, ~~together with a certificate on forms to be provided by the director,~~ setting forth the name and address of the lessee, the period of the lease, and ~~such~~ other information as the director may require, except if the lessor has on file with the director evidence of financial responsibility covering all motor vehicles which may be leased by the lessor, the lessor shall not be required to furnish further evidence of financial responsibility after delivery of the motor vehicle under a lease. ~~In addition if~~ If a lessor has filed with the director a lease form under which motor vehicles are to be leased, the lessor shall not be required to file a copy of each lease.

~~The lessor shall pay a filing fee of fifty cents for each motor vehicle to be leased upon the filing of each certificate provided for in this section.~~

Sec. 9. Section 321F.7, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

321F.7 CERTIFICATE CARRIED IN VEHICLE.

A certificate on a form prescribed by the director shall be carried in the leased vehicle to identify the name and address of the lessee and the make, year, and vehicle identification number of the leased vehicle in addition to the vehicle's registration card. The certificate 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. 10. Section 321H.4, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Upon application and payment of a ~~thirty-five dollar~~ fee, a person may apply for a license to operate as an authorized vehicle recycler to engage in the business as one or more of the following:

a. A vehicle rebuilder; ~~or~~.

b. A used vehicle parts dealer; ~~or~~.

c. A vehicle salvager.

2. Application for a license as an authorized vehicle recycler shall be made to the department on forms provided by the department. The application shall be accompanied by ~~the~~ a fee of seventy dollars for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license. The license shall be approved or disapproved within thirty days after application for the license. ~~Each license shall expire, unless revoked or suspended by the department, on December 31 of the calendar year for which the license was granted~~ A license is valid for two years, four years, or six years and expires on the last day of the last month of the two-year, four-year, or six-year period, as applicable. A separate license shall be obtained for each county in which an applicant conducts operations.

Sec. 11. NEW SECTION. 321H.4A IMPLEMENTATION OF MULTIYEAR LICENSING.

To implement the change from calendar year to multiyear licensing provided in section 321H.4, a license shall have an expiration month as established by the department with fees prorated based upon the number of months for which the license was issued.

Sec. 12. Section 322.1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director may enter into reciprocity agreements with the authorized representatives of any jurisdiction to exchange information on dealer activity in order to pursue legal action for violations.

Sec. 13. Section 322.5, subsection 1, Code 1991, is amended to read as follows:

1. The license fee for a motor vehicle dealer ~~for each calendar year or part thereof shall be~~ is the sum of ~~thirty-five~~ seventy dollars for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license for the licensee's principal place of business in each city or township and an additional ~~ten~~ twenty dollars for two years, forty dollars for four years, or sixty dollars for six years for each car lot which is in the city or township in which the principal place of business is located and which is not adjacent to ~~such~~ that place, to be paid to the department at the time a license is applied for. In case the application is denied, the department shall refund the amount of ~~such~~ the fee to the applicant. For the purposes of this section "adjacent" means that the principal place of business and each additional lot are adjoining parcels of property.

Sec. 14. Section 322.7, subsections 3 and 4, Code 1991, are amended to read as follows:

3. The license of a motor vehicle dealer ~~shall expire and terminate,~~ is valid for a two-year, four-year, or six-year time period and expires unless ~~sooner~~ revoked or suspended~~, at the end of the calendar year in which it is granted~~ on the last day of the last month of the two-year, four-year, or six-year period, as applicable.

4. The motor vehicle dealer license provided for in this chapter shall be renewed ~~annually~~ upon application in ~~such~~ the form and content ~~as~~ prescribed by the department and upon payment of the required fee. ~~Such renewal shall take effect on the first day of January of each year.~~

Sec. 15. NEW SECTION. 322.7A IMPLEMENTATION OF MULTIYEAR LICENSING.

To implement the change from calendar year to multiyear licensing provided in section 322.7, a license shall have an expiration month as established by the department with fees prorated based upon the number of months for which the license was issued.

Sec. 16. Section 322B.3, subsection 2, Code 1991, is amended to read as follows:

2. LICENSE FEES. The license fee for a mobile home dealer ~~for each calendar year~~ is ~~thirty-five~~ seventy dollars for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license. If the application is denied, the department shall refund the fee. Fees and funds accruing from the administration of this chapter shall be accounted for and paid by the department to the treasurer of state monthly for deposit in the road use tax fund of the state.

To implement the change from calendar year to multiyear licensing provided in this section, a license shall have an expiration month as established by the department with fees prorated based upon the number of months for which the license was issued.

Sec. 17. Section 322C.4, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Upon application and payment of a ~~thirty-five dollar~~ fee, a person may be licensed as a travel trailer dealer. The fee is seventy dollars for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license. The person shall pay an additional ~~ten dollar~~ fee of twenty dollars for two years, forty dollars for four years, or sixty dollars for six years for each travel trailer lot in addition to the principal place of business unless the lot is adjacent to the principal place of business. For purposes of this subsection, "adjacent" means that the principal place of business and each additional lot are adjoining parcels of property. The applicant shall file in the office of the department a verified application for license as a travel trailer dealer in the form the department prescribes, which shall include the following:

Sec. 18. Section 322C.4, subsection 2, Code 1991, is amended to read as follows:

2. The license shall be granted or refused within thirty days after application. ~~Each license~~ A license is valid for a two-year, four-year, or six-year period and expires, unless ~~sooner~~ revoked or suspended by the department, ~~on December 31 of the calendar year for which the license is granted~~ on the last day of the last month of the two-year, four-year, or six-year period, as applicable. A separate license shall be obtained for each county in which an applicant does business as a travel trailer dealer.

To implement the change from calendar year to multiyear licensing provided in this section, a license shall have an expiration month as established by the department with fees prorated based upon the number of months for which the license was issued.

DIVISION II

Sec. 19. Section 321.1, subsection 25, paragraph b, Code Supplement 1991, is amended to read as follows:

b. "Gross combination weight rating" means the combined ~~weights specified by the manufacturer as the loaded weight of~~ gross vehicle weight ratings for each vehicle in a combination of vehicles. In the absence of a weight specified by the manufacturer for a towed vehicle, the gross vehicle weight rating of the towed vehicle ~~shall be~~ is its gross weight.

Sec. 20. Section 321.176A, subsection 1, Code 1991, is amended to read as follows:

1. A farmer or a person working for a farmer while operating a ~~special truck~~ commercial motor vehicle owned by the farmer within one hundred fifty air miles of the farmer's farm to transport the farmer's own agricultural products, farm machinery, or farm supplies to or from the farm. The exemption provided in this subsection shall apply to farmers who assist each other through an exchange of services and shall include operation of a commercial motor vehicle between the farms of the farmers who are exchanging services.

Sec. 21. Section 321.188, subsection 3, Code 1991, is amended to read as follows:

3. An applicant for a hazardous material endorsement must pass a knowledge test as required under 49 C.F.R. § 383.121 adopted as of a specific date by rule by the department to obtain or retain the endorsement. However, an applicant for license ~~upgrade~~ issuance who was previously issued a commercial driver's license from another state may retain the hazardous material endorsement from the previously issued license if the applicant successfully passed the endorsement test within the preceding twenty-four months.

Sec. 22. Section 321.189, subsection 1, paragraphs a and b, Code 1991, are amended to read as follows:

a. Class A — Valid for the operation of vehicles with a gross combination weight rating of twenty-six thousand one or more pounds if ~~one of~~ the towed vehicle or vehicles ~~has~~ have

a gross vehicle weight rating or gross combination weight rating of ten thousand one or more pounds, and also valid for the operation of vehicles with lower gross combination weight ratings and other vehicles except motorcycles.

b. Class B — Valid for the operation of a vehicle with a gross vehicle weight rating of twenty-six thousand one or more pounds or a combination of vehicles with a gross combination weight rating of twenty-six thousand one or more pounds ~~provided~~ if the towing vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds and ~~each~~ the towed vehicle ~~has~~ or vehicles have a gross vehicle weight rating or gross combination weight rating of less than ten thousand one pounds, and also valid for the operation of vehicles with lower gross vehicle weight ratings or gross combination weight ratings except motorcycles.

Sec. 23. Section 321.189, subsection 2, paragraph b, Code 1991, is amended to read as follows:

b. A commercial driver's license shall include the licensee's address as required under federal regulations, and the licensee's social security number, and the ~~word~~ words "commercial driver's license" or "CDL" shall appear prominently on the face of the license. If the applicant is a nonresident, the license must conspicuously display the word "nonresident".

Sec. 24. Section 321.208, subsection 1, paragraph b, Code 1991, is amended to read as follows:

b. Operating a commercial motor vehicle with ~~a blood~~ an alcohol concentration, as defined in section 321J.1, of 0.04 or more.

Sec. 25. Section 321.208, subsection 7, Code 1991, is amended to read as follows:

7. A person is disqualified from operating a commercial motor vehicle if the person either refuses to submit to chemical testing required under chapter 321J or submits to chemical testing and the results show ~~a blood~~ an alcohol concentration as defined in section 321J.1 of 0.04 or more. The department, upon receipt of the peace officer's certification, subject to penalty for perjury, that the peace officer had reasonable grounds to believe the person to have been operating a commercial motor vehicle with ~~a blood~~ an alcohol concentration of 0.04 or more and that the person refused to submit to the chemical testing or submitted to chemical testing and the results show ~~a blood~~ an alcohol concentration as defined in section 321J.1 of 0.04 or more, shall, without preliminary hearing and upon twenty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

Sec. 26. Section 321.208, subsection 7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The effective date of disqualification shall be twenty days after notification. Immediate notice of disqualification may be served on a person operating a commercial motor vehicle who refused to submit to a test or whose test results indicate an alcohol concentration of 0.04 or more by the peace officer administering the chemical test or the department may notify the person by certified mail. If immediate notice is served, the peace officer shall take the commercial driver's license or permit of the driver, if issued within the state, and issue a temporary commercial driver's license effective for only twenty days. The peace officer shall immediately send the person's commercial driver's license to the department in addition to the officer's certification required by this subsection.

DIVISION III

Sec. 27. Section 204B.3, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. A motor vehicle ~~operator's~~ license containing the purchaser's photograph and residential or mailing address, other than a post office box number, or any other official state-issued identification containing this information.

Sec. 28. Section 321.1, subsection 77, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of license suspension, revocation, bar, disqualification, cancellation, or denial under chapters 321, 321A, 321C, and 321J, "motor vehicle license" includes any privilege to operate a motor vehicle.

Sec. 29. Section 321.34, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. LEASED VEHICLES. Registration plates under this section may be issued to the lessee of a motor vehicle if the lessee provides evidence of a lease for a period of more than sixty days and if the lessee complies with the requirements, under this section, for issuance of the specific registration plates.

Sec. 30. Section 321.50, subsection 4, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a title is presented for transfer, and the lien has been released by the lienholder but has not been sent to the county of record for clearance of the lien, the county of transfer shall notify the county of record that the lien has been released as of the specified date, and shall make entry upon the computer system, and shall proceed to transfer the title. Notification to the county of record shall be made by an automated statewide system, or by sending a photocopy of the released title to the county of record.

Sec. 31. Section 321.115, subsection 2, Code 1991, is amended to read as follows:

2. The sale of a motor vehicle ~~twenty-five~~ twenty years old or older which is primarily of value as a collector's item and not as transportation is not subject to chapter 322 and any person may sell such a vehicle at retail or wholesale without a license as required under chapter 322.

Sec. 32. Section 321.186, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A physician licensed under chapter 148, 150, or 150A, may report to the department the identity of a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. The physician shall make reasonable efforts to notify the person who is the subject of the report, in writing. The written notification shall state the nature of the disclosure and the reason for the disclosure. A physician making a report under this section shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report. A physician has no duty to make a report or to warn third parties with regard to any knowledge concerning a person's mental or physical competency to operate a motor vehicle in a safe manner. Any report received by the department from a physician under this section shall be kept confidential. Information regulated by chapter 141 shall be subject to the provisions of sections 141.23 and 141.24.

Sec. 33. Section 321.193, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to that person under this section.

Sec. 34. NEW SECTION. 321.385A CITATION FOR UNLIGHTED HEADLAMP. A citation issued for failure to have head lamps as required under section 321.385 shall first provide for a seventy-two hour period within which the person charged with the violation shall replace or repair the headlamp. If the person complies with the directive to replace or repair the headlamp within the allotted time period, the citation shall be expunged. If the person fails to comply within the allotted time period, the citation shall be processed in the same manner as other citations. A citation issued under this section shall include a written notice of replacement or repair which shall indicate the date of replacement or repair and the manner in which the replacement or repair occurred and which shall be returned to the issuing authority within the seventy-two hour time period.

A citation issued for failure to have rear lamps as required under section 321.387 or a rear registration plate light as required under section 321.388 shall first provide for a seventy-two hour period within which the person charged with the violation shall replace or repair the lamps or light. If the person complies with the directive to replace or repair the lamps or light within

the allotted time period, the citation shall be expunged. If the person fails to comply within the allotted time period, the citation shall be processed in the same manner as other citations.

Sec. 35. Section 321.387, Code 1991, is amended to read as follows:

321.387 REAR LAMPS.

Every motor vehicle and every vehicle which is being drawn at the end of a train of vehicles shall be equipped with a lighted rear lamp or lamps, exhibiting a red light plainly visible from a distance of five hundred feet to the rear. All lamps and lighting equipment originally manufactured on a motor vehicle shall be kept in working condition or shall be replaced with equivalent equipment.

Sec. 36. Section 321.415, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Whenever a driver of a vehicle approaches an oncoming vehicle within ~~five hundred~~ one thousand feet, the driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in section 321.409, subsection 2, shall be deemed to avoid glare at all times, regardless of road contour and loading.

2. Whenever the driver of a vehicle follows another vehicle within ~~two~~ four hundred feet to the rear, except when engaged in the act of overtaking and passing, the driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in section 321.409, subsection 1.

Sec. 37. Section 321.445, subsection 2, paragraph e, Code 1991, is amended to read as follows:

e. A person possessing a written certification from a physician on a form provided by the department that the person is unable to wear a safety belt or safety harness due to physical or medical reasons. The certification shall specify the time period for which the exemption applies. The time period shall not exceed twelve months, at which time a new certification may be issued unless the certifying physician is from a United States military facility, in which case the certificate may specify a longer period of time or a permanent exemption.

Sec. 38. Section 321.449, Code 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Rules adopted under this section concerning periodic inspections shall not apply to special trucks as defined in section 321.1, subsection 71, and registered under section 321.123.

NEW UNNUMBERED PARAGRAPH. Rules adopted under this section shall not apply to vehicles used in combination provided the gross vehicle weight rating of the towing unit is ten thousand pounds or less and the gross combination weight rating is twenty-six thousand pounds or less.

Sec. 39. Section 321A.1, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Department" means the state department of transportation.

Sec. 40. Section 805.8, subsection 2, paragraph i, Code 1991, is amended to read as follows:

i. For violations involving failures to yield or to observe pedestrians and other vehicles under sections 321.257, subsection 2, 321.288, 321.298, ~~321.300,~~ 321.307, 321.308, 321.313, 321.319, 321.320, 321.321, 321.329, 321.333, and 321.367, the scheduled fine is twenty dollars.

Sec. 41. Section 805.8, subsection 2, paragraph r, Code 1991, is amended to read as follows:

r. For failure to have a valid license or permit for operating a motor vehicle on the highways of this state, the scheduled fine is ~~fifteen~~ twenty dollars.

Sec. 42. Sections 321.300 and 321.301, Code 1991, are repealed.

Sec. 43. The Code editor shall amend chapter 321A by striking the word "director" and inserting in lieu thereof the word "department" throughout the chapter.

Approved April 29, 1992

CHAPTER 1176

CITIES – SPECIAL ASSESSMENTS FOR TRAFFIC-CONTROL DEVICES
S.F. 2357

AN ACT providing for the purchase of traffic-control devices with special assessments levied against commercial or industrial property.

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

Section 1. Section 384.37, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Traffic-control devices, fixtures, connections, and facilities.

Sec. 2. Section 384.41, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Owners of commercial or industrial property may initiate a plan, under subsection 1 or 2, for the purchase of a traffic-control device, fixture, connection, or facility to be paid for in whole or in part by special assessments provided that the proposed assessments shall be made only against the commercial or industrial property owned by the petitioners.

Approved April 29, 1992

CHAPTER 1177

PAYMENT OF DRAINAGE OR LEVEE TAX ASSESSMENTS
S.F. 2364

AN ACT relating to the time for paying of drainage or levee tax assessments and providing effective and applicability provisions.

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

Section 1. Section 468.55, Code 1991, as amended by 1992 Iowa Acts, House File 2269,* section 36, is amended to read as follows:

468.55 ASSESSMENTS – MATURITY AND COLLECTION.

All drainage or levee tax assessments become due and payable with the first half of ordinary taxes, and shall be collected in the same manner with the same interest for delinquency and the same manner of enforcing collection by tax sales. As an alternative, the certifying authority may request that the annual installment be payable in two equal payments, one-half with the September payment of ordinary taxes and one-half payable with the March payment of ordinary taxes.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and applies to any drainage or levee tax assessments payable on or after the effective date of this Act.

Approved April 29, 1992

*Chapter 1016 herein

CHAPTER 1178

PROPERTY TAX EXEMPTION FOR CERTAIN INSTITUTIONS

S.F. 2365

AN ACT relating to the refund or abatement of property taxes paid or owed by certain exempt institutions on property purchased by the institutions and providing an effective date.

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

Section 1. Notwithstanding any other provision of law, a county board of supervisors shall abate the property taxes due and payable or refund the property taxes, if paid, which are due and payable in the fiscal year beginning July 1, 1992, of an institution exempt under section 427.1, subsection 9, which purchased property if the exempt institution failed to apply for a property tax exemption for the property prior to July 1, 1991, because the closing on the purchase of the property occurred in July 1991, and the exemption would have been granted if the entity had applied and the closing had occurred prior to July 1, 1991. This section is repealed August 15, 1992.

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

Approved April 29, 1992

CHAPTER 1179

CRIME OF STALKING

H.F. 2025

AN ACT prohibiting stalking and providing criminal penalties, and establishing restrictions concerning admissibility to bail.

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

Section 1. NEW SECTION. 708.11 STALKING.

1. a. A person commits stalking when the person, on more than one occasion, willfully follows, pursues, or harasses another person and, while doing so and without legitimate purpose, makes a credible threat against the other person. A person may commit stalking by harassing another person without committing the offense of harassment pursuant to section 708.7.

b. As used in this section, unless the context otherwise requires:

(1) "Credible threat" means a threat made with the intent to place a reasonable person in like circumstances in fear of death or bodily injury, coupled with the apparent ability to carry out the threat.

(2) "Harasses" means repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person, regardless of the relationship between the offender and the intended victim.

2. A person who violates this section commits:

a. A class "D" felony for a third or subsequent offense.

b. An aggravated misdemeanor for a second offense.

c. A serious misdemeanor for a first offense when the act was in violation of an order setting conditions of release, a no-contact order, an injunction or restraining order, an order to vacate the premises or homestead, or any other protective order issued in a civil action or in a juvenile or criminal proceeding.

d. A simple misdemeanor for a first offense.

3. 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. Deferred judgments pursuant to section 907.3 for violations of this section 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 violation charged shall be considered and counted as a separate previous offense. An offense shall be considered a second or subsequent offense regardless of whether it was committed upon the same person who was the victim of any other previous offense.

Sec. 2. Section 811.1, subsection 3, Code 1991, is amended to read as follows:

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, a felony offense under chapter 204 not provided for in subsection 1 or 2 or a violation punishable under section 708.11, subsection 2, paragraph "a", is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons. While the presumption of ineligibility for bail established in this subsection shall not apply to a violation punishable under section 708.11, subsection 2, paragraph "b" or "c", in considering bail for a defendant awaiting judgment of conviction and sentencing following a plea or verdict of guilty of, or appealing a conviction of, a violation punishable pursuant to section 708.11, subsection 2, paragraph "b" or "c", the court shall consider the likelihood of the defendant reestablishing contact with the victim of the violation.

Approved April 29, 1992

CHAPTER 1180

ACCOUNTANCY

H.F. 2243

AN ACT relating to the requirements for licensure as a certified public accountant and providing an effective date.

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

Section 1. Section 116.5, subsection 2, Code 1991, is amended to read as follows:

2. a. ~~Has~~ On or before December 31, 2000, has a baccalaureate degree conferred by a college or university recognized by the board, with a concentration in accounting, or what the board determines to be substantially the equivalent of those requirements; or with a nonaccounting concentration, supplemented by what the board determines to be substantially the equivalent of an accounting concentration, including related courses in other areas of business administration; or is a graduate of a high school having at least a four-year course of study or its equivalent as determined by the board of accountancy and has had three years' continuous experience under the direct supervision of a certified public accountant holding a current permit to practice, which experience shall include a significant amount of accounting work involving third-party reliance on financial statements.

b. After December 31, 2000, has completed at least one hundred fifty semester hours, or the trimester or quarter equivalent of one hundred fifty semester hours, of college education

including a baccalaureate or higher degree conferred by a college or university recognized by the board, the total educational program to include an accounting concentration or equivalent as determined by rule to be appropriate. Subject to the other provisions of this section relating to reexaminations, a person who has partially passed the examination required by subsection 3 by passing one or more subjects prior to December 31, 2000, has until December 31, 2003, to successfully complete the examination process and qualify for a certificate under the educational requirements in effect prior to December 31, 2000.

Sec. 2. Section 116.5, subsection 3, unnumbered paragraph 3, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 3. Section 116.5, subsection 3, unnumbered paragraph 6, Code 1991, is amended to read as follows:

The board may admit to the examination described in subsection 3 any candidate who will complete the educational requirements for a baccalaureate degree within one hundred twenty days immediately following the date of the examination or who has completed those requirements. However, the board shall not report the results of the examination until the candidate has met the educational requirements for a baccalaureate degree and shall not grant the certificate until the candidate has fully satisfied the requirements of subsection 2.

Sec. 4. Section 116.20, subsection 2, paragraph d, Code Supplement 1991, is amended by striking the paragraph.

Sec. 5. Section 4 of this Act, which strikes section 116.20, subsection 2, paragraph "d", Code Supplement 1991, is effective July 1, 1993.

Approved April 29, 1992

CHAPTER 1181

WORKERS' COMPENSATION — APPLICATION FOR ALTERNATE CARE

H.F. 2250

AN ACT relating to an employee's choice of care under the workers' compensation law.

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

Section 1. Section 85.27, unnumbered paragraph 4, Code 1991, is amended to read as follows:

For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care. The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care. In an emergency, the employee may choose the employee's care at the employer's expense, provided the employer or the employer's agent cannot be reached immediately. An application made under this paragraph shall be considered an original proceeding for purposes of commencement and contested case proceedings under section 85.26. The hearing shall be conducted pursuant to chapter 17A. Before a hearing is scheduled, the parties may choose a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the

distance between the parties to the hearing. The industrial commissioner shall issue a decision within ten working days of receipt of an application for alternate care made pursuant to a telephone hearing or within fourteen working days of receipt of an application for alternate care made pursuant to an in-person hearing. The employer shall notify an injured employee of the employee's ability to contest the employer's choice of care pursuant to this paragraph.

Approved April 29, 1992

CHAPTER 1182

SOLID WASTE DISPOSAL

H.F. 2256

AN ACT relating to the local siting for new sanitary landfills and waste incinerators and providing an effective date.

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

Section 1. Section 455B.301, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Incinerator" means any enclosed device using controlled flame combustion that does not meet the criteria for classification as a boiler and is not listed as an industrial furnace. "Incinerator" does not include thermal oxidizers used for the treatment of gas emissions.

Sec. 2. Section 455B.305A, subsection 1, Code 1991, is amended to read as follows:

1. Prior to the siting of a proposed, new sanitary landfill, incinerator, or infectious medical waste incinerator, a city, county, or private agency, ~~with the exception of a private agency disposing of waste which the agency generates on property owned by the agency as of January 1, 1990,~~ shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is to be located. The requirements of this section do not apply to the expansion of an existing sanitary landfill owned by a private agency which disposes of waste which the agency generates on property owned by the agency. The city council or county board of supervisors shall approve or disapprove the site for each sanitary landfill, or incinerator, or infectious medical waste incinerator.

Sec. 3. Section 455B.305A, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Prior to the siting of a proposed new sanitary landfill or incinerator by a private agency disposing of waste which the agency generates on property owned by the agency which is located outside of the city limits and for which no county zoning ordinance exists, the private agency shall cause written notice of the proposal, including the nature of the proposed facility, and the right of the owner to submit a petition for formal siting of the proposed site, to be served either in person or by mail on the owners and residents of all property within two miles in each direction of the proposed local site area. The owners shall be identified based upon the authentic tax records of the county in which the proposed site is to be located. The private agency shall notify the county board of supervisors which governs the county in which the site is to be located of the proposed siting, and certify that notices have been mailed to owners and residents of the impacted area. Written notice shall be published in the official newspaper, as selected by the county board of supervisors pursuant to section 349.1, of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity,

and a description of the right of persons to comment on the request. If two hundred fifty or a minimum of twenty percent, whichever is less, of the owners and residents of property notified submit a petition for formal review to the county board of supervisors or if the county board of supervisors, on the board's own motion, requires formal review of the proposed siting, the private agency proposal is subject to the formal siting procedures established pursuant to this section.

Sec. 4. Section 455B.503, Code Supplement 1991, is amended to read as follows:

455B.503 INFECTIOUS WASTE TREATMENT AND DISPOSAL FACILITIES — PERMITS REQUIRED — RULES.

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 and notify the general assembly of the submission of the proposed rules pursuant to section 17.11 by January 15, ~~1992~~ 1993. The department shall not grant permits for the construction or operation of a commercial infectious waste treatment or disposal facility until the commission has adopted the required rules, and in no event earlier than July 1, 1993.

Sec. 5. Section 455D.9, subsection 3, Code 1991, is amended to read as follows:

3. The department shall develop rules which define yard waste and provide for the safe and proper method of composting. The rules adopted for a composting facility to be located on property owned by an applicant for a permit prior to July 1, 1992, when the property is located within twenty miles of a metropolitan area of two hundred fifty thousand or more, shall require that prior to the issuance of a permit for a composting facility, the applicant shall submit an economic impact statement to the department. For the purpose of this subsection, "economic impact statement" means an estimate of the economic impact of the siting of a composting facility at a specific location on affected property owners.

Sec. 6. 1990 Iowa Acts, chapter 1191, section 5, subsection 1 and subsection 3, paragraph a, as amended by 1991 Iowa Acts, chapter 242, section 7, are amended to read as follows:

1. The department of natural resources shall not grant a permit for the construction or operation of a commercial infectious waste 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~~ 1993. 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, 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.

a. An existing infectious waste treatment or disposal facility shall comply with the standards and limitations adopted by July 1, ~~1993~~ 1994, or as federal standards and limitations become final, whichever is earlier.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 29, 1992

CHAPTER 1183

HEALTH PRACTICE PROFESSION EXAMINING BOARDS

H.F. 2292

AN ACT relating to the health practice profession examining boards and the duties of the board of medical examiners and providing penalties.

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

Section 1. Section 80A.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person engaged in the process of verifying the credentials of physicians and allied health professionals applying for hospital staff privileges.

Sec. 2. Section 147.14, subsection 2, Code Supplement 1991, is amended to read as follows:

2. For medical examiners, five members licensed to practice medicine and surgery, two members licensed to practice osteopathic medicine and surgery, and ~~two~~ three members not licensed to practice either medicine and surgery or osteopathic medicine and surgery, and who shall represent the general public. A majority of members of the board constitutes a quorum.

Sec. 3. Section 147.36, Code 1991, is amended by adding the following new subsections, and renumbering subsequent subsections:

NEW SUBSECTION. 1. The qualifications required for applicants seeking to take examinations.

NEW SUBSECTION. 2. The denial of applicants seeking to take examinations.

NEW SUBSECTION. 5. The minimum scores required for passing standardized examinations.

Sec. 4. Section 147.74, subsections 2 and 3, Code Supplement 1991, are amended to read as follows:

2. A physician or surgeon may ~~precede the person's name with the title~~ use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "M.D."

3. An osteopath or osteopathic physician and surgeon may use the prefix "Dr." or "Doctor", ~~but~~ and shall add after the person's name the letters, "D.O." ~~or "O.S." as the case may be~~, or the words~~,~~ "Osteopath" or "Osteopathic Physician and Surgeon".

Sec. 5. Section 147.80, unnumbered paragraph 1 and subsection 3, Code Supplement 1991, are amended to read as follows:

An examining board shall set the fees for the examination of applicants, which fees shall be based upon the ~~annual~~ cost of administering the examinations. An examining board shall set the ~~annual~~ license fees~~, except~~ and renewal fees ~~which need not be annual,~~ required for any of the following based upon the cost of sustaining the board and the actual costs of licensing:

3. License to practice medicine and surgery, ~~or~~ osteopathic medicine and surgery, ~~issued upon the basis of an examination given by the board of medical examiners, license to practice medicine and surgery, osteopathic medicine and surgery~~ or osteopathy ~~issued by endorsement or under a reciprocal agreement,~~ and renewal of a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.

Sec. 6. Section 147.86, Code 1991, is amended to read as follows:

147.86 PENALTIES.

Any person violating any provision of this or the following chapters of this title, except insofar as ~~said~~ the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is not otherwise provided, shall be guilty of a serious misdemeanor.

Sec. 7. Section 147.102, Code 1991, is amended to read as follows:

147.102 ~~PHYSICIANS AND SURGEONS,~~ PSYCHOLOGISTS, CHIROPRACTORS, AND DENTISTS, ~~OSTEOPATHS, AND OSTEOPATHIC PHYSICIANS AND SURGEONS.~~

Notwithstanding the provisions of this title, every application for a license to practice ~~medicine and surgery,~~ psychology, chiropractic, or dentistry, ~~osteopathy, or osteopathic medicine and surgery,~~ shall be made directly to the chairperson, executive director, or secretary of the examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining board for such profession. All examination, license, and renewal fees received from persons licensed to practice any of such professions shall be paid to and collected by the chairperson, executive director, or secretary of the examining board of such profession, who shall transmit the fees to the treasurer of state for deposit into the general fund of the state. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 8. Section 147.103, Code 1991, is amended to read as follows:

147.103 INVESTIGATORS FOR PHYSICIAN ASSISTANTS.

~~The medical examiners may appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of the law relating to those licensed to practice medicine and surgery, osteopathic medicine and surgery, and osteopathy. The amount of compensation for the investigators shall be determined pursuant to chapter 19A.~~

The board of physician assistant examiners may appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to physician assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 19A.

Investigators authorized by the ~~board of medical examiners and the~~ board of physician assistant examiners have the powers and status of peace officers when enforcing this chapter and chapters ~~147A, 148,~~ 148C, ~~150, 150A,~~ and 258A.

Sec. 9. NEW SECTION. 147.103A PHYSICIANS AND SURGEONS, OSTEOPATHS, AND OSTEOPATHIC PHYSICIANS AND SURGEONS.

This chapter shall apply to the licensing of persons to practice as physicians and surgeons, osteopaths, and osteopathic physicians and surgeons by the board of medical examiners subject to the following provisions:

1. A person violating the provisions of section 147.2, 147.84, or 147.85, shall upon conviction be guilty of a class "D" felony.

2. The issuance of reciprocal agreements pursuant to section 147.44 is not required and is subject to the discretion of the board.

3. The board may appoint investigators, who shall not be members of the examining board, and whose compensation shall be determined pursuant to chapter 19A. Investigators appointed by the board have the powers and status of peace officers when enforcing this chapter and chapters 147A, 148, 150, 150A, and 258A.

4. Applications for a license shall be made to the chairperson, executive director, or secretary of the board. All examination, license, and renewal fees shall be paid to and collected by the chairperson, executive director, or secretary of the board, who shall transmit the fees to the treasurer of state for deposit in the general fund of the state. The salary of the executive director of the board shall be established by the governor with approval of the executive

council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government.

4A. The board shall give priority to the processing of applications for licensure submitted by physicians and surgeons, osteopaths, and osteopathic physicians and surgeons whose practice will primarily involve provision of service to underserved populations, including but not limited to persons who are minorities or low-income, or who live in rural areas.

5. Disciplinary hearings held pursuant to section 258A.6, subsection 1, shall be heard by the board, or by a panel of not less than three board members, at least two of which are licensed in the profession, or by a panel of not less than three members appointed pursuant to section 258A.6, subsection 2. Notwithstanding chapters 17A and 21, a disciplinary hearing shall be open to the public at the discretion of the licensee.

Sec. 10. Section 147.107, subsection 2, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

A ~~physician,~~ dentist~~,~~ or podiatrist who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall annually register the fact that they dispense prescription drugs with the practitioner's respective examining board. A physician doing so shall register biennially.

Sec. 11. NEW SECTION. 148.2A BOARD OF MEDICAL EXAMINERS.

As used in this chapter, "board" and "medical examiners" mean the board of medical examiners established in chapter 147.

Sec. 12. Section 148.3, Code 1991, is amended to read as follows:

148.3 REQUIREMENTS FOR LICENSE.

~~Each~~ An applicant for a license to practice medicine and surgery shall:

1. Present a diploma issued by a medical college approved by the medical examiners, or present other evidence of equivalent medical education approved by the medical examiners. The medical examiners may accept, in lieu of a diploma from a medical college approved by them, all of the following:

a. A diploma issued by a medical college which has been neither approved nor disapproved by the medical examiners; and

b. ~~The recommendation of~~ A valid standard certificate issued by the educational commission for foreign medical graduates~~,~~ ~~incorporated~~ or similar accrediting agency.

2. Pass an examination prescribed by the medical examiners which shall include subjects which determine the applicant's qualifications to practice medicine and surgery and which shall be given according to the methods deemed by the medical examiners to be the most appropriate and practicable. However, the federation licensing examination (FLEX) or any other national standardized examination which the medical ~~examiner~~ examiners shall approve may be administered to any or all applicants in lieu of or in conjunction with other examinations which the medical examiners shall prescribe. The medical examiners may establish necessary achievement levels on all examinations for a passing grade and ~~promulgate~~ adopt rules relating to examinations.

3. Present to the ~~Iowa department of public health~~ medical examiners satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the medical examiners.

Sec. 13. Section 148.4, Code 1991, is amended to read as follows:

148.4 CERTIFICATES OF NATIONAL BOARD.

The ~~Iowa department of public health may, with the approval of the~~ medical examiners~~,~~ may accept in lieu of the examination prescribed in section 148.3 a certificate of examination issued by the national board of medical examiners of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed by the ~~board~~ medical examiners for licenses ~~issued under reciprocal agreements~~.

Sec. 14. Section 148.5, Code 1991, is amended to read as follows:

148.5 RESIDENT PHYSICIAN LICENSE.

~~Any~~ A physician, who is a graduate of a medical school and is serving ~~only~~ as a resident physician ~~and~~ who is not otherwise licensed to practice medicine and surgery in this state, shall be required to obtain from the medical examiners a license to practice as a resident physician. The license shall be designated "Resident Physician License" and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery, in an institution approved for ~~this purpose~~ such training by the medical examiners. Such license shall be valid for one year and may be renewed at the discretion of the medical examiners. The fee for ~~this~~ each license shall be set by the ~~board~~ medical examiners to cover the administrative costs of issuing the license, and if extended beyond one year, a renewal fee as set by the ~~board~~ medical examiners shall be required. The medical examiners shall determine in each instance those eligible for ~~this~~ a license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure shall be mandatory for ~~this resident licensure~~ a resident physician license except as specifically designated by the medical examiners. The granting of a resident physician license does not in any way indicate that the person so licensed is necessarily eligible for regular permanent licensure, nor are the medical examiners in any way obligated to so license such individual. ~~The medical examiners shall revoke the license at any time they shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the medical examiners.~~

Sec. 15. Section 148.6, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. Having the license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is ~~conclusive or~~ prima facie evidence.

Sec. 16. Section 148.7, subsection 7, paragraph c, Code 1991, is amended to read as follows:

c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the physician on probation. The probation ordered may be vacated upon noncompliance. The ~~board of~~ medical examiners may ~~direct the director of public health to~~ restore and reissue a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy, but may impose a disciplinary or corrective measure which it might originally have imposed. ~~Such findings of fact and decision shall be filed with the director of public health who shall within ten days from such filing enter an order revoking or suspending the license issued to a physician licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy, or discipline such physician as directed by the board in its decision. A copy of the director's order shall immediately be sent by registered mail to the licensee's last known post office address accompanied by a copy of the board's findings of fact and decision.~~ A copy of the medical examiners' order, findings of fact, and decision, shall be served on the licensee in the manner of service of an original notice or by certified mail return receipt requested.

Sec. 17. Section 148.7, subsection 9, Code 1991, is amended to read as follows:

9. The ~~director's~~ medical examiners' order revoking or suspending a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy or to discipline a licensee shall remain in force and effect until the appeal is finally determined and disposed of upon its merit.

Sec. 18. Section 148.8, Code 1991, is amended to read as follows:

148.8 VOLUNTARY SURRENDER OF LICENSE.

The ~~director of public health is hereby authorized to~~ medical examiners may accept the voluntary surrender of a license if accompanied by a written statement of intention. ~~Such~~ A

voluntary surrender, when ~~so~~ accepted, ~~shall have~~ has the same force and effect as an order of revocation.

Sec. 19. Section 148.12, Code 1991, is amended to read as follows:

148.12 VOLUNTARY AGREEMENTS.

The medical examiners, after due notice and hearing, may ~~direct the director of public health to~~ issue an order to revoke, suspend, or restrict a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or to issue a restricted license on application if~~, after a hearing,~~ the medical examiners determine that a physician licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or an applicant for licensure has entered into a voluntary agreement to restrict the practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in another state, district, territory, or country. A certified copy of the voluntary agreement shall be considered ~~conclusive or~~ prima facie evidence.

Sec. 20. Section 150A.9, Code 1991, is amended to read as follows:

150A.9 RESIDENT LICENSE.

~~Any~~ An osteopathic physician and surgeon who is a graduate of a college of osteopathic medicine and surgery ~~approved by the medical examiners~~ and is serving ~~only~~ as a resident ~~osteopathic~~ physician ~~and surgeon~~ and who is not licensed to practice osteopathic medicine and surgery in this state, shall be required to obtain from the medical examiners a ~~temporary or special~~ license to practice as a resident osteopathic physician and surgeon. The license shall be designated "Resident Osteopathic Physician and Surgeon License", and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of osteopathic medicine and surgery or licensed practitioner of medicine and surgery, in an institution approved for ~~this purpose~~ such training by the medical examiners. ~~Such~~ A license shall be valid for one year and may be renewed at the discretion of the medical examiners. The fee for ~~this~~ each license shall be set by the ~~board~~ medical examiners and based on the administrative cost of issuing the license, and if extended beyond one year, a renewal fee shall be required. The medical examiners shall determine in each instance those eligible for ~~this~~ a license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure shall be mandatory for ~~this resident licensure~~ a resident osteopathic physician and surgeon's license except as specifically designated by the medical examiners. The granting of a resident osteopathic physician and surgeon's license does not in any way indicate that the person so licensed is necessarily eligible for regular permanent licensure, nor are the medical examiners in any way obligated to so license such individual. ~~The medical examiners shall revoke said license at any time they shall determine either that the caliber of work done by the licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the medical examiners.~~

Approved April 29, 1992

CHAPTER 1184

SOIL AND WATER CONSERVATION – FINANCIAL INCENTIVES

H.F. 2343

AN ACT relating to soil and water conservation by providing for financial incentives.

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

Section 1. Section 99E.34, subsection 2, paragraphs a and b, Code Supplement 1991, are amended to read as follows:

a. Sixty-two and four-tenths percent to the soil conservation division of the department of agriculture and land stewardship to provide state soil and water conservation ~~cost-sharing funds~~ cost-share moneys pursuant to ~~sections 467A.42 through 467A.75~~ division V of chapter 467A.

b. Eighteen and eight-tenths percent to 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~~ the 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~~ the 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~~ cost-share moneys pursuant to ~~section 467A.48~~ division V of chapter 467A.

Sec. 2. Section 467A.42, unnumbered paragraph 1, Code 1991, is amended to read as follows:

In addition to the definitions established by section 467A.3, as used in ~~sections 467A.43 to 467A.53 and sections 467A.61 to 467A.66~~ this division, unless the context otherwise requires:

Sec. 3. Section 467A.42, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 9. "Cost-share" or "cost-sharing" means a contribution of money made by the state in order to pay a percentage of the costs related to the establishment of voluntary or mandatory practices as provided under this chapter, including but not limited to soil and water conservation practices and erosion control practices.

NEW SUBSECTION. 10. "Forest" means stands of native or introduced trees containing at least two hundred trees per acre and located on privately owned land. However, a stand of fruit trees is not a forest.

NEW SUBSECTION. 11. "Professional forester" means a forestry graduate of an institution of higher learning, who has a minimum of two years of forest management experience.

NEW SUBSECTION. 12. "State forester" means a person employed by the department of natural resources as required by section 107.13.

Sec. 4. Section 467A.43, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A landowner shall not be liable for a claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent installation, construction, or reconstruction of a soil and water construction practice or an erosion control practice that was installed, constructed, or reconstructed in accordance with generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A soil and water conservation practice or an erosion control practice installed, constructed, or reconstructed in compliance with rules adopted by the division and currently in effect shall be deemed to be installed, constructed, or reconstructed according to generally recognized

engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A claim shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing soil and water conservation practice or erosion control practice to a new, changed, or altered design standard. This section does not apply to a claim based on a failure of a landowner to upgrade, improve, or alter a soil and water conservation practice or erosion control practice in violation of law. This section does not apply to claims based upon gross negligence.

Sec. 5. Section 467A.48, subsections 1 and 2, Code Supplement 1991, are amended to read as follows:

1. ~~a.~~ An owner or occupant of land in this state is not required to establish any new permanent or temporary soil and water conservation practice unless ~~public or other cost-sharing funds~~ cost-share or other public moneys have been specifically approved for that land and ~~actually~~ made available to the owner or occupant pursuant to section 467A.74.

~~b. The owner or occupant of land is eligible to receive state cost-sharing funds to establish a permanent grass and buffer zone, including an erosion control structure or an erosion control practice to mitigate the effects of concentrated runoff on surface water quality.~~

~~c. 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.~~

~~The amount of cost-sharing funds made available to establish a permanent grass and buffer zone may be up to one hundred percent of the estimated cost as established by the commissioners or one hundred percent of the actual cost, whichever is less.~~

~~The commissioners shall establish the estimated cost of permanent soil and water conservation practices in the district based upon one and two-tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each calendar year.~~

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

Sec. 6. NEW SECTION. 467A.70 ESTABLISHMENT AND PURPOSE.

Financial incentive programs are established within the division in order to protect the long-term productivity of the soil and water resources of the state from erosion and sediment damage, and to encourage the adoption of farm management and agricultural practices which are consistent with the capability of the land to sustain agriculture and preserve this state's natural resources.

Sec. 7. NEW SECTION. 467A.72 ADMINISTRATION.

1. Financial incentives provided under this chapter shall be administered by the division. The incentives shall be supported with funds appropriated by the general assembly, and moneys available to or obtained by the division or the committee from public or private sources, including

but not limited to the United States, other states, or private organizations. The division shall adopt all rules consistent with chapter 17A necessary to carry out the purpose of this division as provided in section 467A.70.

2. The commissioners of a district shall, to the extent funding is available, contract with the owner or occupant of land within the district applying to establish soil and water conservation practices as provided in this chapter. Under the agreement, the owner or occupant shall receive financial incentives to establish permanent soil and water conservation practices and management practices, in consideration for promising to maintain the practices according to rules adopted by the division.

Sec. 8. NEW SECTION. 467A.73 VOLUNTARY ESTABLISHMENT OF SOIL AND WATER CONSERVATION PRACTICES.

1. The division shall establish voluntary financial incentive programs which shall provide for the following:

a. The allocation of cost-share moneys as financial incentives provided for the purpose of establishing permanent soil and water conservation practices, including but not limited to terraces, diversions, grade stabilization structures, grassed waterways, and critical area planting. The financial incentives shall not exceed fifty percent of the estimated cost of establishing the practices, or fifty percent of the actual cost, whichever is less.

b. The allocation of moneys as financial incentives provided for the purpose of establishing management practices, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping. The division shall by rule establish limits on the amount of incentives which shall be authorized for payment to landowners upon establishment of the practice.

c. The allocation of cost-share moneys as financial incentives provided to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment. The financial incentives shall be awarded to watersheds which are of the highest importance based on soil loss as established by the natural resource commission pursuant to section 107.33A. The financial incentives shall not exceed seventy-five percent of the estimated cost of establishing the practices as determined by the commissioners or seventy-five percent of the actual cost of establishing the practices, whichever is less.

d. The allocation of cost-share moneys as financial incentives to establish permanent grass and buffer zones, including an erosion control structure or an erosion control practice to mitigate the effects of concentrated runoff on surface water quality. The financial incentives shall not exceed one hundred percent of the estimated cost of establishing a zone, as determined by the commissioners, or one hundred percent of the actual cost of establishing the zone, whichever is less.

2. The commissioners of a district may establish voluntary financial incentive programs which shall provide for the following:

a. The allocation of cost-share moneys under a special agreement with owners of land in the district who promise to adopt a watershed conservation plan as provided by rules which shall be adopted by the division. The watershed conservation plan shall be in conjunction with the district soil and water resource conservation plan provided under section 467A.7. The funding agreement must provide for the funding of a project which shall include at least five hundred acres of agricultural land which constitutes at least seventy-five percent of the agricultural land located within a watershed. The financial incentives shall not exceed sixty percent of the estimated cost of the project as determined by the commissioners or sixty percent of the actual cost, whichever is less.

b. The allocation of cost-share moneys as financial incentives to encourage summer construction of permanent soil and water conservation practices. The practices must be constructed on or after June 1 but not later than August 15. The commissioners may also provide for the payment of moneys on a prorated basis to compensate persons for the production loss on an area disturbed by construction, according to rules which shall be adopted by the division. The commissioners shall not allocate cost-share moneys to support summer construction during a fiscal year in which applications for cost-share moneys required to establish permanent soil

and water conservation practices, other than established by summer construction, equal the total amount available to support the nonsummer construction practices. The financial incentives shall not exceed sixty percent of the estimated cost of establishing the practice as determined by the commissioners, or sixty percent of the actual cost of establishing the practice, whichever is less.

3. a. The division may reimburse private landowners for a portion of the cost of fencing materials and installation for permanent fence used to protect forest land from domestic livestock grazing, if the division determines that the grazing has caused excessive soil loss. For purposes of this subsection, forests shall be considered as agricultural land eligible for cost-share moneys. The total expenditure of reimbursement moneys shall not exceed fifty percent of the total landowner expenditures. Expenditures for boundary and road fence construction and for repair and replacement of existing fences are not eligible for reimbursement unless the complete fence is replaced.

b. A landowner shall sign an agreement with the division as a condition for receiving cost-share moneys. The agreement shall provide that the landowner shall maintain the fence for a minimum of ten years and shall follow written professional forester recommendations relating to land protected by fencing. The recommendations must be approved by the state forester or the forester's designee.

c. A landowner who violates the maintenance agreement shall maintain, repair, or reconstruct the damaged fence, or shall pay the division an amount equal to the amount of cost-share moneys reimbursed.

d. The division shall adopt rules to administer this subsection, including rules relating to procedures required to receive reimbursement, and eligibility requirements such as the minimum forest acreage required, and the maximum reimbursement amount allowed.

Sec. 9. NEW SECTION. 467A.74 MANDATORY ESTABLISHMENT OF SOIL AND WATER CONSERVATION PRACTICES.

1. The commissioners shall allocate cost-share moneys to establish mandatory soil and water conservation practices, as provided in sections 467A.43 through 467A.53, according to the following requirements:

a. The financial incentives shall not exceed more than fifty percent of the estimated cost of establishing the practices as determined by the commissioners, or fifty percent of the actual cost of establishing the practices, whichever is less. However, the commissioners may allocate an amount determined by the division for management of soil and water conservation practices, except as otherwise provided regarding land classified as agricultural land under conservation cover.

b. The commissioners shall establish the estimated cost of the permanent soil and water conservation practices in the district based upon one and two-tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each year.

2. The committee shall review requirements of this section once each year. The division may authorize commissioners in districts to condition the establishment of a mandatory soil and water conservation practice in a specific case on a higher proportion of public cost-sharing than is required by this section. The commissioners shall determine the amount of cost-sharing moneys allocated to establish a specific soil and water conservation practice in accordance with an administrative order issued pursuant to section 467A.47 by considering the extent to which the practice will contribute benefits to the individual owner or occupant of the land on which the practice is to be established.

Sec. 10. Section 467A.75 is repealed.

Sec. 11. CODE EDITOR.

1. The Code editor shall codify sections 467A.42 through 467A.64 and section 467A.66, as amended by this Act, as part 1 of division V, and may title the part as "Duties and Obligations". The Code editor shall codify section 467A.70 and subsequent sections of chapter 467A, as enacted in this Act, as part 2 of division V, and may title the part as "Financial Incentives".

2. The Code editor shall title section 467A.48 "Mandatory Establishment of Soil and Water Conservation Practices".

3. The Code editor is directed to transfer section 467A.65, relating to agricultural land under conservation cover, into chapter 467A, division V, part 2, as created in this Act, and change internal references as necessary.

Approved April 29, 1992

CHAPTER 1185

POLITICAL SUBDIVISIONS – BANKRUPTCY

H.F. 2372

AN ACT permitting a political subdivision to become a debtor under chapter 9 of the federal bankruptcy code under certain circumstances.

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

Section 1. NEW SECTION. 76.16A DEBTOR STATUS PERMITTED – CIRCUMSTANCES.

A city, county, or other political subdivision may become a debtor under chapter 9 of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., if it is rendered insolvent, as defined in 11 U.S.C. § 101(32)(c), as a result of a debt involuntarily incurred. As used herein, "debt" means an obligation to pay money, other than pursuant to a valid and binding collective bargaining agreement or previously authorized bond issue, as to which the governing body of the city, county, or other political subdivision has made a specific finding set forth in a duly adopted resolution of each of the following:

1. That all or a portion of such obligation will not be paid from available insurance proceeds and must be paid from an increase in general tax levy.

2. That such increase in the general tax levy will result in a severe, adverse impact on the ability of the city, county, or political subdivision to exercise the powers granted to it under applicable law, including without limitation providing necessary services and promoting economic development.

3. That as a result of such obligation, the city, county, or other political subdivision is unable to pay its debts as they become due.

4. That the debt is not an obligation to pay money to a city, county, entity organized pursuant to chapter 28E, or other political subdivision.

Approved April 29, 1992

CHAPTER 1186

UNLAWFUL COMMERCIALIZATION OF WILDLIFE

H.F. 2382

AN ACT relating to the purchase or sale of wild animals illegally taken, transported, or possessed by a person, and subjecting violators to a criminal and a civil penalty.

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

Section 1. Section 109.1, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 27. "Buy" means to purchase, offer to purchase, barter for, trade for, or lease.

NEW SUBSECTION. 28. "Wild animal" means a wild mammal, bird, fish, amphibian, reptile, or other wildlife found in this state, whether game or nongame, migratory or nonmigratory, the ownership and title to which is claimed by this state.

Sec. 2. Section 109.130, subsection 7, Code 1991, is amended to read as follows:

7. For each deer, ~~seven~~ one thousand five hundred ~~fifty~~ dollars.

Sec. 3. NEW SECTION. 109.136 UNLAWFUL COMMERCIALIZATION OF WILDLIFE — PENALTY.

1. A person shall not buy or sell a wild animal or part of a wild animal if the wild animal is taken, transported, or possessed in violation of the laws of this state, or a rule adopted by the department.

2. A person violating subsection 1 is guilty of an* serious misdemeanor.

Approved April 29, 1992

CHAPTER 1187

EDUCATIONAL FINANCE

H.F. 2412

AN ACT relating to educational finance matters.

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

Section 1. Section 11.6, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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 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~~ any differences in certified enrollment shall be ~~certified~~ reported to the department of management.

Sec. 2. Section 257.6, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of management shall adjust the enrollment of the school district for the audit year based upon reports filed under section 11.6, and shall further adjust the budget of the second year succeeding the audit year for the property tax and state aid portions of the reported differences in enrollments for the year succeeding the audit year.

Sec. 3. Section 257.29, Code 1991, is amended by adding the following new unnumbered paragraph:

*According to enrolled Act

NEW UNNUMBERED PARAGRAPH. Notwithstanding the requirement in the first unnumbered paragraph of this section that the regular program district cost per pupil for a budget year is one hundred ten percent of the regular state cost per pupil, the board of directors may participate in the educational improvement program as provided in this section if the school district had adopted an enrichment levy of fifteen percent of the state cost per pupil multiplied by the budget enrollment in the district prior to July 1, 1992, and upon expiration of the period for which the enrichment levy was adopted, adopts a resolution for the use of the instructional support program established in section 257.18. The maximum percent of the regular district cost of the district that may be used under this paragraph shall not exceed five percent.

Sec. 4. Section 279.30, Code 1991, is amended to read as follows:

279.30 EXCEPTIONS.

Each warrant ~~shall~~ must be made payable to the person entitled to receive ~~such~~ the money. The board of directors of ~~any~~ a school district or an area education agency may~~, however,~~ by resolution ~~of record~~ authorize the secretary or administrator, in the case of an area education agency, to issue warrants when ~~said~~ the board of directors is not in session in payment of freight, drayage, express, postage, printing, water, light, and telephone rents, but only upon ~~duly~~ verified bills ~~for same~~ filed with the secretary or administrator, and for the payment of salaries pursuant to the terms of a written contract, and ~~said~~ the secretary or administrator shall either deliver in person or mail ~~said~~ the warrants to the ~~payee~~ payees. In addition, the board of directors may by resolution authorize the secretary or administrator, upon approval of the president of the board, to issue warrants when the board of directors is not in session, but only upon verified bills filed with the secretary or administrator, and the secretary or administrator shall either deliver in person or mail the warrants to the payees. Each ~~such~~ warrant ~~shall~~ must be made payable only to the person performing the service or ~~furnishing the supplies for which said warrant makes payment~~ presenting the verified bill, and ~~shall~~ must state the purpose for which ~~said~~ the warrant is issued. All bills and salaries for which warrants are issued prior to audit and allowance by the board ~~as provided herein shall~~ must be passed upon by the board of directors at the ~~first~~ next meeting ~~thereafter~~ and ~~shall~~ be entered ~~of record~~ in the regular minutes of the secretary.

Sec. 5. Section 285.10, subsection 7, paragraph a, Code 1991, is amended to read as follows:

a. From ~~such~~ funds ~~as may be~~ available in the general operating fund or funds in the schoolhouse fund which are raised by the physical plant and equipment levy.

Sec. 6. Section 291.10, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

291.10 REPORTS BY SECRETARY.

The school district shall file an annual report with the director of the department of education on forms prepared for that purpose.

Sec. 7. Section 298.2, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The proposition to levy the voter-approved physical plant and equipment levy is not affected by a change in the boundaries of the school district, except as otherwise provided in this section. If each school district involved in a school reorganization under chapter 275 has adopted the voter-approved physical plant and equipment levy or the sixty-seven and one-half cents per thousand dollars of assessed value schoolhouse levy under section 278.1, subsection 7, Code 1989, prior to July 1, 1991, and if the voters have not voted upon the proposition to levy the voter-approved physical plant and equipment levy in the reorganized district, the existing voter-approved physical plant and equipment levy or the existing schoolhouse levy, as applicable, is in effect for the reorganized district for the least amount and the shortest time for which it is in effect in any of the districts.

Sec. 8. Section 298.3, subsection 3, Code 1991, is amended to read as follows:

3. The purchase of buildings and the purchase of a single unit of equipment or a technology system exceeding five thousand dollars in value.

Sec. 9. Section 298.3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 291.13, unencumbered funds collected prior to July 1, 1991, from the levy previously authorized under section 297.5, Code 1991, may be expended for the purposes listed in this section.

Sec. 10. Section 298.4, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 291.13, unencumbered funds collected from the levies authorized in sections 96.31, 279.46, and 296.7 prior to July 1, 1991, may be expended for the purposes listed in subsections 1, 3, and 5.

Sec. 11. Section 291.15, Code 1991, is repealed.

Approved April 29, 1992

CHAPTER 1188

WALLACE TECHNOLOGY TRANSFER FOUNDATION

H.F. 2435

AN ACT relating to the administration of the Wallace technology transfer foundation.

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

Section 1. Section 28.154, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The board of directors is established consisting of the following standing members, ~~governor-appointed~~ public members, and ex officio, nonvoting members:

Sec. 2. Section 28.154, subsection 1, paragraphs a and b, Code 1991, are amended by striking the paragraphs and inserting the following:

a. The following standing members:

(1) The governor's science advisor.

(2) The director of the department of economic development or the director's designee.

(3) The secretary of agriculture or the secretary's designee.

(4) The presidents of the university of Iowa, Iowa state university of science and technology, and the university of northern Iowa, or their designees.

(5) A president of a community college, or the president's designee, appointed by the Iowa association of community college presidents.

(6) A president of an Iowa independent college or university, or the president's designee, appointed by the Iowa association of independent colleges and universities.

b. The following public members:

(1) Six persons appointed by the governor.

(2) One person appointed by the secretary of agriculture who is directly involved in agriculture-related enterprises.

Sec. 3. Section 28.154, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. Public members shall be associated or experienced with industries engaged in the manufacture of technology-based products, processes or services, or who have acquired a knowledge or understanding of technology transfer.

NEW SUBSECTION. 1B. Public members of the board and the executive director of the board shall be confirmed by the senate, pursuant to section 2.32.

Sec. 4. Section 28.155, subsection 9, Code 1991, is amended to read as follows:

9. To employ an executive director and authorize the hiring of other employees as it deems necessary. A person appointed as executive director must be associated or experienced with industries engaged in the manufacture of technology-based products, processes, or services, or have acquired a knowledge or understanding of technology transfer.

Sec. 5. Section 28.158, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. As a goal, not less than seventy-five percent of the efforts of the foundation should be directed at existing businesses and industry or for industry consortiums or in broadly based manufacturing technology programs that include a significant participation by established businesses.

Sec. 6. TEMPORARY CONTINUATION OF THE BOARD OF DIRECTORS. Notwithstanding this Act, the board of directors established pursuant to section 28.154 shall continue to function until a majority of members of the board created pursuant to this Act have been appointed.

Approved April 29, 1992

CHAPTER 1189

SALES AND USE TAX EXEMPTIONS FOR CERTAIN DRUGS AND DEVICES

H.F. 2449

AN ACT relating to the exemption of prosthetic devices, oxygen equipment, and certain other drugs and devices from the state sales and use tax and providing a retroactive applicability date.

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

Section 1. Section 422.45, subsection 13, Code Supplement 1991, is amended to read as follows:

13. The gross receipts from the sale or rental of prescription drugs or devices, as defined in chapter 155A, if dispensed for human use or consumption by a registered pharmacist licensed under chapter 155A, a physician and surgeon licensed under chapter 148, an osteopath licensed under chapter 150, an osteopathic physician and surgeon licensed under chapter 150A, a dentist licensed under chapter 153, or a podiatrist licensed under chapter 149.

Sec. 2. Section 422.45, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. The gross receipts from the sale or rental to any person of drugs, devices, equipment and supplies which are covered by Title XVIII or Title XIX of the federal Social Security Act.

Sec. 3. Section 422.45, subsection 15, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, "prosthetic devices" includes but is not limited to ostomy, urological, and tracheostomy devices and supplies which may be dispensed with or without a prescription.

Sec. 4. Section 422.45, subsection 16, Code Supplement 1991, is amended to read as follows:

16. Gross receipts from the sale of oxygen ~~prescribed by a licensed physician or surgeon, osteopath, or osteopathic physician or surgeon~~ or oxygen equipment for human use or consumption.

Sec. 5. RETROACTIVE APPLICABILITY. This Act is retroactively applicable to January 1, 1987. Claims for refund of tax, interest, or penalty which arise under this Act occurring between January 1, 1987, and June 30, 1992, shall not be allowed unless filed prior to December 31, 1992, notwithstanding any other provision of law.

Approved April 29, 1992

CHAPTER 1190

PROPERTY TAX EXEMPTION FOR CERTAIN INSTITUTIONS IN CERTAIN COUNTIES

H.F. 2464

AN ACT relating to the abatement or refund of property taxes for certain institutions in certain counties and providing an effective date.

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

Section 1. Notwithstanding any other provision of law, the board of supervisors of a county with a population of at least one hundred sixty-five thousand but not more than one hundred seventy-five thousand shall abate the property taxes due and payable or refund the property taxes and any interest and penalties, if paid, which were due and payable in the fiscal years beginning July 1, 1990, and July 1, 1991, of an institution described in section 427.1, subsection 9, which were imposed on the grounds and buildings of the institution, and where the previous and present institutions which owned the grounds and buildings failed to timely file for an exemption from property taxes payable in the fiscal years beginning July 1, 1990, and July 1, 1991.

This section is repealed August 15, 1992.

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

Approved April 29, 1992

CHAPTER 1191

URBAN REVITALIZATION TAX EXEMPTIONS

H.F. 2470

AN ACT relating to real property that qualifies for property tax exemptions in a revitalization area and providing effective and applicability provisions.

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

Section 1. Section 404.2, subsection 2, paragraph f, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, commercial or industrial property includes lands and buildings assessed pursuant to sections 428.24 through 428.29, except electric power generating plants, as defined in section 428.37.

Sec. 2. Section 404.4, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

The governing body of the city or county shall approve the application, subject to review by the local assessor pursuant to section 404.5, if the project is in conformance with the plan for revitalization developed by the city or county, is located within a designated revitalization area, and if the improvements were made during the time the area was so designated. The governing body of the city or county shall forward for review all approved applications to the appropriate local assessor by March 1 of each year with a statement indicating whether section 404.3, subsection 1, 2, 3 or 4 applies or if a different schedule has been adopted, which exemption from that schedule applies. However, if the approved application is for an improvement project that will be assessed pursuant to sections 428.24 through 428.29, the application and statement shall be subject to review by the department of revenue and finance and shall be sent to the department for its review by March 1. The department shall submit the results of its review at the time it certifies the assessments to the county under section 428.29. Applications for exemption for succeeding years on approved projects shall not be required.

Sec. 3. Section 404.5, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the property is subject to assessment pursuant to sections 428.24 through 428.29, the responsibilities of the local assessor under this section shall be performed by the department of revenue and finance. The department shall not be required to make physical review of the property otherwise required by this section but may require the property owner to submit to the department an affidavit of the facts which would have been determined had the physical review been made. All decisions of the department pursuant to this chapter may be appealed to the state board of tax review at the times specified in section 421.1.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment and applies to areas designated as revitalization areas on or before the effective date of this Act. Sections 1 through 3 of this Act are repealed July 1, 1997, and all exemptions granted as a result of sections 1 through 3 of this Act shall continue until their expiration. The Code editor shall recodify the Code sections amended in sections 1 through 3 of this Act, effective July 1, 1997, restoring the language appearing in the Code Supplement 1991 to those sections.

Approved April 29, 1992

CHAPTER 1192

PARENTAL RIGHTS AND OBLIGATIONS

S.F. 2035

AN ACT relating to parental rights and obligations including the discharge of an adoptive parent's obligation for support of an adopted child, and providing for the Act's applicability.

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

Section 1. Section 600A.4, subsection 4, Code 1991, is amended to read as follows:

4. Either a parent who has signed a release of custody, or a nonsigning parent, may, at any time prior to the entry of an order terminating parental rights, request the juvenile court designated in section 600A.5 to order the revocation of any release of custody previously executed by either parent. If such request is by a signing parent, and is within ninety-six hours of the time such parent signed a release of custody, the juvenile court shall order the release revoked. Otherwise, the juvenile court shall order the release or releases revoked only upon clear and convincing evidence that good cause exists for revocation. Good cause for revocation includes but is not limited to a showing that the release was obtained by fraud, coercion, or misrepresentation of law or fact which was material to its execution. In determining whether good cause, ~~other than fraud, coercion or misrepresentation,~~ exists for revocation, the juvenile court shall give paramount consideration to the best interests of the child ~~and~~ including avoidance of a disruption of an existing relationship between a parent and child. The juvenile court shall also give due consideration to the interests of the parents of the child and of any person standing in the place of the parents.

Sec. 2. Section 600A.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7. An adoptive parent requests termination of parental rights and the parent-child relationship based upon a showing that the adoption was fraudulently induced in accordance with the procedures set out in section 600A.9, subsection 2A.

Sec. 3. Section 600A.9, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. If an order is issued under subsection 1, paragraph "b", the juvenile court shall have jurisdiction to allow an adoptive parent to request termination of the adoptive parent's parental rights and of the parent-child relationship based upon a showing that the adoption was fraudulently induced and to request that the order issued under subsection 1, paragraph "b", be vacated. The juvenile court shall grant the termination and vacation requests only after the parent whose rights have been terminated is given an opportunity to contest the vacation of the termination order and only if the termination of the adoptive parent's parental rights and the vacation of the termination order are in the best interest of the child.

Sec. 4. Section 675.5, Code 1991, is amended to read as follows:

675.5 DISCHARGE OF FATHER'S OBLIGATION.

The obligation of the father other than that under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement. The legal adoption of a child into another family discharges the obligation for the period subsequent to the adoption, unless the adoption was fraudulently induced and the adoptive father's parental rights have been terminated and the order terminating the natural father's parental rights has been vacated in accordance with the procedures set out in section 600A.9, subsection 2A.

Sec. 5. APPLICABILITY. This Act is applicable to fraudulently induced adoptions under adoption decrees which were entered prior to or on or after the effective date of this Act.

Approved May 4, 1992

CHAPTER 1193

GOVERNMENTAL SERVICES CARD

S.F. 2117

AN ACT relating to implementation of a statewide system utilizing a governmental services card.

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

Section 1. NEW SECTION. 18.138 GOVERNMENTAL SERVICES CARD.

1. A governmental services card advisory committee is established consisting of the telecommunication and information management council, as reconstituted by executive order number 33, dated August 21, 1987, representatives of the principal central departments of the executive branch as enumerated in section 7E.5 and representatives of private industry, including, but not limited to, financial institutions. The governmental services card advisory committee shall formulate a plan for the development and implementation of a statewide governmental services card system which shall be submitted to the general assembly by January 1, 1995, and shall include all of the following:

a. A governmental services card mission statement which shall be consistent with the stated purposes of the governmental services card.

b. A stated definition of the goals and objectives of the committee.

c. A reasonable estimation of the costs and benefits which would be incurred or realized through implementation of a governmental services card system.

d. Recommendations for the process of coordinating the receipt and disbursement of funds through the treasurer of state's office and the appropriate state agencies.

e. A proposed list of pilot projects where the governmental services card may be implemented.

f. A schedule for implementation in which reasonable attempts shall be made to comply with the intent of the general assembly that the first pilot project begin no later than January 1, 1996.

2. The governmental services card shall be used for any governmental purpose requiring identification, including, but not limited to, a motor vehicle license, nonoperator's identification card, library card, hunting and fishing license, and university identification card. In addition, the governmental services card shall be used for the electronic transfer of funds and shall allow the user to receive state benefits and entitlements and to pay indebtedness to the state, including tax payments and refunds, and shall serve as a source of access to governmental information. The holder of a governmental services card shall have a personal identification number which shall allow the holder to gain access to the system.

3. The governmental services card standards shall be compatible with the standards established for the electronic transfer of funds under chapter 527. Any funds necessary for issuance of the governmental services card shall be transferred from funds appropriated to the various state agencies for costs associated with their respective identification card, information systems, and disbursement and receipt of funds.

4. The governmental services card advisory committee shall review and evaluate procedures for the implementation of a statewide network for the electronic processing and payment of claims for health care services. The committee shall seek input from health care providers and other persons with expertise in electronic health care claims processing in conducting its review and evaluation.

5. Local governments may participate in this program to allow access to local governmental information services and financial transactions through use of the governmental services card.

6. The governmental services card advisory committee shall consider procedures to ensure the full protection of privacy of personal information and the security of a holder's personal identification number.

7. For purposes of this section:

a. "Financial institution" means financial institution as defined in section 527.2.

b. "Governmental services card" means a card containing identifying information in written and machine readable form, which can be used as an access device by the holder for any of the purposes as stated in this section.

Approved May 4, 1992

CHAPTER 1194

SWIMMING POOLS AND SPAS

S.F. 2218

AN ACT relating to the regulation of swimming pools, spas, and swimming pool or spa water heaters regulated by the Iowa department of public health and providing an effective date.

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

Section 1. Section 135I.1, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. "Swimming pool or spa water heater" means an appliance designed for heating nonpotable water stored at atmospheric pressure, such as water in a swimming pool, spa, hot tub, or for similar uses.

Sec. 2. Section 135I.2, Code 1991, is amended to read as follows:

135I.2 APPLICABILITY.

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use. To avoid duplication and promote coordination of inspection activities, the department may enter into agreements pursuant to chapter 28E with a local board of health ~~or multiple boards of health representing contiguous areas~~ to provide for inspection and enforcement in accordance with this chapter.

Sec. 3. Section 135I.4, unnumbered paragraph 1 and subsections 3, 4, and 6, Code 1991, are amended to read as follows:

The department is responsible for registering and regulating the operation of swimming pools, ~~and~~ spas, and, notwithstanding chapter 89, swimming pool or spa water heaters. The department shall conduct seminars and training sessions, and disseminate information regarding health practices, safety measures, and operating procedures required under this chapter. The department may:

3. Establish minimum qualifications for swimming pool, spa, and waterslide operators and lifeguards. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, or mobile home parks are exempt from requirements regarding lifeguards.

4. Establish and collect fees to defray the cost of administering this chapter. It is the intent of the general assembly that fees collected under this chapter be used to defray the cost of administering this chapter. However, the portion of fees needed to defray the costs of a local board of health in implementing this chapter shall be established by the local board of health. A fee imposed for the inspection of a swimming pool or spa shall not be collected until the inspection has actually been performed.

6. Enter into agreements with a local board of health ~~or local boards of health in a contiguous area~~ to implement the inspection and enforcement provisions of this chapter. The agreements shall provide that the fees established by the local board ~~or boards~~ of health for inspection and enforcement shall be retained by the local board ~~or boards~~. ~~A local board of health or boards of health in a contiguous area may enter into such an agreement with the department.~~ However, inspection fees shall not be charged by the department for facilities which are inspected by third-party authorities. Third-party authorities shall be approved by the department. The department shall monitor and certify the inspection and enforcement programs of local boards of health and approved third-party authorities.

Sec. 4. Section 135I.6, Code 1991, is amended to read as follows:

135I.6 ENFORCEMENT.

If the department or a local board ~~or boards~~ of health acting pursuant to agreement with the department determines that a provision of this chapter or a rule adopted pursuant to this chapter has been or is being violated, the department or the local board ~~or boards~~ of health may order that a facility or item of equipment not be used until the necessary corrective action has been taken. The department or the local board of health may request the county attorney to bring appropriate legal proceedings to enforce this chapter, including an action to enjoin violations. The attorney general may also institute appropriate legal proceedings at the request of the department. This remedy is in addition to any other legal remedy available to the department or a local board ~~or boards~~ of health.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1992

CHAPTER 1195

CHILD SUPPORT RECOVERY

S.F. 2316

AN ACT relating to child support recovery.

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

DIVISION I

Section 101. Section 252B.4, Code 1991, is amended to read as follows:

252B.4 NONASSISTANCE CASES.

The child support and paternity determination services established by the department pursuant to this chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239, 252A, 252C, 252D, 252E, 598 and 675 shall be made available by the unit to an individual not otherwise eligible as a public assistance recipient upon application by the individual for the services. The application shall be filed with the department.

1. The director ~~may~~ shall require an application fee ~~not to exceed twenty~~ of twenty-five dollars.

2. The director may require an additional fee to cover the costs incurred by the department in providing the support collection and paternity determination services.

a. The director shall, by rule, establish and ~~make available to~~ inform all applicants for support enforcement and paternity determination services ~~a~~ of the fee schedule. ~~The fee for support collection and paternity determination services charged to an applicant shall be agreed upon in writing by the applicant, and shall be based upon the applicant's ability to pay for the services.~~

b. The ~~application fee and the~~ additional fee for services may be deducted from the amount of the support money recovered by the department or may be collected from the recipient of the services following recovery of support money by the department.

3. ~~Seventy percent of the fees~~ Fees collected pursuant to this section ~~may~~ shall be retained by the department for use by the unit ~~and thirty percent shall be remitted to the treasurer of state who shall deposit it in the general fund of the state~~. The director or a designee ~~and the treasurer of state~~ shall keep an accurate record of funds so retained~~, remitted, and deposited~~.

Sec. 102. Section 252B.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An application fee paid by a recipient of services pursuant to subsection 1 may be recovered by the unit from the person responsible for payment of support and if recovered, shall be used to reimburse the recipient of services.

a. The fee shall be an automatic judgment against the person responsible to pay support.

b. This subsection shall serve as constructive notice that the fee is a debt due and owing, is an automatic judgment against the person responsible for support, and is assessed as the fee is paid by a recipient of services. The fee may be collected in addition to any support payments or support judgment ordered, and no further notice or hearing is required prior to collecting the fee.

c. Notwithstanding any provision to the contrary, the unit may collect the fee through any legal means by which support payments may be collected, including but not limited to income withholding under chapter 252D or income tax refund offsets, unless prohibited under federal law.

d. The unit is not required to file these judgments with the clerk of the district court, but shall maintain an accurate accounting of the fee assessed, the amount of the fee, and the recovery of the fee.

e. Support payments collected shall not be applied to the recovery of the fee until all other support obligations under the support order being enforced, which have accrued through the end of the current calendar month, have been paid or satisfied in full.

f. This subsection applies to fees that become due on or after July 1, 1992.

Sec. 103. Section 252B.11, Code 1991, is amended to read as follows:

252B.11 RECOVERY OF COSTS OF COLLECTION SERVICES.

The unit may initiate necessary civil proceedings to recover the unit's costs of support collection services provided to an individual, whether or not the individual is a public assistance recipient, from an individual who owes and is able to pay a support obligation but willfully fails to pay the obligation. The unit may seek a lump sum recovery of the unit's costs or may seek to recover the unit's costs through periodic payments which are in addition to periodic support payments. If the unit's costs are recovered from an individual owing a support obligation, the costs shall not be deducted from the amount of support money received from the individual. ~~Seventy percent of the~~ The costs collected pursuant to this section ~~may~~ shall be retained by the department for use by the unit ~~and thirty percent shall be remitted to the treasurer of state who shall deposit it in the general fund of the state~~. The director or a designee ~~and the treasurer of state~~ shall keep an accurate record of funds so retained~~, remitted, and deposited~~.

Sec. 104. Section 252D.1, subsection 2, Code 1991, is amended to read as follows:

2. If support payments ordered under ~~section 234.39, section 252A.6, subsection 12, chapter 252C, section 598.21, or section 675.25~~ chapter 232, 234, 252A, 252C, 252D, 252E, 598, 675, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, upon application of a person entitled to receive the support payments, the child support recovery unit or the district court may enter an ex parte order notifying the person whose income is to be assigned, of the delinquent amount, of the amount of income or wages to be withheld, and of the procedure to file

a motion to quash the order of assignment, and shall order an assignment of income and notify an employer, trustee, or other payor by ~~certified~~ regular mail, with proof of service completed according to rule of civil procedure 82, of the order of the assignment of income requiring the withholding of specified sums to be deducted from the delinquent person's periodic earnings, trust income, or other income sufficient to pay the support obligation and, except as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the order ~~by certified mail~~. The amount of an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b). The assignment of income has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced. The child support recovery unit or the district court, upon the application of any party, by ex parte order, may modify the assignment of income on the full payment of the delinquency or in an instance where the amount being withheld exceeds the amount specified in 15 U.S.C. § 1673(b), or may revoke the assignment of income upon the termination of parental rights, emancipation, death or majority of the child, or upon a change of custody.

Sec. 105. Section 252D.12, Code 1991, is amended to read as follows:

252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.

A notice of immediate income withholding shall be sent to the employer, trustee, or other payor by ~~certified~~ regular mail, with proof of service completed according to rule of civil procedure 82. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the notice ~~by certified mail~~.

Sec. 106. Section 252D.18, subsection 1, Code Supplement 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.

a. The order of assignment shall be sent to the employer, trustee, or other payor by regular mail, with proof of service completed according to rule of civil procedure 82.

b. 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.

c. 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.

DIVISION II

Sec. 201. NEW SECTION. 252B.7A DETERMINING PARENT'S INCOME.

1. The unit shall use any of the following in determining the amount of the net monthly income of a parent for purposes of establishing or modifying a support obligation:

a. Income as identified in a signed statement of the parent pursuant to section 252B.9, subsection 1, paragraph "b". If evidence suggests that the statement is incomplete or inaccurate, the unit may present the evidence to the court in a judicial proceeding or to the administrator in a proceeding under chapter 252C, and the court or administrator shall weigh the evidence in setting the support obligation. Evidence includes but is not limited to income as established under paragraph "c".

b. If a sworn statement is not provided by the parent, the unit may determine income as established under paragraph "c" or "d".

c. Income established by any of the following:

(1) Income verified by an employer or payor of income.

(2) Income reported to the department of employment services.

(3) For a public assistance recipient, income as reported to the department case worker assigned to the public assistance case.

(4) Other written documentation which identifies income.

d. The estimated state median income for a one-person family as published annually in the Federal Register for use by the federal office of community services, office of energy assistance, for the subsequent federal fiscal year.

(1) This provision is effective beginning July 1, 1992, based upon the information published in the Federal Register dated March 8, 1991.

(2) The unit may revise the estimated income each October 1. If the estimate is not available or has not been published, the unit may revise the estimate when it becomes available.

e. When the income information obtained pursuant to this subsection does not include the information necessary to determine the net monthly income of the parent, the unit may deduct twenty percent from the parent's gross monthly income to arrive at the net monthly income figure.

2. The amount of the income determined may be challenged any time prior to the entry of a new or modified order for support.

3. If the child support recovery unit is providing services pursuant to chapter 252B, the court shall use the income figure determined pursuant to this section when applying the guidelines to determine the amount of support.

4. The department may develop rules as necessary to further implement disclosure of financial information of the parties.

Sec. 202. Section 252C.3, subsection 1, paragraph a, Code 1991, is amended by striking the paragraph and relettering the remaining paragraphs.

Sec. 203. Section 252C.3, subsection 1, paragraph b, Code 1991, is amended to read as follows:

b. A ~~computation of the support debt~~ statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A.

Sec. 204. Section 252C.4, subsection 1, Code 1991, is amended to read as follows:

1. A responsible person or the child support recovery unit may request a hearing regarding a determination of support. If a timely written request for a hearing is received, the administrator shall certify the matter to the district court in the county in which the order has been filed, or if no such order has been filed, then to a district court in the county where the dependent child resides or, where the dependent child resides in another state, to the district court where the absent parent resides.

Sec. 205. NEW SECTION. 252C.12 WAIVER OF TIME LIMITATIONS BY RESPONSIBLE PERSON.

1. A responsible person may waive the time limitations established in section 252C.3.

2. Upon receipt of a signed statement from the responsible person waiving the time limitations established in section 252C.3, the administrator may proceed to enter an order for support and the court may approve the order, whether or not the time limitations have expired.

3. If a responsible person waives the time limitations established in section 252C.3 and an order for support is entered under this chapter, the signed statement of the responsible person waiving the time limitations shall be filed with the order for support.

Sec. 206. Section 252D.9, Code 1991, is amended to read as follows:

252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

Specified sums shall be deducted from the obligor's earnings, trust income, or other income sufficient to pay the support obligation and any judgment established or delinquency accrued under the support order. The amount withheld pursuant to an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 207. NEW SECTION. 252D.23 FILING OF WITHHOLDING ORDER – ORDER EFFECTIVE AS DISTRICT COURT ORDER.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. Upon filing, the withholding order

shall have all the force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance.

Sec. 208. Section 421.17, subsection 29, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

To establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency or a support debt being enforced by the child support recovery unit pursuant to chapter 252B, except the setoff procedures provided for in subsections 21, 23, and 25. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:

Sec. 209. Section 642.2, Code 1991, is amended by adding the following new subsection 4 and renumbering the subsequent subsection:

NEW SUBSECTION. 4. Notwithstanding subsections 3 and 6, any moneys owed to the child support obligor by the state and payments owed to the child support obligor through the Iowa public employees' retirement system are subject to garnishment, attachment, execution, or assignment by the child support recovery unit if the child support recovery unit is providing enforcement services pursuant to chapter 252B.

Sec. 210. Section 675.41, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

675.41 BLOOD AND GENETIC TESTS.

1. In a proceeding to establish paternity in law or in equity the court may on its own motion, and upon request of a party shall, require the child, mother, and alleged father to submit to blood or genetic tests.

2. If a blood or genetic test is required, the court shall direct that inherited characteristics, including but not limited to blood types, be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court.

3. Verified documentation of the chain of custody of the blood specimen is competent evidence to establish the chain of custody. The testimony of the court-appointed expert at trial is not required.

4. A verified expert's report shall be admitted at trial.

5. The results of the tests shall have the following effects:

a. Test results which show a statistical probability of paternity are admissible.

b. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the alleged father is the father, and this evidence must be admitted.

(1) To challenge this presumption of paternity, a party must file a notice of the challenge with the court within twenty days of the filing of the expert's report with the clerk of the district court.

(2) The party challenging the presumption of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.

(3) The presumption of paternity can be rebutted only by clear and convincing evidence.

c. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of the alleged father's paternity. To challenge the test results, a party must file a notice of the challenge with the court within twenty days of the filing of the expert's report with the clerk of the district court.

6. If the results of the tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing.

7. a. Notwithstanding section 598.21, subsection 8, paragraph "k", the establishment of paternity by court order may be overcome if all of the following conditions are met:

(1) Prior blood or genetic tests have not been performed to establish paternity of the child.

(2) The court finds that it is in the best interest of the child to overcome the establishment of paternity. In determining the best interest of the child, the court shall consider the possibility of establishing actual paternity of the child.

(3) The court finds that the conclusion of the expert as disclosed by the evidence based upon blood or genetic tests demonstrates that the established father is not the biological father of the child.

(4) The action to overcome paternity is filed no later than three years after the entry of an order of paternity.

(5) The action to overcome paternity is filed prior to the child reaching majority.

(6) Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support judgment.

(7) A guardian ad litem is appointed for the child.

b. The court may order additional tests to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

c. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed, the established father is relieved of all future support obligations owed on behalf of the child.

d. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

e. This subsection shall not be construed as a basis for terminating an adoption decree or for discharging the obligation of an adoptive father to an adopted child pursuant to section 675.5.

8. All costs shall be paid by the parties or parents in proportions and at times determined by the court.

DIVISION III

Sec. 301. Section 232.147, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The clerk of the district court shall enter information from the juvenile record on the judgment docket and lien index, but only as necessary to record support judgments.

NEW SUBSECTION. 8. The state agency designated to enforce support obligations may release information as necessary in order to meet statutory responsibilities.

Sec. 302. NEW SECTION. 232.4 JURISDICTION.

Notwithstanding any other provision of this chapter, and for the purposes of establishing a parental liability obligation for a child under the jurisdiction of the juvenile court, the court shall establish a support obligation pursuant to section 234.39 or the department shall establish a support obligation pursuant to chapter 252C, provided that a support obligation has not previously been established under an order of the district court or chapter 252C.

Sec. 303. Section 234.39, subsections 1 and 2, Code 1991, are amended to read as follows:

1. For an individual to whom section 234.35, subsection 2, 4, or 5, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department, if a support obligation has not previously been established under an order of the district court or court of comparable jurisdiction in another state or pursuant to chapter 252C. The court, or the department of human services in establishing support by administrative order, shall establish the amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court, or the department of human services in establishing

support by administrative order, may ~~adjust~~ deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. ~~The order~~ Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and ~~enter~~ record the disbursements ~~in a record book~~. If payments are not made as ordered, the child support recovery unit ~~shall~~ may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

2. For an individual served by the department of human services under section 234.35, subsection 3, the department shall determine the obligation of the individual's parent or guardian pursuant to chapter 252C and in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8.

Sec. 304. Section 234.39, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person entitled to periodic support payments pursuant to an order or judgment entered in any action for support, who also is or has a child receiving foster care services, is deemed to have assigned to the department current and accruing support payments attributable to the child effective as of the date the child enters foster care placement, to the extent of expenditure of foster care funds. The department shall notify the clerk of the district court when a child entitled to support payments is receiving foster care services pursuant to chapter 234. Upon notification by the department that a child entitled to periodic support payments is receiving foster care services, the clerk of the district court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of assignment. The clerk of court shall furnish the department with copies of all orders and decrees awarding support when the child is receiving foster care services. At the time the child ceases to receive foster care services, the assignment of support shall be automatically terminated. Unpaid support accrued under the assignment of support rights during the time that the child was in foster care remains due to the department up to the amount of unreimbursed foster care funds expended. The department shall notify the clerk of court of the automatic termination of the assignment.

DIVISION IV

Sec. 401. Section 252C.2, subsections 2 and 3, Code 1991, are amended to read as follows:

2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. If a court order has not been entered in Iowa, or if an order does not address accrued support owed to the state for public assistance expended, the administrator may establish a support debt, ~~both~~ as to amounts accrued and accruing, pursuant to section 598.21, subsection 4. However, a support debt is not created in favor of the department against a responsible person for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. If a court order has not been entered in Iowa, the administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, both as to amounts accrued and accruing, pursuant to section 598.21, subsection 4.

Sec. 402. Section 252C.2, Code 1991, is amended by adding the following new subsection 4 and renumbering the subsequent subsection:

NEW SUBSECTION. 4. The payment of medical assistance pursuant to chapter 249A for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department. If a court order has not been entered in Iowa, or if an administrative order or a court order entered in Iowa does not require provision of medical support pursuant to chapter 252E, or equivalent medical support, the administrator may establish an order for medical support.

Sec. 403. Section 252C.3, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~In the absence of a court order, or if an administrative order exists which does not require provision of medical support as defined in chapter 252E or equivalent medical support, the~~ The administrator may issue a notice ~~establishing and demanding~~ stating the intent to secure an order for either payment of medical support established as defined in chapter 252E or payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2, or both. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

Sec. 404. Section 252D.20, Code 1991, is amended to read as follows:

252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.

The child support recovery unit is designated as the entity of the state to administer income withholding in accordance with the procedures specified for keeping adequate records to document, track, and monitor support payments on cases subject to Title IV-D of the federal Social Security Act. The clerks of the district court are designated as the entities for administering income withholding on cases which are not subject to Title IV-D. Notwithstanding section 622.53, in cases where the court or the child support recovery unit is enforcing a foreign judgment through income withholding, a certified copy of the underlying judgment is sufficient proof of authenticity.

Sec. 405. Section 598.21, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The supreme court ~~is authorized to prescribe~~ shall maintain uniform child support guidelines and criteria ~~to be effective October 12, 1989,~~ and ~~to~~ review the guidelines and criteria at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485. The initial review shall be performed within four years of October 12, 1989, and subsequently within the four-year period of the most recent review.

Sec. 406. Section 598.21, subsection 9, Code 1991, is amended to read as follows:

9. Notwithstanding subsection 8, a substantial change of circumstances exists when the court order for child support deviates ~~from the~~ by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to ~~section 598.21,~~ subsection 4 ~~for a reason other than that stated in the original order, unless the provisions of the guidelines themselves have changed since the entry or subsequent modification of the original order~~. Upon application for a modification of an order for child support where services are being received pursuant to chapter 252B, the court shall ~~act in accordance with section 598.21,~~ set the amount of child support based upon the most current child support guidelines established pursuant to subsection 4. The child support recovery unit shall, in submitting an application for modification of an order for support, employ additional criteria and procedures for the review and adjustment of support awards, as established by rule.

DIVISION V

Sec. 501. Section 97B.39, Code 1991, is amended to read as follows:

97B.39 RIGHTS NOT TRANSFERABLE — NOT SUBJECT TO LEGAL PROCESS.

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under chapter 97B shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 502. Section 252B.1, subsection 1, Code Supplement 1991, is amended to read as follows:

1. "Child" includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person's self and is likely to become a public charge. "Child" includes "dependent children" as defined in section 239.1, ~~subsection 3~~.

Sec. 503. Section 252B.5, subsections 2, 3, and 5, Code 1991, are amended to read as follows:

2. Aid in establishing paternity and securing a court order for support pursuant to chapter 252A or 675.

3. Aid in enforcing through court or administrative proceedings an existing court order for support issued pursuant to ~~chapters~~ chapter 252A, 252C, 598, ~~and~~ or 675, or any other chapter under which child or medical support is granted.

5. Determine periodically whether an individual receiving unemployment compensation benefits under chapter 96 owes a support obligation which is being enforced by the unit, and enforce the support obligation through court or administrative proceedings ~~in the absence of a voluntary agreement by the individual~~ to have specified amounts withheld from the individual's unemployment compensation benefits.

Sec. 504. Section 252C.5, Code 1991, is amended to read as follows:

252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER — ORDER EFFECTIVE AS DISTRICT COURT DECREE.

A true copy of any order entered by the administrator pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the dependent child resides or, where the dependent child resides in another state, in the office of the district court in the county in which the absent parent resides. ~~Upon filing, the clerk shall enter the order in the judgment docket, and the~~

1. The administrator's order shall be presented, ex parte, to the district court for review and approval, ~~and unless~~. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order, ~~and the~~. The approved order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

2. Upon filing, the clerk shall enter the order in the judgment docket.

Sec. 505. Section 252E.1, subsection 1, Code 1991, is amended to read as follows:

1. "Child" means a person for whom child or medical support may be ordered pursuant to chapter 234, 239, 252A, 252C, 598, ~~or~~ 675 or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction.

Sec. 506. Section 252E.2, Code 1991, is amended to read as follows:

252E.2 ORDER FOR MEDICAL SUPPORT.

The entry of an order, pursuant to chapter 234, 252A, 252C, 598, ~~or~~ 675 or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction, requiring the provision of coverage under a health benefit plan is authorization for enrollment of the dependent

if the dependent is otherwise eligible to be enrolled. The dependent's eligibility and enrollment for coverage under such a plan shall be governed by all applicable terms and conditions, including, but not limited to, eligibility and insurability standards. The dependent, if eligible, shall be provided the same coverage as the obligor.

Sec. 507. Section 421.17, subsection 21, Code Supplement 1991, is amended to read as follows:

21. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of human services, which the child support recovery unit is attempting to collect on behalf of an individual not eligible as a public assistance recipient, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services~~,~~.

a. This includes any of the following:

(1) Any debt which has accrued through written contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child ~~or~~.

(2) Any debt which has accrued through a court judgment which is due and owing as a support obligation for the debtor's spouse or former spouse when enforced in conjunction with a child support obligation.

(3) Any debt which is owed to the state for public assistance overpayments to recipients or to providers of services to recipients which the investigations division of the department of inspections and appeals is attempting to collect on behalf of the state. For purposes of this subsection, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance.

b. The procedure shall meet the following conditions:

~~a.~~ (1) Before setoff all outstanding tax liabilities collectible by the department of revenue and finance shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

~~b.~~ (2) Before setoff the child support recovery unit established pursuant to section 252B.2, the foster care recovery unit, and the investigations division of the department of inspections and appeals shall obtain and forward to the department of revenue and finance the full name and social security number of the debtor. The department of revenue and finance shall cooperate in the exchange of relevant information with the child support recovery unit as provided in section 252B.9, with the foster care recovery unit, and with the investigations division of the department of inspections and appeals. However, only relevant information required by the child support unit, by the foster care recovery unit, or by the investigations division of the department of inspections and appeals shall be provided by the department of revenue and finance. The information shall be held in confidence and shall be used for purposes of setoff only.

~~c.~~ (3) The child support recovery unit, the foster care recovery unit, and the investigations division of the department of inspections and appeals shall, at least annually, submit to the department of revenue and finance for setoff the debts described in this subsection, which are at least fifty dollars, on a date to be specified by the department of human services and the department of inspections and appeals by rule.

~~d.~~ (4) Upon submission of a claim the department of revenue and finance shall notify the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals as to whether the debtor is entitled to a refund or rebate and if so entitled shall notify the unit or division of the amount of the refund or rebate and of the debtor's address on the income tax return.

~~e.~~ (5) Upon notice of entitlement to a refund or rebate the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals shall send written notification to the debtor, and a copy of the notice to the department of revenue and finance, of the unit's or division's assertion of its rights, or the rights of the department of human services, or the rights of an individual not eligible as a public

assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application filed with the department of human services within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the department of human services shall grant a hearing pursuant to chapters 10A and 17A. An appeal taken from the decision of an administrative law judge and subsequent appeals shall be taken pursuant to chapter 17A.

~~f.~~ (6) Upon the request of a debtor or a debtor's spouse to the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the unit or division shall notify the department of revenue and finance of the request to divide a joint income tax refund or rebate. The department of revenue and finance shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

~~g.~~ (7) The department of revenue and finance shall, after notice has been sent to the debtor by the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals, set off the debt against the debtor's income tax refund or rebate. However, if a debtor has made all current child support or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the investigations division of the department of inspections and appeals shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. The department of revenue and finance shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue and finance shall periodically transfer the amount set off to the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals. If the debtor gives timely written notice of intent to contest the claim the department of revenue and finance shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals shall notify the debtor in writing upon completion of setoff.

Sec. 508. Section 598.21, subsection 4, paragraph a, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Until such time as the supreme court incorporates the provision of medical support in the guidelines as required by paragraph "e",~~ ~~the~~ The court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.

Sec. 509. Section 598.21, subsection 4, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For purposes of calculating a support obligation under this section, the income of the parent from whom support is sought shall be used as the noncustodial parent income for purposes of application of the guidelines, regardless of the legal custody of the child.

Sec. 510. NEW SECTION. 598.23A CONTEMPT PROCEEDINGS FOR PROVISIONS OF SUPPORT PAYMENTS.

1. If a person against whom an order or decree for support has been entered pursuant to this chapter or chapter 234, 252A, 252C, 675, or any other support chapter, or a comparable chapter of a foreign jurisdiction, fails to make payments or provide medical support pursuant to that order or decree, the person may be cited and punished by the court for contempt under section 598.23 or this section.

2. If a person is cited for contempt, the court may require the posting of a cash bond, within seven calendar days, in an amount equivalent to the current arrearages and an additional amount which is equivalent to at least twelve months of future support obligations.

3. If the arrearages are not paid within three months of the hearing, the bond shall be automatically forfeited to cover payment of the full portion of the arrearages and the portion of the bond representing future support obligations shall be automatically forfeited to cover future support payments as they become due.

Sec. 511. Section 627.13, Code 1991, is amended to read as follows:

627.13 WORKERS' COMPENSATION.

Any compensation due or that may become due an employee or dependent under ~~the provisions of~~ chapter 85 ~~shall be~~ is exempt from garnishment, attachment, ~~and~~ execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due an employee or dependent under chapter 85 shall be limited as specified in 15 U.S.C. § 1673(b).

Sec. 512. MINIMUM CHILD SUPPORT PAYMENT PLAN. The department of human services shall develop a plan in accordance with this section to provide minimum child support payments in place of welfare payments. The plan shall include a process to establish a minimum child support payment amount for a child in this state. The plan shall provide for wage withholding to collect child support payments from obligors based on ability to pay. If the obligor's child support obligation is less than the minimum child support payment amount, state funds in the amount of the difference would be used to pay the minimum child support payment amount. In developing the plan, the department shall analyze the efforts of other states to develop this type of system, including Wisconsin and New York. The department shall explore the availability of public and private funding sources for developing and implementing a minimum child support payment plan in the state. The department shall submit the plan to the general assembly and the governor on or before February 1, 1993.

Approved May 4, 1992

CHAPTER 1196

RECORDS RELATING TO ADOPTION AND TERMINATION OF PARENTAL RIGHTS

H.F. 242

AN ACT relating to adoption and permanent termination of parental rights records, and providing penalties.

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

Section 1. Section 237.21, subsection 3, Code 1991, is amended to read as follows:

3. Members of the state board and local boards and the employees of the department and the department of inspections and appeals are subject to standards of confidentiality pursuant to sections 217.30, 228.6, subsection 1, 235A.15, ~~and~~ 600.16, and 600.16A. Members of the state and local boards and employees of the department and the department of inspections and appeals who disclose information or records of the board or department, other than as provided in subsection 2, are guilty of a simple misdemeanor.

Sec. 2. Section 238.24, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Nothing herein shall prohibit the administrator from disclosing such facts to such proper persons as may be in the interest of a child cared for by such agency or in the interest of the child's parents or foster parents and not inimical to the child, or as may be necessary to protect the interests of the child's prospective foster parents. However, disclosure of termination and adoption records shall be governed by the provisions of ~~section~~ sections 600.16 and 600.16A.

Sec. 3. Section 600.16, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

600.16 ADOPTION RECORD.

1. Any information compiled under section 600.8, subsection 1, paragraph "c", subparagraphs (1) and (2) relating to medical and developmental histories shall be made available at any time by the clerk of court, the department, or any agency which made the placement to:

a. The adopting parents.

b. The adopted person, provided that person is an adult at the time the request for information is made. For the purposes of this paragraph "adult" means a person twenty-one years of age or older or a person who attains majority by marriage.

c. Any person approved by the department if the person uses this information solely for the purposes of conducting a legitimate research project or of treating a patient in a medical facility.

d. A descendant of an adopted person.

2. Information regarding an adopted person's existing medical and developmental history and family medical history, which meets the definition of background information in section 600.8, subsection 1, paragraph "c", but which was compiled prior to July 1, 1976, shall be made available as provided in subsection 1. However, the identity of the adopted person's natural parents shall not be disclosed.

3. Any person other than the adopting parents or the adopted person, who discloses information in violation of this section is guilty of a simple misdemeanor.

Sec. 4. NEW SECTION. 600.16A TERMINATION AND ADOPTION RECORDS CLOSED — EXCEPTIONS.

1. The permanent termination of parental rights record of the juvenile court under chapter 600A and the permanent adoption record of the juvenile court or court shall be sealed by the clerk of the juvenile court or the clerk of court, as appropriate, when they are complete and after the time for appeal has expired.

2. All papers and records pertaining to a termination of parental rights under chapter 600A and to an adoption shall not be open to inspection and the identity of the natural parents of an adopted person shall not be revealed except under any of the following circumstances:

a. An agency involved in placement shall contact the adopting parents or the adult adopted child regarding eligibility of the adopted child for benefits based on entitlement of benefits or inheritance from the terminated natural parents.

b. The court, for good cause, shall order the opening of the permanent adoption record of the court for the adopted person who is an adult and reveal the names of either or both of the natural parents following consideration of both of the following:

(1) A natural parent may file an affidavit requesting that the court reveal or not reveal the parent's identity. The court shall consider any such affidavit in determining whether there is good cause to order opening of the records. To facilitate the natural parents in filing an affidavit, the department shall, upon request of a natural parent, file an affidavit in the court in which the adoption records have been sealed.

(2) If the adopted person who applies for revelation of the natural parents' identity has a sibling who is a minor and who has been adopted by the same parents, the court may deny the application on the grounds that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling.

c. A natural sibling of an adopted person may file or may request that the department file an affidavit in the court in which the adopted person's adoption records have been sealed requesting that the court reveal or not reveal the sibling's name to the adopted person. The court shall consider any such affidavit in determining whether there is good cause to order opening of the records upon application for revelation by the adopted person. However, the name of the natural sibling shall not be revealed until the natural sibling has attained majority.

d. The juvenile court or court may, upon competent medical evidence, open termination or adoption records if opening is shown to be necessary to save the life of or prevent irreparable physical or mental harm to an adopted person or the person's offspring. The juvenile court or court shall make every reasonable effort to prevent the identity of the natural parents from becoming revealed under this paragraph to the adopted person. The juvenile court or court may, however, permit revelation of the identity of the natural parents to medical personnel attending the adopted person or the person's offspring. These medical personnel shall make every reasonable effort to prevent the identity of the natural parents from becoming revealed to the adopted person.

3. In addition to other procedures by which adoption records may be opened under this section, if both of the following conditions are met, the department, the clerk of court, or the agency which made the placement shall open the adoption record for inspection and shall reveal the identity of the natural parents to the adult adopted child or the identity of the adult adopted child to the natural parents:

a. A natural parent has placed in the adoption record written consent to revelation of the natural parent's identity to the adopted child at an age specified by the natural parent, upon request of the adopted child.

b. An adult adopted child has placed in the adoption record written consent to revelation of the identity of the adult adopted child to a natural parent.

A person who has placed in the adoption record written consent pursuant to paragraph "a" or "b" of this subsection may withdraw the consent at any time by placing a written withdrawal of consent statement in the adoption record.

Notwithstanding the provisions of this subsection, if the adult adopted person has a sibling who is a minor and who has also been adopted by the same parents, the department, the clerk of court, or the agency which made the placement may deny the request of either the adult adopted person or the natural parent to open the adoption records and to reveal the identities of the parties pending determination by the court that there is good cause to open the records pursuant to subsection 2.

4. 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.

5. Any person, other than the adopting parents or the adopted person, who discloses information in violation of this section, is guilty of a simple misdemeanor.

Sec. 5. NEW SECTION. 600.16B FEES.

The supreme court shall prescribe and the department of human services shall adopt rules, to defray the actual cost of the provision of information or the opening of records pursuant to section 600.16 or 600.16A.

Approved May 4, 1992

CHAPTER 1197

CITY FIRE AND POLICE RETIREMENT SYSTEMS

H.F. 2061

AN ACT relating to the transfer of assets of terminated city fire or police retirement systems with unfunded accrued liabilities to the statewide system, providing for the use of excess funds of terminated city systems, providing for certain benefits for employees of the statewide system, and providing effective and retroactive applicability dates.

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

Section 1. Section 411.38, subsection 2, Code 1991, is amended to read as follows:

2. Transfer from each terminated city fire or police retirement system to the statewide system amounts sufficient to cover the accrued liabilities of that terminated system as determined by the actuary of the statewide system. If the actuary of the statewide system determines that the assets transferred by a terminated system are insufficient to fully fund the accrued liabilities of the terminated system as determined by the actuary as of January 1, 1992, the participating city may enter into an agreement with the statewide system to make additional annual contributions sufficient to amortize the unfunded accrued liability of the terminated system. The terms of an amortization agreement shall be based upon the recommendation of the actuary of the statewide system, and the agreement shall do each of the following:

a. Allow the city to make additional annual contributions over a period not to exceed thirty years from January 1, 1992.

b. Provide that the city shall pay a rate of return on the amortized amount that is at least equal to the estimated rate of return on the investments of the statewide system for the years covered by the amortization agreement.

c. Contain other terms and conditions as are approved by the board of trustees for the statewide system.

In the alternative, a city may treat the city's accrued unfunded liability for the terminated system as legal indebtedness to the statewide system for the purposes of section 384.24, subsection 3, paragraph "f".

Sec. 2. Section 411.38, unnumbered paragraph 2, Code 1991, is amended to read as follows:

It is the intent of the general assembly that a terminated city fire or police retirement system shall not subsidize any portion of any other system's unfunded liabilities in connection with the transition to the statewide system. The actuary of the statewide system shall determine if the assets of a terminated city fire or police retirement system would exceed the amount sufficient to cover the accrued liabilities of that terminated system as of January 1, 1992, using the alternative assumptions and the proposed assumptions.

As used in this section, unless the context otherwise requires, "alternative assumptions" means that the interest rate earned on investments of moneys in the fire and police retirement fund would be seven percent and that the state would not contribute to the fund under sections 411.8 and 411.20 after January 1, 1992, and "proposed assumptions" means that the interest rate earned on investments of moneys in the fire and police retirement fund would be seven and one-half percent and the state will pay contributions as provided pursuant to sections 411.8 and 411.20 after January 1, 1992. These assumptions are to be used solely for the purposes of this section, and shall not impact upon decisions of the board of trustees concerning the assumption of the interest rate earned on investments, or the contributions by the state as provided for in sections 411.8 and 411.20.

If the determination by the actuary using the alternative assumptions reflects that the assets of the terminated system exceed the amount sufficient to cover the accrued liabilities as of January 1, 1992, all excess funds as determined utilizing the alternative assumptions and the interest and earnings from those excess funds shall be used only as approved by the city council of the participating city. The city council may approve use of the excess funds to reduce only the city's contribution to the statewide system, or the city council may approve use of the excess funds to reduce the city's contribution and the members' contributions to the statewide system. If the city council approves use of the excess funds to reduce both the city's and the members' contributions, the members shall not withdraw the portion of the members' contributions paid from excess funds, as would otherwise be authorized in accordance with section 411.23.

If the determination by the actuary using the alternative assumptions reflects that the assets of the terminated system do not exceed the amount sufficient to cover the accrued liabilities as of January 1, 1992, but a determination by the actuary using the proposed assumptions reflects that the assets of the terminated system do exceed the amount sufficient to cover the accrued liabilities as of January 1, 1992, all excess funds as determined utilizing the proposed assumptions and the interest and earnings from those excess funds shall be used only to reduce the city's contribution rate to the statewide system. The participating city shall determine what portion of the excess funds shall be applied to reduce the city's contribution rate for a given year.

Sec. 3. NEW SECTION. 411.39 BENEFITS FOR EMPLOYEES OF THE BOARD OF TRUSTEES FOR THE STATEWIDE SYSTEM.

1. As used in this section, unless the context otherwise requires:

a. "Benefit programs" mean the state life insurance program, the state health or medical insurance program, and the state employees disability program administered by the department of personnel.

b. "Employees" mean the secretary and other employees of the board of trustees for the statewide fire and police retirement system.

2. Employees are eligible to participate in the benefit programs for state employees. Participation in the benefit programs is optional, and an employee may participate by filing an election, in writing, with the board of trustees for the statewide system. The board of trustees shall file these elections with the department of personnel.

3. The board of trustees shall determine what, if any, amount of the costs or premiums of the benefit programs shall be paid by the participating employees, and shall deduct the amount from the wages of the participating employees. The board of trustees shall pay the remaining costs or premiums of the benefit programs from the fire and police retirement fund, including any portion to be attributed to an employer, and shall forward all amounts paid by participating employees and the board to the department of personnel.

4. Participating employees shall be exempted from preexisting medical condition waiting periods. Participating employees may change programs or coverage under the state health or medical service group insurance plan subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20. A participating employee or the participating employee's surviving spouse shall have the same rights

upon final termination of employment or death as are afforded full-time state employees and the employees' surviving spouses excluded from collective bargaining as provided in chapter 20.

Sec. 4. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment, and sections 1 and 2 apply retroactively to May 3, 1990.

Approved May 4, 1992

CHAPTER 1198

COMMUNITY-BASED WORKPLACE LEARNING PROGRAMS

H.F. 2287

AN ACT to establish a community-based workplace learning program, and providing an effective date.

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

Section 1. BACKGROUND STATEMENT. The changes which have taken place in national and global economic relationships have profoundly affected the skills that are needed in today's workplace. The typical high school student rarely possesses the requisite skills to permit the student to make the transition from the secondary education system to a high-skill, high-paying position. This is due in part to the fact that the skills that today's and tomorrow's workers need, and will continue to need, are not only the basic academic and appropriate job-specific skills that can be translated into a variety of workplace activities but also those high level technical skills that workers must have to perform complex workplace activities and that require not only in-depth knowledge but advanced occupational preparation or education. The failure to make the school-to-work transition is also due in part to the need of many students to recognize the benefit of acquisition of academic skills in real life settings before the acquisition of the skills has any meaning. Therefore, in order to provide students with opportunities to develop these kinds of skills and the environment or environments in which to acquire and reinforce these skills, the system of schooling must be encouraged to use all of the resources that are and may become available and must be provided with the appropriate amount of flexibility to create an opportunity for enhanced workplace learning experiences. A community-based workplace learning program, called "workstart", should therefore be established to provide these kinds of opportunities. The program is only a beginning and will require the support and active participation of the business community in order to allow schools to create programs which will meet the requirements of today's workplace. The goal of the program is to provide those students who are about to enter the workplace of today from the secondary education system with the skills necessary not only to enter the workplace, but also to be productive, flexible, and useful workers once they arrive. Districts are also encouraged to provide academic experiences which are articulated with and reinforce experiences of students in the workplace setting.

Sec. 2. Section 258.4, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Notwithstanding the accreditation standard and process contained in section 256.11 for vocational education for students in grades nine through twelve, provide a process that permits school districts to establish community-based workplace learning programs, called "workstart" programs, that provide students with competency-based learning experiences that reinforce basic academic skills and include, but are not limited to, new and

emerging technologies; job-seeking, job-adaptability, and other employment; and self-employment and entrepreneurial skills that reflect current industry standards and labor-market needs. An approved workstart program may consist of two of the required sequential units in one of the six occupational service areas in grades nine through twelve, and shall be a priority for receipt of vocational education secondary funds.

Sec. 3. NEW SECTION. 258.17 COMMUNITY-BASED WORKPLACE LEARNING PROGRAM — WORKSTART.

1. A community-based workplace learning program, called "workstart", is established as a voluntary collaborative educational program between business and Iowa's secondary and postsecondary education system designed to provide the means by which students can be better prepared to enter the workforce. The program is to provide all participating high school students with academic skills and appropriate competency-based job-specific skills needed to enter high performance workplace employment through a jointly planned and supervised instructional and worksite-based training program that is articulated with postsecondary advanced programs of preparation, United States department of labor-approved apprenticeship programs, and other appropriate job training programs. Schools and school districts are encouraged to work with current employers of students attending instruction in the schools or school districts in order to articulate educational programming with the work experiences of the students. The workstart program is designed to prepare students for employment in occupations which not only require high skill levels but which also offer students opportunities within those occupations for career and personal advancement.

2. Each school or school district that desires to establish a workstart program shall appoint a local employment and training council, the members of which shall serve at the pleasure of the board of directors of the district or the authorities in charge of the nonpublic school. The majority of the council members shall be local secondary and postsecondary educators. Other council members shall include, but are not limited to, members of the business community and chamber of commerce, appropriate labor representatives, parents, and representatives from any local municipal, county, state, or federal job placement or training agencies. The council shall identify and assess all of the following:

a. The types of high performance workplace employment opportunities for individuals who live in the community.

b. The skills, knowledge, and attitudes required by employers for placement in entry level and advanced positions.

c. The private and institutional resources necessary and available to provide the appropriate high school training and advanced educational offerings for persons seeking to acquire job skills for the positions.

The council, in identifying and assessing high performance workplace employment opportunities, shall consult with local and regional job placement organizations and take into consideration possible job placement trends and opportunities that may become available to program participants. The council shall consult with the vocational regional planning board or consortia to determine what educational resources are available within the merged area and to ascertain the occupational needs of local students. The council shall summarize those jobs, skills, and resources identified and assessed and develop a proposed plan for utilization of available resources to permit the acquisiton* of those skills in a workstart program. In addition to any agreements with local businesses, the proposed plan for a workstart program shall include an articulated, sequential plan that coordinates and complements the curricula and training available in a secondary education setting with the curricula and training available at the community or private college or other postsecondary training program level. The council shall forward the proposed plan for a workstart program to the board of directors of the school district, or the authorities in charge of the nonpublic school, for review, modification, and approval.

3. Each workstart program shall consist of two phases, each of which shall be supervised by an appropriately licensed education practitioner: the preparation phase and the workplace phase.

*According to enrolled Act

a. The preparation phase of a workstart program is a school-based program that provides students with basic and advanced academic skills that will be necessary to perform in a vocational service area chosen by the student. The preparation phase shall also include instruction in skills that are necessary to succeed in high performance workplace employment. The preparation phase of a workstart program shall be directed by education practitioners possessing the appropriate licensing and endorsements for the vocational service area.

b. The workplace phase of a workstart program shall consist of an intensive workplace-specific training program that may be conducted at a worksite or both at a worksite and in the school setting. The workplace phase of a workstart program shall be coordinated by an education practitioner possessing the appropriate license and endorsements for the vocational service area, and may be directed at the worksite by persons employed in the occupational training area which has been selected by the student.

Both the preparation and workplace phases shall be articulated with United States department of labor-approved apprenticeship programs and other postsecondary educational and training offerings that permit participating students to obtain advanced training and education that may be necessary upon graduation from the workstart secondary education program or to obtain an advancement in an occupational field chosen by the student during the student's participation in a workstart secondary education program.

4. Each workstart program shall include a written agreement by the school or school district with one or more businesses from the surrounding community to provide workplace-specific training and learning programs which are related to the skills needed to succeed in those occupational areas. The proposed plan for implementation of the workstart program shall include a copy of the written agreement between the school or school district and the business or businesses and a business support component, which shall consist of financial or in-kind support, or both financial and in-kind support, from the businesses that have entered into the agreement with the school or school district. The plan may provide for the utilization of phase III and other available school funds in the establishment of the program. A workstart program is a comprehensive school transformation program under section 294A.14.

5. The state board of education shall adopt rules pursuant to chapter 17A to provide for the implementation of this section.

6. The department of education shall adopt guidelines for the establishment of workstart programs. Guidelines may include, but are not limited to acceptable levels of business financial participation in a workstart program, maximum hour and workload guidelines for education practitioners working in or supervising a workstart program, and maximum and minimum class size guidelines for the preparation and workplace phases of a workstart program.

7. A school or local school district that implements a workstart program shall annually conduct a survey which counts the number of students who participate in, or graduate from, the program that are actually employed in an occupational area for which they received training. The school or school district shall disseminate the results of the surveys to the local employment and training councils for the school or school district and the department of education.

Sec. 4. For the school year beginning July 1, 1992, and ending June 30, 1993, a school or school district that wishes to establish a workstart program may meet the requirements contained in this Act, relating to the designation of occupational service areas and sequential units as being within a workstart program, by submitting a letter of intent to participate in a workstart program to the department of education by July 1, 1992. The letter shall indicate the school or school district's intent to participate and designate the units of instruction and occupational service areas for which the school or school district intends to provide a workstart program.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1992

CHAPTER 1199

SEXUAL ABUSE OR SEXUAL EXPLOITATION BY A COUNSELOR OR THERAPIST

H.F. 2476

AN ACT relating to sexual abuse or sexual exploitation by a counselor or therapist and making penalties applicable.

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

Section 1. Section 614.1, subsection 12, Code Supplement 1991, is amended to read as follows:

12. Sexual abuse or sexual exploitation by a counselor or therapist. An action for damages for injury suffered as a result of sexual abuse, as defined in section 709.1, by a counselor or therapist, as defined in section 709.15, or as a result of sexual exploitation by a counselor or therapist, shall be brought within five years of the date the victim was last treated by the counselor or therapist.

Sec. 2. Section 709.15, subsection 1, paragraph b, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

For the purposes of paragraph "f", a former patient or ~~former~~ client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

Sec. 3. Section 709.15, subsection 1, paragraph f, Code Supplement 1991, is amended to read as follows:

f. "Sexual ~~abuse~~ exploitation by a counselor or therapist" occurs when ~~either or both~~ any 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~~ an emotionally dependent 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 emotionally dependent 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~~ exploitation 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.

Sec. 4. Section 709.15, subsection 2, Code Supplement 1991, is amended to read as follows:

2. A counselor or therapist who commits sexual ~~abuse~~ exploitation in violation of subsection 1, paragraph "f", subparagraph (1), commits a class "D" felony.

Sec. 5. Section 709.15, subsection 3, Code Supplement 1991, is amended to read as follows:

3. A counselor or therapist who commits sexual ~~abuse~~ exploitation in violation of subsection 1, paragraph "f", subparagraph (2), commits an aggravated misdemeanor.

Sec. 6. Section 709.15, subsection 4, Code Supplement 1991, is amended to read as follows:

4. A counselor or therapist who commits sexual ~~abuse~~ exploitation 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. 7. Section 802.3, Code 1991, is amended to read as follows:

802.3 FELONY — AGGRAVATED OR SERIOUS MISDEMEANOR.

1. In all cases, except those enumerated in subsection 2 and in sections 802.1 and 802.2, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

2. An indictment or information for sexual exploitation by a counselor or therapist under section 709.15 shall be found within five years of the date the victim was last treated by the counselor or therapist.

Approved May 4, 1992

CHAPTER 1200

REPEAL OF SEED CAPITAL TAX CREDIT

H.F. 2478

AN ACT relating to the repeal of the seed capital tax credit and providing an effective date.

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

Section 1. Section 422.33, subsection 8, Code Supplement 1991, is amended by striking the subsection.

Sec. 2. Section 422.11C, Code Supplement 1991, is repealed.

Sec. 3. 1990 Iowa Acts, chapter 1196, sections 8 and 9, are repealed.

Sec. 4. Sections 1 and 2 of this Act take effect January 1, 1996, for tax years beginning on or after that date and all credits allowed prior to that date shall continue until their expiration.

Approved May 4, 1992

CHAPTER 1201

PUBLIC RETIREMENT SYSTEMS

H.F. 2450

AN ACT relating to public retirement systems and administration and benefits of the Iowa public employees' retirement system, including penalties, making an appropriation, and providing effective and retroactive applicability dates.

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

Section 1. Section 97.51, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Effective July 1, 1992, a person receiving benefits, on or after July 1, 1992, under this chapter, shall receive a monthly increase in benefits of ten dollars per month. A person who becomes eligible for benefits under chapter 97, Code 1950, on or after July 1, 1992, shall receive the ten dollar increase.

There is appropriated annually from the general fund of the state to the Iowa old-age and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to pay the benefit increases provided in this subsection.

Sec. 2. Section 97A.6, subsections 3 through 5, Code Supplement 1991, are amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon the application of a member in service or of the commissioner of public safety, any member shall be retired by the board of trustees, not less than thirty and not more than ninety days next following the date of filing such application, on an ordinary disability retirement allowance, provided, that the medical board after a medical examination of such member shall certify that said member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

4. ALLOWANCE ON ORDINARY DISABILITY RETIREMENT. Upon retirement for ordinary disability a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation ~~except if~~ unless either of the following conditions exist:

a. If the member has not had five or more years of membership service, the member shall receive a disability pension equal to one-fourth of the member's average final compensation.

b. If the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the benefit that the member would receive under subsection 2 if the member were fifty-five years of age or the disability pension otherwise calculated under this subsection.

5. ACCIDENTAL DISABILITY BENEFIT.

a. Upon application of a member in service or of the commissioner of public safety, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury, disease or exposure occurring or aggravated while in the actual performance of duty at some definite time and place shall be retired by the board of trustees, provided, that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

b. Should a member in service become incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time or place, the member shall, upon being found to be temporarily incapacitated following an examination by the board of trustees, be entitled to receive the member's fixed pay and allowances until re-examined by the board and found to be fully recovered or permanently disabled.

c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases. However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

Sec. 3. Section 97A.6, subsection 6, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Upon retirement for accidental disability on or after July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that the member would receive

under subsection 2 if the member were fifty-five years of age or the disability retirement allowance calculated under this paragraph.

Sec. 4. Section 97A.6, subsection 7, paragraphs a and b, Code Supplement 1991, are amended to read as follows:

a. Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over and would have completed twenty-two years of service if the beneficiary had remained in active service, be engaged in a gainful occupation paying more than the difference between the member's retirement allowance and one and one-half times the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of the retirement allowance shall be reduced to an amount which together with the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's earning capacity be later changed, the amount of the retirement allowance may be further modified, provided, that the new retirement allowance shall not exceed the amount of the retirement allowance originally granted adjusted by annual readjustments of pensions pursuant to subsection ~~15~~ 14 of this section nor an amount which, when added to the amount earned by the beneficiary, equals one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have the member's retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed in the same manner as provided in subsection ~~15~~ 14, paragraph ~~"d,"~~ "c", of this section for readjustment of pensions when a rank or position has been abolished. If the salary scale associated with a member's rank at retirement is changed after the member retires, earnable compensation for purposes of this section shall be based upon the salary an active member currently would receive at the same rank and with seniority equal to that of the retired member at the time of retirement.

A beneficiary retired under the provisions of this paragraph in order to be eligible for continued receipt of retirement benefits shall no later than May 15 of each year submit to the board of trustees a copy of the beneficiary's state income tax return for the preceding year.

Retroactive to July 1, 1976, the limitations on pay of a member engaged in a gainful occupation who is retired under accidental disability prescribed in this paragraph shall not apply to a member who retired before July 1, 1976.

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than the disability beneficiary's average final compensation, the disability beneficiary's retirement allowance shall cease, the disability beneficiary shall again become a member and shall contribute thereafter at the same rate ~~paid prior to disability~~ payable by other members of comparable rank, seniority, and age, and former service on the basis of which the disability beneficiary's service was computed at the time of retirement shall be restored to full force and effect ~~and upon~~. Upon subsequent retirement the disability beneficiary shall be credited with all service as a member, and also with the period of disability retirement.

Sec. 5. Section 97A.6, subsection 9, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

If, upon the receipt of evidence and proof that the death of a member in service was the natural and proximate result of an accident, disease, or exposure occurring or aggravated at some definite time and place while the member was in the actual performance of duty, the board of trustees shall decide that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 of this section, to the

member's estate or to such person having an insurable interest in the member's life as the member shall have nominated by written designation duly executed and filed with the board of trustees:

Sec. 6. Section 97B.1, subsection 2, paragraph a, Code 1991, is amended by striking the paragraph.

Sec. 7. Section 97B.4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department, through the ~~administrator~~ chief investment officer and chief benefits officer, shall administer this chapter. The department may adopt, amend, or rescind rules, employ persons, execute contracts with outside parties, make expenditures, require reports, make investigations, and take other action it deems necessary for the administration of the system. The rules shall be effective upon compliance with chapter 17A. Not later than the fifteenth day of December of each year, the department shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the Iowa public employees' retirement fund.

Sec. 8. Section 97B.5, Code 1991, is amended to read as follows:

97B.5 STAFF.

Subject to other provisions of this chapter, the department may employ personnel as necessary for the administration of the system, including but not limited to a chief investment officer and a chief benefits officer. The maximum number of full-time equivalent employees specified by the general assembly for the department for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The staff shall be appointed pursuant to chapter 19A. The department shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for an elective public office. The department may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter, chapter 97C, and chapter 12A. The department may execute contracts with investment advisors, consultants, and managers outside state government in the administration of this chapter and chapter 12A. The department may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

Sec. 9. Section 97B.6, Code 1991, is amended to read as follows:

97B.6 OLD RECORDS.

The department may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the department and are deemed by the director ~~and state records commission~~ to be no longer necessary to the proper administration of this chapter. ~~Such~~ The destruction or disposition shall be made only by order of the director. Records of deceased members of the system may be destroyed ten years after the later of the final payment made to a third party on behalf of the member or the death of the member. Any moneys received from the disposition of ~~such~~ these records shall be deposited to the credit of the public employees' retirement fund subject to rules ~~promulgated~~ adopted by the department.

Sec. 10. Section 97B.7, subsection 3, Code 1991, is amended to read as follows:

3. All moneys which are paid or deposited into this fund are ~~hereby~~ appropriated and made available to the department to be used ~~only for the purposes herein~~ for the exclusive benefit of the members and their beneficiaries or contingent annuitants as provided in this chapter:

a. To be used by the department for the payment of retirement claims for benefits under this chapter~~, or such other purposes as may be authorized by the general assembly~~.

b. To be used by the department to pay refunds provided for in this chapter.

c. To be used for the costs of administering the retirement system. If as a result of action under section 8.31, the governor has reduced the moneys appropriated from the Iowa public

employees' retirement system fund to the department of personnel for salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system for a fiscal year, it is the intent of the general assembly that the amount by which the appropriation has been reduced should be transferred from that fund to the department of personnel for salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system for that fiscal year.

Sec. 11. Section 97B.8, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A board is established to be known as the "Investment Board of the Iowa Public Employees' Retirement System", referred to in this chapter as the "board", whose duties are to establish policy for the department in matters relating to the investment of the trust funds of the Iowa public employees' retirement system. At least annually the board shall review the investment policies and procedures used by the department under section 97B.7, subsection 2, paragraph "b", and shall hold a public meeting on the investment policies and investment performance of the fund. Following its review and the public meeting, the board shall establish an investment policy and goal statement which shall direct the investment activities of the department. The development of the investment policy and goal statement and its subsequent execution shall be performed cooperatively between the board and the department. ~~In accordance with section 97B.3, the board shall recommend to the director a set of candidates for selection as the administrator.~~

Sec. 12. Section 97B.8, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

The board consists of nine members. Six of the members shall be appointed by the governor. One member shall be an executive of a domestic life insurance company, one an executive of a state or national bank operating within the state of Iowa, one an executive of ~~a major~~ an industrial corporation located within the state of Iowa, and three shall be members of the system, one of whom ~~shall be~~ is an active member who is an employee of a school district, area education agency, or merged area, one of whom ~~shall be~~ is an active member who is not an employee of a school district, area education agency, or merged area, and one of whom is a retired member of the system. The president of the senate, after consultation with the majority leader and the minority leader of the senate, shall appoint one member from the membership of the senate and the speaker of the house of representatives shall appoint one member from the membership of the house. The two members appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and the speaker of the house of representatives and the two active members of the system appointed by the governor are ex officio members of the board. The director of the department of personnel is an ex officio, nonvoting member of the board.

Sec. 13. Section 97B.10, Code 1991, is amended to read as follows:

97B.10 REFUNDS.

~~In any case in which~~ If the department finds the employee or employer ~~has~~, or both, have erroneously paid contributions ~~thereon which have been erroneously paid, and has filed application for an adjustment thereof~~, the department shall make ~~such~~ an adjustment, compromise, or settlement and make ~~such~~ a refund of such payments to the employee or employer, or both, as it finds just and equitable ~~in the premises~~. Refunds so made shall be charged to the fund to which the erroneous collections have been credited and shall be paid to the ~~claimant~~ employee or employer, or both, without interest. ~~Any~~ A claim of an employee or employer for ~~such~~ a refund shall be made within three years of date of payment ~~and not thereafter~~. However, the department may make refund payments to employees or employers after the expiration of the three-year deadline if the department finds that the payment of the refund is just and equitable.

Sec. 14. Section 97B.11, Code 1991, is amended to read as follows:

97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

Each employer shall deduct from the wages of each member of the system a contribution in the amount of ~~three and six-tenths percent of the covered wages paid by the employer through June 30, 1979, and commencing July 1, 1979 in the amount of~~ three and seven-tenths percent of the covered wages paid by the employer, until the member's termination or retirement from employment, whichever is earlier. The contributions of the employer shall be in the amount of ~~three and one-half percent of the covered wages of the member for service through December 31, 1975, and in the amount of five and twenty-five hundredths percent of the covered wages of the member for service commencing July 1, 1977, through June 30, 1979, and in the amount of~~ five and seventy-five hundredths percent of the covered wages of the member ~~for service commencing July 1, 1979~~.

Sec. 15. Section 97B.17, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department shall establish and maintain records of each member, including but not limited to, the amount of wages of each member, the contribution of each member with interest, and interest dividends credited, ~~and these~~. These records are the basis for the compilation of the retirement benefits provided under this chapter. The following records maintained under this chapter containing personal identifiable information are not public records for the purposes of chapter 22:

Sec. 16. Section 97B.18, Code 1991, is amended to read as follows:

97B.18 STATEMENT OF ACCUMULATED CREDIT.

After the expiration of each calendar year and prior to July 1 of the succeeding year, the department shall furnish each member with a statement of the member's accumulated contributions and benefit credits accrued under this chapter up to the end of ~~such~~ that calendar year and additional information the department deems useful to a member. The department may furnish an estimate of ~~such~~ the credits as of the projected normal retirement date of the member under section 97B.45. The department shall mail ~~such~~ the statement to each employer not later than June 30 of the succeeding calendar year. The employer shall distribute ~~such~~ the statements to its employees, and the records of the department as shown by ~~said~~ the statement as to the wages of ~~such~~ each individual member for ~~such~~ a year and the periods of payment shall be conclusive for the purpose of this chapter, except as ~~hereinafter~~ otherwise provided in this chapter.

Effective for the calendar year beginning January 1, 1994, the department may transmit the statements directly to the members in lieu of mailing them to the employers.

Sec. 17. NEW SECTION. 97B.20A APPEAL PROCEDURE.

Members and third-party payees may appeal any decision made by the department that affects their rights under this chapter. The appeal shall be filed with the department within thirty days after the notification of the decision was mailed to the party's last known mailing address, or the decision of the department is final. If the party appeals the decision of the department, the department shall conduct an internal review of the decision and the chief benefits officer shall notify the individual who has filed the appeal in writing of the department's decision. The individual who has filed the appeal may file an appeal of the department's final decision with the department under chapter 17A by notifying the department of the appeal in writing within thirty days after the notification of its final decision was mailed to the party's last known mailing address. Once notified, the department shall forward the appeal to the department of inspections and appeals.

Sec. 18. NEW SECTION. 97B.20B HEARING BY ADMINISTRATIVE LAW JUDGE.

If an appeal is filed and is not withdrawn, an administrative law judge in the department of inspections and appeals, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the decision of the department. The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The transcript shall then be made available for use by the employment appeal board and by the courts at subsequent

judicial review proceedings under the Iowa administrative procedure Act, if any. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons. The decision is final unless, within thirty days after the date of notification or mailing of the decision, review by the employment appeal board is initiated pursuant to section 97B.27.

Sec. 19. Section 97B.22, Code 1991, is amended to read as follows:

97B.22 WITNESSES AND EVIDENCE.

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this chapter, or relative to any other matter within its jurisdiction ~~hereunder~~ under this chapter, the department or ~~appeal referee shall have the power to~~ administrative law judge may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the ~~commission~~ department. ~~Such attendance~~ Attendance of witnesses and production of evidence at the designated place of ~~such~~ the hearing, investigation, or other proceedings may be required from any political subdivision in the state. Subpoenas of the department shall be served by anyone authorized by it ~~(1)~~ by delivering a copy ~~thereof~~ of the subpoena to the individual named ~~therein~~ in it, or ~~(2)~~ by certified mail addressed to ~~such~~ the individual at the individual's last known dwelling place or principal place of business. A verified return by the individual ~~so~~ serving the subpoena setting forth the manner of service, or, in the case of service by certified mail, the return post-office receipt ~~therefor~~ signed by the individual ~~so~~ served, shall be proof of service. Witnesses ~~so~~ subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the state of Iowa. In the discharge of the duties imposed by this chapter, the ~~chairperson or an appeal referee~~ department or an administrative law judge and any duly authorized representative or member of the department ~~shall have power to~~ may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the administration of this chapter.

Sec. 20. Section 97B.23, Code 1991, is amended to read as follows:

97B.23 PENALTY FOR ~~CONTUMACY~~ NONCOMPLIANCE.

In case of ~~contumacy by, or~~ refusal to obey a subpoena duly served upon any person, any district court of the state of Iowa for the district in which ~~said~~ the person charged with ~~contumacy or~~ refusal to obey is found or resides or transacts business, upon application by the department, ~~shall have jurisdiction to~~ may issue an order requiring ~~such~~ that person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey ~~such~~ the order of the court may be punished by ~~said~~ the court as contempt ~~thereof~~.

Sec. 21. Section 97B.25, Code 1991, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the administrator and referred to in this chapter as a retirement benefits ~~deputy~~ specialist, shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The ~~deputy~~ retirement benefits specialist shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal ~~to an administrative law judge in the department of inspections and appeals~~ as provided in section 97B.20A, the decision is final and benefits shall be paid or denied in accord with the decision.

Sec. 22. Section 97B.34, Code 1991, is amended to read as follows:

97B.34 PAYMENT TO ~~INCOMPETENTS~~ REPRESENTATIVES.

When it appears to the department that the interest of an applicant entitled to a payment would be served ~~thereby~~, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled ~~thereto~~ to the payment, either for direct payment to ~~such~~ the applicant, or for the applicant's use and benefit to a ~~relative or some other person~~ representative of an applicant. The department may adopt rules under chapter 17A for making payments to a representative of an applicant if the department determines that it can sufficiently safeguard the member's rights under this chapter.

Sec. 23. NEW SECTION. 97B.34A PAYMENT TO MINORS.

The department may make payments to a minor, as defined in section 599.1, as follows:

1. If the total sum to be paid to the minor is less than ten thousand dollars, the funds may be paid to an adult as custodian for the minor. The custodian must complete the proper forms as determined by the department.

2. If the total sum to be paid to the minor is equal to or more than ten thousand dollars, the funds must be paid to a court-established conservator. The department shall not make payment until the conservatorship has been established and the department has received the appropriate documentation.

3. Interest shall be paid on the funds, at a rate determined by the department, until disbursement of the funds.

If the department makes payments to a minor pursuant to this section, the department may make payments directly to the person when the person attains the age of eighteen or is declared to be emancipated by a court of competent jurisdiction.

Sec. 24. Section 97B.41, subsection 1, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

"Wages" means all remuneration for employment, including the cash value of remuneration paid in a medium other than cash, but not including the cash value of remuneration paid in a medium other than cash as necessitated by the convenience of the employer. The amount agreed upon by the employer and employee for remuneration paid in a medium other than cash shall be reported to the department by the employer and is conclusive of the value of the remuneration. ~~However, remuneration which does not equal or exceed the sum of three hundred dollars in a calendar quarter shall be excluded.~~ "Wages" does not include special lump sum payments made as payment for accrued sick leave or accrued vacation or payments made as an incentive for early retirement or as payments made upon dismissal, severance, or a special bonus payment. Wages for an elected official means the salary received by an elected official, exclusive of expense and travel allowances.

Sec. 25. Section 97B.41, subsection 1, paragraph b, subparagraph (12), Code 1991, is amended to read as follows:

(12) Effective July 1, ~~1988~~ 1992, covered wages does not include wages to a member on or after the effective date of the member's retirement unless the member is reemployed, as provided under section ~~97B.48, subsection~~ 3 97B.48A.

Sec. 26. Section 97B.41, subsection 2, Code 1991, is amended to read as follows:

2. "Employment for any calendar quarter" means any service performed under an employer-employee relationship under ~~the provisions of~~ this chapter ~~if the remuneration equals or exceeds three hundred dollars~~ for which wages are reported in the calendar quarter. For the purposes of this chapter, elected officials are deemed to be in employment for all quarters of the elected officials' respective terms of office, even if the elected officials have selected a method of payment of wages which results in the elected officials not being credited with wages every quarter of a year.

Sec. 27. Section 97B.41, subsection 3, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

"Employer" means the state of Iowa, the counties, municipalities, ~~and~~ agencies, public school districts, ~~and~~ all ~~of the~~ political subdivisions, and all of their departments and instrumentalities, including joint planning commissions created under ~~the provisions of~~ chapter 28I.

Sec. 28. Section 97B.41, subsection 3, paragraph b, unnumbered paragraph 1, and subparagraphs (1), (2), (3), (4), (5), and (7), Code 1991, are amended to read as follows:

"Employee" means ~~any~~ an individual who is ~~in employment~~ employed as defined in this chapter, except:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, unless the elective official makes an application to the department to be covered under this chapter. An elective official who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the expiration of the member's ~~termination~~ term of office. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

(1A) Individuals who are enrolled as students and whose primary occupations are as students who are incidentally employed by employers.

(1B) Graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 8.

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa, unless such members or employees ~~shall~~ make an application to the department to be covered under ~~the provisions of~~ this chapter. A member of the general assembly ~~or temporary employee of the general assembly~~ who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the member's ~~or temporary employee's termination~~ intent to terminate.

Temporary employees of the general assembly who have elected coverage under this chapter may terminate membership by sending written notification to the department of their separation from service.

(3) ~~Employees~~ Nonvested employees of drainage and levee districts ~~not vested~~, unless ~~such drainage and levee districts shall~~ those employees make an application to the department to be covered under ~~the provisions of~~ this chapter. ~~However, any drainage or levee district which has made contributions against which no application for benefits has been made shall be entitled to withdraw all such contributions by making application to the department prior to December 31, 1969. Each drainage or levee district which withdraws its contributions shall refund to its employees contributions deducted from their wages.~~

(4) Employees hired for temporary employment of less than six months ~~or less duration~~ or one thousand and forty hours in a calendar year. An employee who works for an employer for six or more months in a calendar year or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, "adjunct instructors" means instructors employed by a community college without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

(5) Employees of a community action ~~programs~~ program, determined to be an instrumentality of the state or a political subdivision, unless ~~such~~ the employees elect by filing an application with the department to be covered under ~~the provisions of~~ this chapter and the department has approved the election. Coverage will begin when the election has been approved by the department.

(7) Persons employed under the federal Job Training Partnership Act of 1982, Pub. L. No. 97-300, unless these employees make an application to the department to be covered under this chapter and the department has approved the election. Coverage will begin when the election has been approved by the department.

Sec. 29. Section 97B.41, subsection 3, paragraph b, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (16) Persons employed by the board of trustees for the statewide fire and police retirement system established in section 411.36, unless these employees make an application to the department to be covered under this chapter and the department has approved the election. Coverage will begin when the election has been approved by the department.

Sec. 30. Section 97B.41, subsection 7, Code 1991, is amended to read as follows:

7. "Member" means an employee or a former employee ~~required to become a member of the system by sections 97B.42 and 97B.43~~ who maintains the employee's or former employee's accumulated contributions in the system. The former employee is not a member if the former employee has received a refund of the former employee's accumulated contributions.

Sec. 31. Section 97B.41, subsection 10, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

"Vested member" means a member ~~who meets~~ who has attained through age or sufficient years of service eligibility to receive monthly retirement benefits upon the member's retirement. A vested member must meet one of the following requirements:

Sec. 32. Section 97B.41, subsection 11, Code 1991, is amended to read as follows:

11. "Retired member" means a member who has applied for and commenced receiving the member's retirement allowance. ~~A member has not established a bona fide retirement if the member accepts other employment as defined in this section before qualifying for at least one calendar month's retirement benefits under this chapter.~~

Sec. 33. Section 97B.41, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "Bona fide retirement" means a retirement by a vested member which meets the requirements of section 97B.52A, subsection 1, and in which the member is eligible to receive benefits under this chapter.

Sec. 34. Section 97B.41, subsections 16 and 17, Code 1991, are amended to read as follows:

16. "Beneficiary" means the person or persons who are entitled to receive any benefits payable under this chapter at the death of a member ~~payable under this chapter who has or,~~ if the person or persons have been designated ~~in writing by the member~~ on a form provided by the department and filed with the department~~, or if~~. If no such designation is in effect at the time of death of the member or if no person so designated is living at that time, then the beneficiary ~~shall be~~ is the estate of the member.

17. "Membership service" means service rendered by a member after July 4, 1953. Years of membership service shall be counted to the complete quarter calendar year. However, membership service for a calendar year shall not include more than four quarters.

Sec. 35. Section 97B.41, subsection 19, Code 1991, is amended to read as follows:

19. "Three-year average covered wage" means a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by combining the wages from the highest quarter or quarters not being used in the selection of the two highest years with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service.

Sec. 36. Section 97B.42, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Each employee whose employment commences after July 4, 1953, or who has not qualified for credit for prior service rendered prior to July 4, 1953, or any publicly elected official of the state or any of its political subdivisions, ~~other than individuals who are students and who devote their time and efforts chiefly to their studies, rather than to incidental employment,~~ shall become a member upon the first day in which such employee is employed. The employee shall continue to be a member so long as the employee continues in public employment ~~except that the~~. The employee shall cease to be a member if ~~after making said election~~ the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments ~~which has been in operation prior to July 4, 1953, and was subsequently liquidated and may have thereafter been re-established. However, the participation in such other retirement system shall be voluntary and shall not be a condition for continuance of employment.~~

Sec. 37. Section 97B.42, unnumbered paragraph 5, Code 1991, is amended to read as follows:

Notwithstanding any other provision of this section, commencing July 1, 1994, a member who is employed by a community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system, if the board of directors of the community college has approved the alternative system pursuant to section 280A.23. ~~However, a vested member who elects to participate in the alternative benefits system does not have a right to withdraw funds from the member's Iowa public employees' retirement system account prior to retirement or termination of covered employment~~ A member employed by a community college who elects coverage under an alternative retirement benefits system may withdraw the member's accumulated contributions effective when coverage under the alternative benefits system commences. The department shall cooperate with the boards of directors of the community colleges to facilitate the implementation of this ~~unnumbered paragraph~~ provision.

Sec. 38. Section 97B.43, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Each member in service on July 4, 1953, who made contributions under the abolished system, and who has not applied for and qualified for benefit payments under the abolished system, shall receive credit for years of prior service in the determination of retirement allowance payments under ~~any of the provisions of~~ this chapter, ~~provided (1) such~~ if the member elects to become a member on or before October 1, 1953, ~~(2) such~~ the member has not made application for a refund of ~~such~~ the part of the member's contributions under the abolished system ~~as is~~ which are payable under ~~the provisions of~~ sections 97.50 to 97.53, and ~~(3) such~~ the member gives written authorization prior to October 1, 1953, to the commission to credit to the retirement fund the amount of the member's contribution which would be subject to a claim for refund. The amount so credited shall, after ~~such~~ transfer, be considered as a contribution to the system made as of July 4, 1953, by the member and shall be included ~~as such~~ in the determination of the amount of ~~any accumulated contributions payable under this chapter in the event of the death prior to retirement or termination of employment of the member, but shall not be included in the accumulated contributions of the member in the determination of the amount of any retirement allowance payable under this chapter~~ moneys payable under this chapter. ~~Provided, however~~ However, an employee who was under a contract of employment as a teacher in the public schools of the state of Iowa at the end of the school year 1952-1953, or any person covered by ~~the provisions of~~ paragraph "c" or "d", ~~of~~ subsection 13, ~~of~~ section 97B.41, shall be considered as in service as of July 4, 1953, if they were members of the abolished system.

Sec. 39. Section 97B.44, Code 1991, is amended to read as follows:

97B.44 BENEFICIARY.

Each member shall designate on a form to be furnished by the department a beneficiary for ~~any~~ death benefits payable ~~hereunder~~ under this chapter on the death of ~~such~~ the member. ~~Such~~ The designation may be changed from time to time by the member by filing a new designation with the department. The designation of a beneficiary is not applicable if the member receives a refund of all contributions of the member. If a member who has received a refund of contributions returns to employment, the member shall file a new designation with the department.

If a member has not designated a beneficiary on a form furnished by the department, or if there are no surviving designated beneficiaries of a member, death benefits payable under this chapter shall be paid to the member's estate.

Sec. 40. Section 97B.48, subsection 2, Code 1991, is amended to read as follows:

2. The first monthly payment of a normal retirement allowance shall be paid as of the normal retirement effective date, which date shall be the later of the normal retirement date or the first day of the sixth calendar month preceding the month in which written notice of normal retirement is submitted to the department. Written notice under this section may consist of submission of a completed estimate request form, a completed application for retirement form, or a letter from the member requesting information on retirement benefits, whichever is received first by the department. However, a letter requesting information on benefits or submission of a completed estimate request form is only valid for six months following the date of its receipt by the department, unless during that six-month period the department receives a completed application for retirement form from the member. A retirement allowance may only be provided retroactively for a single six-month period. Payment of an early retirement allowance or an allowance for retirement after the normal retirement date shall be paid as of the effective date of retirement subject to ~~the provisions of~~ section 97B.45, 97B.46, or 97B.47. The payments shall be continued thereafter for the lifetime of the retired member except as provided in ~~subsection 3~~ section 97B.48A.

Sec. 41. Section 97B.48, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. As of the first of the month in which a member attains the age of seventy years, the member may commence receiving a retirement allowance regardless of the member's employment status.

Sec. 42. NEW SECTION. 97B.48A REEMPLOYMENT.

1. If, after the first day of the month in which the member attains the age of fifty-five years and until the member's sixty-fifth birthday, a member who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be suspended for as long as the member remains in employment for the remainder of that calendar year. However, effective January 1, 1992, employment is not full-time employment until the member receives remuneration in an amount in excess of seven thousand four hundred forty dollars for a calendar year. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance after return to covered employment regardless of the amount of remuneration received.

2. Effective January 1, 1991, a retired member of any age may receive a retirement allowance after return to covered employment, regardless of the amount of remuneration received, if the covered employment consists of holding an elective office.

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.49 or 97B.50, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and

one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service.

4. The department shall pay to the member the accumulated contributions of the member and to the employer the employer contributions, plus two percent interest plus interest dividends for all completed calendar years, compounded annually, on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member.

Sec. 43. Section 97B.49, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Commencing July 1, 1991, the department shall increase the percentage multiplier of the three-year average covered wage by an additional two percent each July 1 until reaching sixty percent of the three-year average covered wage if the annual actuarial valuation of the retirement system indicates for that year that the cost of this increase in the percentage of the three-year average covered wage used in computing retirement benefits can be absorbed within the employer and employee contribution rates in effect under section 97B.11. The two percent increase in the percentage multiplier for a year applies only to the members retiring on or after July 1 of the respective year.

Sec. 44. Section 97B.49, subsection 5, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. In accordance with sections 97D.1 and 97D.4, it is the intent of the general assembly that once the goal of sixty percent of the three-year average covered wage is attained for a percentage multiplier, the department shall submit to the public retirement systems committee a plan for future benefit enhancements. This plan shall include, but is not limited to, continuation in the increase in the covered wage ceiling until reaching fifty-five thousand dollars for a calendar year, providing for annual adjustments in the annual dividends paid to retired members as provided in section 97B.49, subsection 13, and providing for the indexing of terminated vested members' earned benefits at a rate of three percent per year calculated from the date of termination from covered employment until the date of retirement.

Sec. 45. Section 97B.49, subsection 13, Code 1991, is amended to read as follows:

13. a. A member who retired from the system between January 1, 1976, and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1990~~ 1992 and the November ~~1991~~ 1993 monthly benefit payments a retirement dividend equal to one hundred forty percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

b. Each member who retired from the system between July 4, 1953, and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1990~~ 1992 and the November ~~1991~~ 1993 monthly benefit payments a retirement dividend equal to one hundred eighty percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

c. Notwithstanding the determination of the amount of a retirement dividend under paragraph "a", "b", or "d", a retirement dividend shall not be less than twenty-five dollars.

d. A member who retired from the system between July 1, 1982, and June 30, 1986, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1990~~ 1992 and the November ~~1991~~ 1993 monthly benefit payments a retirement dividend equal to twenty-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

e. If the member dies on or after July 1 of the dividend year but before the payment date, the full amount of the retirement dividend for that year shall be paid to the designated beneficiary. If there is no beneficiary designated by the member, the department shall pay the dividend to the member's estate. The beneficiary, or the representative of the member's estate, must apply for the dividend within two years after the dividend is payable or the dividend is forfeited.

Sec. 46. Section 97B.49, subsection 16, paragraph a, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The years of membership service required under this paragraph include membership service as a sheriff or deputy sheriff and membership service as an employee in a protection occupation under paragraph "d", subparagraph (2).

Sec. 47. Section 97B.49, subsection 16, paragraph d, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) A fire prevention inspector peace officer employed by the department of public safety.

Sec. 48. Section 97B.50, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Except as otherwise provided in this section, a vested member, upon retirement prior to the normal retirement date, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in subsections 1, 4, and 5 of section 97B.49 reduced as follows:

Sec. 49. Section 97B.50, subsections 2 and 4, Code Supplement 1991, are amended to read as follows:

2. a. A vested 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, and who 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, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time after July 4, 1953. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the United States Railroad Retirement Act (45 U.S.C. § 231 et seq.), and 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, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time since July 4, 1953. ~~However, eligible~~ Eligible members are entitled to the

receipt of retroactive adjustment payments ~~for no more than six months immediately preceding the month after~~ back to July 1, 1990, ~~in which written notice was submitted to the department~~.

~~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 Railroad Retirement Act (45 U.S.C. § 231 et seq.), 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.~~

4. A vested member eligible for a retirement allowance adjusted under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice of retirement was submitted to the department.

Sec. 50. Section 97B.51, subsections 2, 5, and 6, Code 1991, are amended to read as follows:

2. The election by a member or the contingent annuitant of the option stated under subsection 1 of this section shall be null and void if the member dies prior to ~~retirement~~ the department issuing payment of the member's first retirement allowance.

5. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance ~~will~~ shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments, and the amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable under section 97B.49, subsection 1 or 5. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

6. A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

Sec. 51. Section 97B.52, subsections 1 and 2, Code 1991, are amended to read as follows:

1. If a member dies prior to the date the member's first retirement allowance is ~~payable under~~ issued by the system, the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by thirty shall be paid to the member's beneficiary in a lump sum payment. However, a lump sum payment made to a beneficiary under this subsection due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this subsection as it appeared in the 1983 Code.

Effective July 1, 1978, a method of payment under this subsection filed with the department by a member does not apply.

2. If a member dies after the date the member's first retirement allowance is ~~payable under~~ issued by the retirement system, the excess, if any, of the accumulated contributions by the member as of said date, over the total monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with subsection 1, 4, 5, or 6 of section 97B.51.

Sec. 52. Section 97B.52, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. If a death benefit is due and payable, interest shall continue to accumulate through the month preceding the month in which payment is made to the designated beneficiary, heirs

at law, or ~~to~~ the estate unless the payment of the death benefit is delayed because of a dispute between alleged heirs, in which case the benefit due and payable shall be placed in a noninterest bearing escrow account until the beneficiary is determined in accordance with this section. In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the department within two years of the member's death.

Sec. 53. Section 97B.52, subsection 4, Code 1991, is amended to read as follows:

4. If the department cannot locate the beneficiary within eighteen months following the member's death and receipt of verification that a certified letter with return receipt requested, addressee only, has been ~~delivered~~ mailed to the beneficiary, the department shall pay to the estate of the deceased member the amount otherwise designated to be received by the beneficiary. If a beneficiary is known to exist but cannot be notified, the department shall not pay the death benefits to the estate.

Sec. 54. Section 97B.52, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If a member has not filed a designation of beneficiary with the department, the death benefit is payable to the member's estate. If no designation has been filed and an estate is not probated, the death benefit shall be paid to the surviving spouse, if any. If no designation has been filed, no estate has been probated, and there is no surviving spouse, the death benefit shall be paid to the heirs. Otherwise, the death benefit shall remain in the fund.

Sec. 55. NEW SECTION. 97B.52A ELIGIBILITY FOR BENEFITS — BONA FIDE RETIREMENT.

1. A member has a bona fide retirement when the member terminates employment and remains out of employment for at least one hundred twenty consecutive days, files an application for benefits form with the department, and does not return to employment as defined in this chapter until the member has qualified for no fewer than four calendar month's retirement benefits.

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements and remaining out of covered employment for one calendar month. However, a retired member who commences receiving a retirement allowance but returns to employment before the expiration of the one hundred twenty consecutive day period, does not have a bona fide retirement and any retirement allowance received by such a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the department. Until the member has repaid the retirement allowance and interest, the department may withhold any future retirement allowance for which the member may qualify.

Sec. 56. Section 97B.53, Code 1991, is amended to read as follows:

97B.53 TERMINATION OF EMPLOYMENT — REFUND OPTIONS.

~~All rights to all benefits under~~ Membership in the retirement system, and all rights to the benefits under the system, will cease upon a member's termination of employment with the employer prior to the member's retirement, other than by death, ~~except as provided hereafter:~~ and upon receipt by the member of the member's accumulated contributions.

1. Upon the termination of employment with the employer prior to retirement other than by death of a member, the accumulated contributions by the member at the date of ~~such~~ the termination ~~will~~ may be paid to ~~such~~ the member upon application, except as ~~may be~~ provided in ~~subsection~~ subsections 2, ~~subsection~~ 5, and ~~subsection~~ 6 ~~of this section~~.

2. If a vested member's employment is terminated prior to the member's retirement, other than by death, the member ~~shall~~ may receive a monthly retirement allowance commencing on the first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing

on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of accumulated contributions under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either section 97B.49 or in section 97B.50, whichever is applicable.

3. The accumulated contributions of a terminated, vested member ~~who is entitled to the benefits of subsection 2 of this section~~ shall be credited with interest, including interest dividends.

4. A terminated, vested member ~~who is entitled to the benefits of subsection 2 of this section shall have~~ has the right, prior to the commencement of the member's retirement allowance, to receive a refund of the member's accumulated contributions, and in the event of the death of the member prior to the commencement of the member's retirement allowance and prior to the receipt of any such refund the benefits of subsection 1 of section 97B.52 shall be paid. ~~No member shall be entitled to any refund based upon any credit for prior service as determined under the provisions of section 97B.43 or for any portion of any contribution made by an employer unless otherwise provided by this chapter.~~

5. A member has not terminated employment if the member accepts other covered employment ~~in the state of Iowa under which the member is eligible to membership in the Iowa public employees' retirement system,~~ within thirty days ~~after the member has left public employment~~.

5A. Within sixty days after a member has been issued payment for a refund of the member's accumulated contributions, the member may repay the accumulated contributions plus interest that would have accrued, as determined by the department, and receive credit for membership service for the period covered by the refund payment.

5B. ~~Any~~ A member who does not withdraw the member's accumulated contributions upon termination of employment may at any time request the return of the member's accumulated contributions, but if the member receives ~~such~~ a return of contributions the member ~~shall be deemed to have~~ has waived all claims for any other benefits and membership rights from the fund.

6. ~~Any~~ A member who terminates employment before the member is ~~entitled to the benefits of subsection 2 of this section~~ vested and who does not claim and receive a refund of the member's accumulated contributions within five years of the date of termination shall, ~~in event~~ if the member makes claim for ~~such~~ a refund more than five years after the date of termination, be required to submit proof satisfactory to the department of the member's entitlement to ~~such~~ the refund, but in no case shall interest be allowed upon the accumulated contributions for any period in which the member is not an employee. The department ~~shall be~~ is under no obligation to maintain the accumulated contribution accounts of such former members for more than five years after their dates of termination.

~~Any~~ A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, ~~in event~~ if the person makes a claim for ~~such~~ refund after January 1, 1964, be required to submit proof satisfactory to the department of the person's entitlement to ~~such~~ the refund. The department ~~shall be~~ is under no obligation to maintain the contribution accounts of such persons after January 1, 1964.

7. Any member whose employment is terminated after one year of employment but before the member has accumulated four or more years of employment, either under the provisions of this chapter or as a result of prior service credits, may elect to leave the member's accumulated contributions in the retirement fund. In the event the member returns to public employment at any time within four years after this termination of employment, the member shall be entitled to resume membership in the system with the same credits for prior service and accumulated contributions that the member had earned when the member's original employment was terminated. No interest shall be credited on the member's accumulated contributions nor on the member's employer's accumulated contributions during the period from the time of the member's termination of employment to the member's resumption of employment.

Any member who has resumed employment under the provisions of this subsection shall not be eligible for any second period of absence from membership as a result of termination of service.

8. If an employee hired to fill a permanent position terminates the employee's employment within six months from the date of employment, the employer may file a claim with the department for a refund of the funds contributed to the department by the employer for the employee.

~~9. The department shall refund employee and employer contributions on the covered wages earned by a retired member that are not used in the recomputation of monthly benefits of that member.~~

Sec. 57. Section 97B.58, Code 1991, is amended to read as follows:

97B.58 INFORMATION FURNISHED BY EMPLOYER.

To enable the department to perform its functions, the employer shall, upon the request of and in the manner provided by the department, supply full and timely information to the department of all matters relating to the pay of all members, date of birth, their retirement, death, or other cause for termination of employment, and ~~such~~ other pertinent facts ~~as~~ the department may require in the manner provided by the department.

Sec. 58. Section 97B.66, unnumbered paragraph 3, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 59. Section 97B.73, Code 1991, is amended to read as follows:

97B.73 MEMBERS FROM OTHER PUBLIC SYSTEMS.

A vested or retired member who was in public employment comparable to employment covered under this chapter in another state or in the federal government, or who was a member of another public retirement system in this state, including but not limited to the teachers insurance annuity association-college retirement equities fund, but who was not retired under that system, upon submitting verification of membership and service in the other public ~~retirement~~ system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system, may make employer and employee contributions to the system either for the entire period of service in the other public ~~retirement~~ system ~~and~~, or for partial service in the other public system in increments of one or more years, as long as the increments represent full years and not a portion of a year. The member may also make one lump sum contribution to the system which represents the entire period of service in the other public system, even if the period of time exceeds one year or includes a portion of a year. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the number of years of service ~~in~~ transferred from the other public ~~retirement~~ system. The contribution payable shall be based upon the member's covered wages for the most recent full calendar year at the applicable rates in effect for that calendar year under sections 97B.11 and 97B.49 and multiplied by the member's years of service in other public employment. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy since the covered wages were earned.

This section is applicable to a vested or retired member who was a member of a public retirement system established in sections 294.8, 294.9, and 294.10 but was not retired under that system.

A member ~~vested under~~ entitled to a benefit from another public system must waive, on a form provided by the Iowa public employees' retirement system, all rights to a retirement benefit under ~~that~~ the other public system before receiving credit in this system for ~~those~~ the years of service in the other public system. The waiver must be accepted by the other public system.

Effective July 1, 1988, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 60. Section 97B.80, Code 1991, is amended to read as follows:

97B.80 VETERAN'S CREDIT.

Effective July 1, ~~1990~~ 1992, a vested or retired member ~~with reportable wages in the most recent calendar year~~, who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service, may make employer and employee contributions to the system based upon the member's covered wages for the most recent full calendar year in which the member had reportable wages at the applicable rates in effect for that year under sections 97B.11 and 97B.49, for the period of time of the active duty service, in ~~one-year~~ increments ~~but not to exceed four years~~ of no greater than one year and not less than one calendar quarter, and receive credit for membership service and prior service for the period of time for which the contributions are made. However, the member may not make contributions in an increment of less than one year more than once. The member may also make one lump sum contribution to the system which represents the period of time of the active duty service, even if the period of time exceeds one year. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy. The department shall adjust benefits for a six-month period prior to the date the member pays contributions under this section if the member is receiving a retirement allowance at the time the contribution payment is made. Verification of active duty service and payment of contributions shall be made to the department. However, a member is not eligible to make contributions under this section if the member is receiving, ~~or~~ is eligible to receive, or may in the future be eligible to receive retirement pay from the United States government for active duty in the armed forces, except for retirement pay granted by the United States government under retired pay for nonregular service (10 U.S.C. § 1331, et seq.). A member receiving retired pay for nonregular service who makes contributions under this section shall provide information required by the department documenting time periods covered under retired pay for nonregular service.

Sec. 61. Section 294.15, unnumbered paragraphs 1 and 2, Code 1991, are amended to read as follows:

A person attaining the age of sixty-five who was an employee, holding a valid teaching certificate, in the public schools of this state with a record of service of twenty-five years or more, including a maximum of five years' out-of-state service followed by at least ten years' service in this state prior to retirement and who retired prior to July 4, 1953, may receive, effective July 1, ~~1984~~ 1992, retirement allowance payments from the state of Iowa equal to two hundred ~~twenty~~ thirty dollars per month. An amount necessary to meet this requirement shall be added to the retirement allowance payments, if any, now being received from the state of Iowa by individuals covered under this section. No such person shall receive retirement benefits from the state of more than two hundred ~~twenty~~ thirty dollars per month. The word "employee" as used in this section includes persons who were state superintendents, county superintendents, or deputy county superintendents.

However, a person receiving retirement allowance payments under this section may elect in writing to the department of personnel to continue to receive two hundred dollars or two hundred twenty dollars per month.

Sec. 62. Section 411.1, subsection 11, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

11. "Earnable compensation" or "compensation earnable" shall mean the annual compensation which a member receives for services rendered as a police officer or fire fighter in the course of employment with a participating city. However, the term "earnable compensation"

or "compensation earnable" shall not include amounts received for overtime compensation, meal or travel expenses, uniform allowances, fringe benefits, severance pay, or any amount received upon termination or retirement in payment for accumulated sick leave or vacation. Contributions made by a member from the member's earnable compensation to a plan of deferred compensation shall be included in earnable compensation. Other contributions made to a plan of deferred compensation shall not be included except to the extent provided in rules adopted by the board of trustees pursuant to section 411.5, subsection 3.

Sec. 63. Section 411.5, subsection 6, Code Supplement 1991, is amended to read as follows:

6. RECORDS — REPORTS. The board of trustees shall keep a record of all its proceedings, which record shall be open to public inspection. It shall submit an annual report to the governor, the general assembly, and the city council of each participating city concerning the financial condition of the retirement system, its current and future liabilities, and the actuarial valuation of the system. The board of trustees shall submit a certified audit report prepared by a certified public accountant to the auditor of state annually. The system shall comply with the filing fee requirement of section 11.6, subsection 10.

Sec. 64. Section 411.6, subsection 2, paragraphs a through c, Code Supplement 1991, are amended to read as follows:

a. ~~Upon retirement from service, prior to July 1, 1990, a member shall receive a~~ The service retirement allowance ~~which~~ for a member who terminates service, other than by death or disability, prior to July 1, 1990, shall consist of a pension ~~given by the city~~ which equals fifty percent of the member's average final compensation.

b. ~~Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a~~ The service retirement allowance ~~which~~ for a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1992, shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, for members who terminate service, other than by death or disability, on or after that date, the system shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation. The applicable percentage multiplier shall be the rate in effect on the date of the member's termination from service.

Sec. 65. Section 411.6, subsection 3, Code Supplement 1991, is amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

Sec. 66. Section 411.6, subsection 4, Code Supplement 1991, is amended to read as follows:

4. Allowance on ordinary disability retirement. Upon retirement for ordinary disability a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation ~~except if~~ unless either of the following conditions exist:

a. If the member has not had five or more years of membership service the member shall receive a pension equal to one-fourth of the member's average final compensation.

b. If the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the benefit that the member would receive under subsection 2 if the member were fifty-five years of age or the disability pension otherwise calculated under this subsection.

Sec. 67. Section 411.6, subsection 5, Code Supplement 1991, is amended to read as follows:

5. ACCIDENTAL DISABILITY BENEFIT.

a. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system, if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

b. If a member in service or the chief of the police or fire departments becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member, upon being found to be temporarily incapacitated following a medical examination as directed by the ~~system~~ city, is entitled to receive the member's full pay and allowances from the city's general fund until re-examined as directed by the ~~system~~ city and found to be fully recovered or until the city determines that the member is likely to be permanently disabled. The board of trustees of the statewide system has no jurisdiction over these matters until the city determines that the disability is likely to be permanent.

c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases. However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

Sec. 68. Section 411.6, subsection 6, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Upon retirement for accidental disability on or after July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that the member would receive under subsection 2 if the members were fifty-five years of age or the disability retirement allowance calculated under this paragraph.

Sec. 69. Section 411.6A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

411.6A OPTIONAL RETIREMENT BENEFITS.

1. In lieu of the payment of a service retirement allowance under section 411.6, subsection 2, and the payment of a pension to the spouse of a deceased pensioned member under section 411.6, subsection 11, a member may select an option provided under this section. The board of trustees shall adopt rules under section 411.5, subsection 3, providing the optional forms of payment that may be selected by the member. The optional forms of payment may provide adjustments to the amount of the retirement allowance paid to the member, may alter the pension amount and period of payment to the member's spouse after the death of the member, and may provide for payments to a designated recipient other than the member's spouse for a designated period of time or an unlimited period of time.

2. Prior to the member's retirement and as a part of the application for a service retirement allowance, the member shall elect, in writing, either the benefits provided under section 411.6, subsections 2 and 11, or one of the optional forms adopted by the board of trustees. If the member is married at the time of application and the member elects an optional form, the member's spouse must consent in writing to the optional form selected and to the receipt of payments to a designated recipient, if applicable. Upon acceptance by a member of an initial retirement benefit paid in accordance with the election under this section, the election of the member is irrevocable.

3. The optional forms of payment determined by the board of trustees under this section, shall be the actuarial equivalent of the amount of retirement benefits payable to the member and the member's spouse pursuant to section 411.6, subsections 2 and 11. The actuarial equivalent shall be based upon the actuarial assumptions adopted for this purpose pursuant to section 411.5. Election of an optional form adopted by the board of trustees shall not affect the benefits, if any, payable to the member's child or children pursuant to section 411.6, subsection 11.

Sec. 70. Section 411.8, subsection 1, paragraph f, subparagraph (8), and unnumbered paragraphs 2 and 3, Code Supplement 1991, are amended to read as follows:

(8) Beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be ~~the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted, multiplied by four-tenths, or~~ nine and one-tenth percent~~, whichever is greater~~. However, the system shall increase ~~this percentage for its members~~ the member's contribution rate as necessary to cover any increase in cost to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1991, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent. After the employee contribution reaches ~~the maximum rate specified in this subparagraph~~ eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by employers under paragraph "c" and forty percent of the additional cost shall be paid by employees under this paragraph.

~~Beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the fund from the earnable compensation of the member.~~

~~The total amount to be contributed by the member shall be determined by the actuary after each valuation.~~

Sec. 71. Section 411.38, subsection 2, Code 1991, is amended to read as follows:

2. Transfer from each terminated city fire or police retirement system to the statewide system amounts sufficient to cover the accrued liabilities of that terminated system as determined by the actuary of the statewide system. The actuary of the statewide system shall redetermine the accrued liabilities of the terminated systems as necessary to take into account additional amounts payable by the city which are attributable to errors or omissions which occurred prior to January 1, 1992, or to matters pending as of January 1, 1992.

Sec. 72. NEW SECTION. 602.9107A OPTIONAL RETIREMENT AND DECREASED ANNUITY.

1. Notwithstanding section 602.9106, a judge who is fifty-five years of age or older and who has served at least twenty consecutive years as a judge of one or more of the courts included in this article shall be entitled to receive a decreased annuity.

2. The amount of the decreased annuity shall be the actuarial equivalent of the amount of the annuity payable to judges pursuant to section 602.9107, subsections 1 and 2. A judge shall make an election request in writing to the state court administrator prior to retirement in order to receive an annuity pursuant to this section. A judge may revoke the election prior to retirement by providing a written request to the state court administrator.

3. The decreased annuity provided in this section shall be in lieu of the annuities and refunds provided for in sections 602.9107, 602.9108, 602.9115, 602.9204, 602.9208, and 602.9209.

Sec. 73. Section 602.9204, Code 1991, is amended to read as follows:

602.9204 ANNUITY OF SENIOR JUDGE AND RETIRED SENIOR JUDGE.

A senior judge or a retired senior judge shall not be paid a salary. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed fifty percent of the current basic salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to three percent of the basic salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed fifty percent of the basic salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. In addition, if a senior judge is under sixty-five years of age at the time the judge becomes a senior judge, the state shall pay the state's share of the senior judge's medical insurance premium until the judge attains age sixty-five.

As used in this section, unless the context otherwise requires, "basic salary cap" means the basic salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained seventy-eight years of age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

*Sec. 74. *Section 602.9204, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *Effective with the fiscal year commencing July 1, 1993, and for each subsequent fiscal year, there is appropriated annually from the general fund of the state to the judicial retirement fund from funds not otherwise appropriated an amount sufficient to pay the annual costs of this part 2 of chapter 602, article 9, the Iowa senior judge Act, which shall include the costs of all additional benefits paid as a result of the Iowa senior judge Act.**

Sec. 75. MEMBERSHIP IN FIRE AND POLICE RETIREMENT SYSTEMS.

1. As used in this section, unless the context otherwise requires, "qualified member" means a person who meets each of the following conditions:

a. Was a member of the retirement system established in chapter 411 with four or more but fewer than fifteen years of membership service as of July 1, 1989.

b. Terminated employment with the city which employed the member as of July 1, 1989, before the member attained the age of fifty-five and twenty-two years of service.

c. Was subsequently employed as a police officer or fire fighter as of July 1, 1990, by a city which attained a population of eight thousand or more as a result of the federal census

*Item veto; see message at end of the Act

conducted in 1990 and which was not a participating city subject to this chapter on July 1, 1990, and has not subsequently joined the statewide system established in chapter 411.

2. Notwithstanding any other provision of law to the contrary, a qualified member shall receive benefits under chapter 411 pursuant to this section. Unless in conflict with this section, the provisions of chapter 411 pertaining to members shall also pertain to qualified members. Upon attaining retirement age, a qualified member shall receive a service retirement allowance of one twenty-second of the retirement allowance the qualified member would have received if the qualified member had qualified for full benefits pursuant to section 411.6, subsection 1, paragraph "a", 1989 Code of Iowa, for each year of service the qualified member had served.

3. A qualified member must submit an application for coverage pursuant to this section to the board of trustees for membership in the system no later than September 1, 1992. The board of trustees shall notify the city which employed the member as of July 1, 1989, that it must transfer to the board of trustees an amount sufficient to cover the accrued liability of the member, including interest on the accrued liability from December 31, 1991, through the date of payment. The participating city shall transfer that amount to the statewide system.

Sec. 76. SENIOR JUDGES – IMPLEMENTATION. Notwithstanding the amendments to section 602.9204 contained in section 73 of this Act, all judges whose names are entered on the roster of senior judges pursuant to section 602.9203, subsection 3, as of June 30, 1992, and all persons who are retired senior judges as of June 30, 1992, shall continue to receive an annuity calculated pursuant to section 602.9204, 1991 Code of Iowa, and shall not be subject to the amendments to that section contained in this Act. This Act shall not be construed in a manner which reduces benefits to persons who participated as senior judges prior to July 1, 1992.

Sec. 77. Sections 97B.3, 97B.26, and 97B.71, Code 1991, are repealed.

Sec. 78. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The portion of this Act which amends section 97B.41, subsection 3, paragraph "b", by adding a new subparagraph (16), being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992.

2. The portion of this Act which amends section 97B.50, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1990.

3. The section of this Act which amends section 411.6, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992.

4. The section of this Act which amends section 411.38, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992.

Approved April 30, 1992, except the item which I hereby disapprove and which is designated as Section 74 in its entirety. My reason for vetoing the item is 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 2450, an Act relating to public retirement systems and administration and benefits of the Iowa public employees' retirement system, including penalties, making an appropriation, and providing effective and retroactive applicability dates.

House File 2450 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 74, in its entirety. This section would establish a standing unlimited appropriation for the Iowa Senior Judge Act. Given the pending action of the General Assembly to eliminate many standing unlimited appropriations in order to regain control of government spending, it is inconsistent and inappropriate to establish a new standing unlimited appropriation. Because there is an imperative need to remove automatic appropriations from the general fund budget, I am unable to approve this item.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2450 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1202

STRUCTURED FINES PILOT PROGRAM
S.F. 2241

AN ACT establishing a structured fines pilot program and providing an effective date.

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

Section 1. STRUCTURED FINES PILOT PROGRAM – DEPARTMENT OF HUMAN RIGHTS, DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING. The general assembly hereby finds that the structured fines system of imposing fines has been successfully utilized in several countries of Europe and in the states of New York and Arizona. The general assembly further finds that a fine imposed as a criminal sanction should be proportionate to the severity of the offense and should equally impact individuals of differing financial resources, and that the sentencing of a criminal defendant pursuant to a structured fines program, in which fine amounts for some or all offenses are calculated and imposed according to the nature of the offense and the offender's financial resources, is not contrary to any existing provision of law. The general assembly further finds that the implementation of a structured fines pilot program within this state could serve as a test for a fairer method of dispensing criminal justice and could increase the overall amount of criminal fines collected from offenders, reduce the volume of delinquent and unpaid fines, reduce the number of offenders sentenced to formal probation, and help to alleviate the overcrowded conditions at the penal institutions within the state.

The department of human rights, division of criminal and juvenile justice planning is authorized to participate in a federal discretionary grant program to test the structured fines concept in counties and judicial districts also wishing to participate in the pilot program. Sections 2 through 5 of this Act shall apply only within those counties and judicial districts agreeing with the department of human rights, division of criminal and juvenile justice planning to participate in this pilot program from enactment of this Act through June 30, 1993.

Sec. 2. PAYMENT IN INSTALLMENTS OR ON A FIXED FUTURE DATE – INSTALLMENT FEE AND INTEREST. If the district court orders a fine imposed pursuant to chapter 909, the criminal penalty surcharge imposed pursuant to chapter 911, or court costs assessed pursuant to chapter 602, to be paid in installments or at a fixed date in the future, the court shall do all of the following:

1. Impose a time payment fee in the amount of ten dollars.

2. Impose interest charges on the unsatisfied judgment at the rate provided in section 535.3 for court judgments.

Sec. 3. NO MINIMUM FINE. Notwithstanding any other provisions of law, a criminal fine imposed in a county participating in the structured fines pilot program shall not be required to be imposed in any minimum amount.

Sec. 4. DISTRIBUTION OF CERTAIN FEES UNDER THE STRUCTURED FINES PILOT PROGRAM.

1. Upon payment of the time payment fee, the clerk of the district court shall remit all such fees by the fifteenth day of the month following payment to the county treasurer for credit to the general fund of the county to be used to support the costs of the continued operation of the structured fines pilot program in the county. Upon payment of interest charges, the clerk of the district court shall remit all such charges by the fifteenth day of the month following payment to the treasurer of state to be credited to the general fund of the state, except as provided in subsection 2.

2. Notwithstanding any other provisions of this Act, the clerk of the district court for a county participating in the structured fines pilot program shall annually remit ten percent of the first five hundred thousand dollars in fines, criminal penalty surcharges, court costs, time payment fees, and interest charges assessed for public offenses other than scheduled violations as defined in chapter 805, which are paid in installments or at a fixed date in the future, to the county treasurer for credit to the general fund of the county to be used to support the costs of operation of the structured fines pilot program in the county.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment, except for section 4 pertaining to the distribution of certain fees collected by the structured fines pilot program, which shall become effective July 1, 1992.

Approved May 14, 1992

CHAPTER 1203

RACING AND GAMING

S.F. 2249

AN ACT relating to pari-mutuel racing and excursion boat gambling, charitable gaming, and raffles, prohibiting video lottery, providing a tax credit, providing for properly related matters, and providing effective and retroactive applicability dates.

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

Section 1. Section 99B.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. However, notwithstanding subsection 1, paragraphs "b" and "c", if the games or raffles are conducted by a qualified organization issued a license pursuant to subsection 3, the sponsor may charge an entrance fee to a participant and the sponsor need not have a bona fide social relationship with the participant.

Sec. 2. Section 99D.5, subsection 3, Code Supplement 1991, is amended by striking the subsection and inserting the following:

3. Not more than three members of the commission shall belong to the same political party. A member of the commission shall not have a financial interest in a racetrack.

Sec. 3. Section 99D.11, subsection 5, Code Supplement 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. However, the commission shall authorize at the request of the licensee a deduction of a higher or lower percentage of the total sum wagered not to exceed eighteen percent and the additional deduction shall be retained by the licensee. 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~~ shall authorize at the request of the licensee ~~to deduct~~ a deduction of a higher or lower percent of the total sum wagered not to exceed ~~twenty~~ twenty-four percent on multiple or exotic wagering involving not more than two horses or dogs. The deduction authorized above twenty percent on the multiple or exotic wagering involving more than two dogs or horses shall be retained by the licensee. For exotic wagering involving three or more horses or dogs, the commission ~~may~~ shall authorize ~~a~~ at the request of the licensee ~~to deduct an additional two~~ a deduction of a higher or lower percent ~~from~~ of the total sum wagered but not more than a total sum wagered of twenty-five percent on the exotic wagers. The additional deduction authorized above twenty-two percent on the multiple or exotic wagers involving more than two horses or dogs shall be retained by the licensee. One percent of the exotic wagers on three or more horses or dogs shall be distributed as provided in section 99D.12.

Sec. 4. Section 99D.11, subsection 6, paragraph b, Code Supplement 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 a licensee that schedules no less than ~~one hundred five~~ ninety performances of ~~eight~~ nine 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. 5. EXCEPTION FOR SIMULCAST RACING WITHOUT LIVE RACING. Notwithstanding section 99D.11, subsection 6, paragraph "b", the commission may authorize the simultaneous telecast or televising of horse or dog races for the purpose of conducting

pari-mutuel wagering at the racetrack of a licensee where no live racing is scheduled during the period beginning May 1, 1992, and ending June 30, 1993.

Sec. 6. Section 99D.12, subsection 1, Code Supplement 1991, is amended to read as follows:

1. In horse races the breakage shall be retained by the licensee to supplement purses for races restricted to Iowa-foaled horses or to supplement purses won by Iowa-foaled horses by finishing first, second, third, or fourth in any other race. The purse supplements will be paid in proportion to the purse structure of the race. Two percent shall be deposited by the commission into a special fund to be known as the horse racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of horse racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

Sec. 7. HORSE RACING PLAN FOR 1993. The pari-mutuel licensee of a horse track shall submit a staffing plan for live horse racing for the year 1993 and have the plan approved by the commission no later than the regular commission meeting in January 1993. Failure to have an approved plan shall result in revocation of the license. The commission may extend the approval date not more than thirty days to allow the licensee to complete action on a staffing plan.

Sec. 8. Section 99D.15, subsection 2, Code Supplement 1991, is amended to read as follows:

2. A tax credit of up to five percent of the gross sum wagered per year shall be granted to licensees licensed for horse races and paid into a special fund to be used for ~~the purpose of retiring the annual debt on the cost of construction of the licensed facility~~ debt retirement or operating expenses. However, the tax credit is equal to six percent of the gross sum wagered in a year when the gross sum wagered is less than ninety million dollars. Any portion of the credit not used in a particular year shall be retained by the commission. A tax credit shall first be assessed against any share going to a city, then to the share going to a county, and then to the share going to the state.

Sec. 9. Section 99D.15, subsection 3, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If the gross sum wagered at a racetrack for the 1992 racing season is less than twenty million dollars, the licensee may retain up to three hundred eighty thousand dollars of its tax liability for the 1992 racing season as a no interest loan. The loan shall be repaid to the treasurer of state in four equal annual installments. The first installment is due and payable at the conclusion of the 1993 racing season and an additional installment is due and payable at the conclusion of each succeeding racing season ending with the 1996 racing season. A lien in favor of the state shall attach to the property of the taxpayer as provided in section 422.26 when the tax payment would otherwise be due and may be enforced by the state upon the delinquency of the loan repayment.

Sec. 10. Section 99D.15, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A tax of two percent is imposed on the gross sum wagered by the pari-mutuel method on horse races and dog races which are simultaneously telecast. The tax imposed by this subsection is in lieu of the taxes imposed pursuant to subsection 1 or 3, but the tax revenue from simulcast horse races shall be distributed as provided in subsection 1 and the tax revenue from simulcast dog races shall be distributed as provided in subsection 3.

Sec. 11. Section 99D.25A, subsection 6, Code 1991, is amended to read as follows:

6. Once a horse has been permitted the use of lasix, it must be brought to the detention barn for treatment not less than four hours prior to scheduled post time for the race in which it is entered to start. ~~Once at the detention barn, a horse shall remain there until it is taken~~

~~to the paddock to be saddled or harnessed for a race.~~ After the lasix treatment, the commission, by rule, may authorize the release of the horse from the detention barn before the scheduled post time. If a horse is brought to the detention barn late, the commission shall assess a civil penalty of one hundred dollars against the trainer.

Sec. 12. Section 99E.9, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. The types of lottery games to be conducted. Rules governing the operation of a class of games are subject to chapter 17A. However, rules governing the particular features of specific games within a class of games are not subject to chapter 17A. Such rules may include, but are not limited to, setting the name and prize structure of the game and shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the commissioner. The board shall authorize instant lottery and on-line lotto games and may authorize the use of any type of lottery game that on May 3, 1985, has been conducted by a state lottery of another state in the United States, or any game that the board determines will achieve the revenue objectives of the lottery and is consistent with subsection 1. However, the board shall not authorize a game using an electronic computer ~~terminals~~ terminal or other ~~devices~~ device if, upon winning a game, the ~~terminals or devices dispense~~ terminal or device immediately dispenses coins or currency ~~upon the winning of a prize~~ or a ticket, credit or token which is redeemable for cash or a prize. In a game utilizing instant tickets other than pull-tab tickets, each ticket in the game shall bear a unique consecutive serial number distinguishing it from every other ticket in the game, and each lottery number or symbol shall be accompanied by a confirming caption consisting of a repetition of a symbol or a description of the symbol in words. In the game other than an instant game which uses tangible evidence of participation, each ticket shall bear a unique serial number distinguishing it from every other ticket in the game.

Sec. 13. Section 99E.9, subsection 6, Code 1991, is amended to read as follows:

6. If reasonably practical when the lottery division awards a contract under subsection 2, for the lease or purchase of a machine to be used in the conducting of a lottery game including, but not limited to, a ~~video lottery machine or~~ machine used in lotto, the lottery division shall give preference to awarding the contract to a responsible vendor who manufactures the machines in the state, provided the costs and benefits to the lottery division are equal to those available from competing vendors.

If reasonably practical when the lottery division awards a contract under subsection 2, for the servicing of a machine to be used in the conducting of a lottery game including, but not limited to, ~~a video lottery machine or~~ a machine used in lotto, the lottery division shall give preference to a responsible vendor whose principal place of business is in Iowa, provided the costs and benefits to the lottery division are equal to those available from competing vendors.

Sec. 14. Section 99F.1, subsection 10, Code 1991, is amended to read as follows:

10. "Gambling game" means ~~twenty-one, dice, slot machine, video game of chance or roulette wheel~~ any game of chance authorized by the commission. "Gambling game" does not include sports betting.

Sec. 15. Section 99F.7, subsection 1, Code 1991, is amended to read as follows:

1. If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license for a period of not more than three years to an applicant to own a gambling game operation and to an applicant to operate an excursion gambling boat. The commission shall decide which of the gambling games authorized under this chapter it will permit. The commission shall decide the number, location, and type of excursion gambling boats licensed under this chapter for operation on the rivers, lakes, and reservoirs of this state. The license shall set forth the name of the licensee, the type of license granted, the place where the excursion gambling boats will operate and dock, and the time and number of days during the excursion season and the off season when gambling may be conducted by the licensee. The commission shall not allow a

licensee to conduct gambling games on an excursion gambling boat while docked during the off season if the licensee does not operate gambling excursions for a minimum number of days during the excursion season. The commission may delay the commencement of the excursion season at the request of a licensee.

Sec. 16. Section 99F.7, subsection 10, paragraph c, Code 1991, is amended to read as follows:

c. If, after July 1, 1989, section ~~99F.1, subsection 5,~~ 99F.4, subsection 4, or 99F.9, subsection 2, is amended, the board of supervisors of a county in which excursion boat gambling has been approved shall submit to the county electorate a proposition to approve or disapprove the conduct of gambling games on excursion gambling boats at a special election at the earliest practicable time. If excursion boat gambling is not approved at the election, paragraph "b" does not apply to the licenses and the commission shall cancel the licenses issued for the county within sixty days of the unfavorable referendum.

Sec. 17. REFERENCE CLARIFICATION. The Code citation, section 99F.1, subsection 5, in section 16 of this Act refers to section 99F.1, subsection 5, as it appears in 1989 Iowa Acts, chapter 67, section 1.

Sec. 18. Section 99F.17, subsection 5, Code 1991, is amended to read as follows:

5. A manufacturer or distributor of gambling games who has been granted a license under this section shall have a representative within this state to take delivery of gambling games or implements of gambling prior to delivery to a licensee. The manufacturer or distributor shall provide the commission with a copy of the invoice showing the items shipped and a copy of the bill of lading. ~~When received, the gambling games or implements of gambling shall be stored in a public warehouse in this state until delivered to the licensee or, after delivery is complete, the shipment may be transferred to a licensee.~~

Sec. 19. Section 537A.4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter 99E. This section does not apply to wagering under the excursion boat gambling method of wagering authorized by chapter 99F. This section does not apply to the sale, purchase, or redemption of any ticket or similar gambling device legally purchased in Indian lands within this state.

Sec. 20. Section 725.16, Code 1991, is amended to read as follows:

725.16 GAMBLING PENALTY.

A person who commits an offense declared in chapter 99B to be a misdemeanor shall be guilty of a serious misdemeanor except if an owner of an electrical or mechanical amusement device commits an offense in violation of section 99B.10, the owner is guilty of a class "D" felony.

Sec. 21. EFFECTIVE DATES. Sections 5, 9, 12, 13, and 14 of this Act and this section, being deemed of immediate importance, take effect upon enactment. Sections 12 and 13 of this Act apply retroactively to January 1, 1992. Section 9 of the Act applies retroactively to April 1, 1992. Sections 5 and 14 of this Act apply retroactively to May 1, 1992. The remaining sections of this Act take effect on July 1, 1992.

Approved May 14, 1992

CHAPTER 1204

WATER AND SANITARY DISTRICTS, BACKFLOW ASSEMBLY TESTERS, AND OTHER PROVISIONS

S.F. 2254

AN ACT relating to special land use districts and to the establishment of a certification program for backflow assembly testers, the creation of a combined water and sanitary district and a department of public works, providing for a governing board, providing penalties, and providing for other properly related matters and providing an effective date.

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. "Approved course" means a course covering the testing and repair of backflow prevention assemblies which has been approved by the department.

2. "Backflow prevention assembly" means a device or means to prevent backflow into the potable water system.

3. "Department" means the Iowa department of public health.

4. "Registered backflow prevention assembly tester" means a person who has successfully completed an approved course and has registered with the department.

Sec. 2. NEW SECTION. 135K.2 APPLICABILITY.

This chapter applies to all persons who test or repair backflow prevention assemblies.

Sec. 3. NEW SECTION. 135K.3 REGISTRATION AND APPROVAL REQUIRED.

A person shall not test or repair backflow prevention assemblies without first having registered with and having been approved by the department.

Sec. 4. NEW SECTION. 135K.4 POWERS AND DUTIES.

The department shall adopt rules in accordance with chapter 17A, which provide for all of the following:

1. The establishment of minimum qualifications for registered backflow prevention assembly testers.

2. The establishment of minimum standards for approved courses.

3. The establishment and collection of fees to defray the cost of administering this chapter.

4. The provision of a listing of registered backflow prevention assembly testers to local health officials.

5. The administration and enforcement of this chapter.

Sec. 5. NEW SECTION. 135K.5 PENALTY.

A person who violates this chapter is guilty of a simple misdemeanor.

Sec. 6. NEW SECTION. 135K.6 ENFORCEMENT.

1. The department shall investigate complaints regarding backflow prevention assembly testers. If the department determines that a provision of this chapter regarding the requirements for a backflow prevention assembly tester has been violated, the department may order a person not to test or repair backflow prevention assemblies or may revoke the registration of a registered backflow prevention assembly tester until the necessary corrective action has been taken.

2. The department shall investigate complaints regarding courses covering the testing and repair of backflow prevention assemblies. If the department determines that a provision of this chapter regarding approved courses has been violated, the department may revoke the approval of a course until the necessary corrective action has been taken.

Sec. 7. Section 303.34, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 8. Section 331.301, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. The county may establish a department of public works. The department shall be administered by the county engineer or other person appointed by the board of supervisors. In addition to other duties assigned by the board, the department shall provide technical assistance to political subdivisions in the county including special districts relating to their physical infrastructure and may provide managerial and administrative services for special districts and combined special districts.

Sec. 9. Section 357.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The board of supervisors of any county shall, on the petition of twenty-five percent ~~of the resident property owners~~ or more of the eligible electors residing in any proposed benefited water district, grant a hearing relative to the establishment of ~~such~~ the proposed water district; ~~such~~. The petition shall set out the following and any other pertinent facts:

Sec. 10. NEW SECTION. 357.1A COMBINED WATER AND SANITARY DISTRICT.

1. Upon receipt of a petition having the required signatories as provided in section 357.1 or 358.2, the board of supervisors shall grant a hearing relative to the establishment of a proposed combined water and sanitary district. The petition shall include the information required in sections 357.1 and 358.2 for proposed water districts and sanitary districts. The board of supervisors of the county in which the proposed combined district or largest part of the proposed combined district is located, shall have jurisdiction of the proceedings on the petition and the decision of a majority of the members of that board of supervisors is necessary for adoption. The orders of the board of supervisors made pursuant to this chapter and chapter 358 relating to the proposed combined district shall be kept as official records, but the records need not be published under section 349.16. An existing district may petition the board of supervisors to establish a combined water and sanitary district after the approval of a majority of the district electorate.

2. The board of supervisors having jurisdiction to establish the proposed combined water and sanitary district may proceed with its establishment under this chapter or chapter 358 in the same manner as a benefited water district or a sanitary district is separately established under those chapters. The differences between this chapter and chapter 358 including, but not limited to, the membership of the board of trustees, per diem, and maximum annual per diem, or a power or duty relating to rents, fees, taxation, or bonded indebtedness shall be resolved as a part of the petition submitted to the board of supervisors. Before becoming effective, a change in the membership, per diem, maximum annual per diem, or a power or duty relating to rents, fees, the levy of a tax, or the issuance of bonds, or other differences specified on the petition shall be submitted for the approval of the district electorate. However, the number of members, per diem, maximum annual per diem, or differences in powers and duties included in a combined district shall not be inconsistent with this chapter or chapter 358.

3. For the purpose of establishing, operating, or dissolving a combined water and sanitary district under this chapter and chapter 358, the term "benefited water district" includes combined water and sanitary district where applicable.

4. Water services and a water service plan prepared by the combined district are subject to approval by an affected city as provided in section 357.1.

Sec. 11. Section 357.2, Code 1991, is amended to read as follows:

357.2 TERRITORY INCLUDED.

The benefited water district may include part or all of any incorporated city or cities, together with or without ~~surrounding~~ contiguous or noncontiguous territory including cemeteries and all publicly owned land. ~~Said~~ The publicly owned property shall pay and bear its proportionate share of the cost and expense of ~~said~~ the water system upon the same basis as privately owned property.

Sec. 12. Section 357.4, Code 1991, is amended to read as follows:

357.4 PUBLIC HEARING.

When the board of supervisors receives a petition for the establishment of a benefited water district, a public hearing shall be held within ~~twenty~~ thirty days of the presentation of the petition. Notice of ~~such~~ the hearing shall be given ~~by posting bills in three public places within the district, or by~~ publication ~~in two successive issues of any paper of general circulation within the district. The last publication or posting shall be not less than one week before the proposed hearing~~ as provided in section 331.305.

Sec. 13. Section 357.12, Code 1991, is amended to read as follows:

357.12 ELECTION.

When the preliminary design and assessment have been approved by the board of supervisors, a date not more than thirty days after ~~such~~ the approval shall be set for an election within the district to determine whether or not the proposed improvement shall be constructed and to choose candidates for the offices of trustee within the district. The proposal to approve or disapprove the improvement and the selection of candidates for trustees shall be presented at the same election. Notice of the election, including the time and place of holding the ~~same~~ election, shall be given in the same manner as for the public hearing ~~heretofore~~ provided for in section 357.4. The vote shall be by ballot which shall state clearly the proposition to be voted upon, and any qualified elector residing within the district at the time of the election ~~shall be entitled to~~ may vote. ~~It shall not be mandatory for the~~ The county commissioner of elections ~~to~~ shall conduct elections held pursuant to this chapter, ~~but they~~ and the elections shall be conducted in accordance with ~~the provisions of~~ chapter 49 where those procedures are not in conflict with this chapter. ~~Judges will~~ Precinct election officials shall be appointed to serve without pay, by the ~~board of supervisors~~ commissioner of elections, from among the qualified electors of the district ~~who will have charge of the election~~. The proposition shall be deemed to have carried if a majority of those voting ~~thereon vote~~ on the proposition votes in favor of ~~the same~~ it.

Sec. 14. Section 357.13, Code Supplement 1991, is amended to read as follows:

357.13 TRUSTEES – QUALIFICATION AND TERMS.

1. At the initial 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~~. The 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 which the trustees represent. Vacancies during a term 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.

2. After the initial board of trustees is selected, a candidate for trustee shall be nominated by a personal affidavit of the candidate or by petition of at least ten eligible electors of the district and the candidate's affidavit, which shall be filed with the county commissioner of elections at least twenty-five days before the date of the election. The form of the candidate's affidavit shall be substantially the same as provided in section 45.3.

Sec. 15. Section 358.1, Code 1991, is amended to read as follows:

358.1 INCORPORATION.

~~Whenever any~~ If an area of ~~contiguous~~ territory is so situated that the construction, maintenance, and operation of a trunk sewer system and of a plant or plants for the treatment of sewage and the maintenance of one or more outlets for the drainage ~~thereof~~ of it, after having been so treated ~~by and through such plant or plants~~, will be conducive to the public health, comfort, convenience, or welfare, ~~such~~ the area may be incorporated as a sanitary district in the manner set forth in this chapter. Areas of contiguous or noncontiguous territory may be incorporated in a sanitary district.

Sec. 16. NEW SECTION. 358.1A COMBINED WATER AND SANITARY DISTRICT.

1. The board of supervisors of a county or major part of a county in which a proposed combined water and sanitary district will be located, may proceed with the establishment, operation, or dissolution of a combined water and sanitary district as provided in section 357.1A.

2. For the purpose of establishing, operating, or dissolving a combined water and sanitary district under chapter 357 and this chapter, the term "sanitary district" includes combined water and sanitary district where applicable.

Sec. 17. Section 358.6, Code 1991, is amended to read as follows:

358.6 NOTICE OF ELECTION.

In its order for ~~such~~ the election the board of supervisors shall direct the county ~~auditor with whom said~~ commissioner of elections of the county in which the petition is filed to cause notice of ~~such~~ the election to be given ~~by posting at least five copies of such notice in public places in such proposed district~~ at least ~~twenty~~ thirty days before the date of election ~~and~~ by publication of ~~such~~ the notice ~~once each week for three consecutive weeks in some newspaper of general circulation published in such proposed district, or, if no such paper is published within the proposed district, then in such a newspaper published in the county in which the major part of such proposed district is located, the last publication to be at least twenty days prior to the date of election~~ as provided in section 331.305. ~~Such~~ The notice shall state the time and place of holding the election and the hours when the polls will open and close, the purpose of the election, with the name of ~~such~~ the proposed sanitary district and a description of the boundaries ~~thereof~~ of it, and shall set forth briefly the limits of each voting precinct and the location of the polling places ~~therein~~. Proof of ~~posting and~~ publication shall be made in the manner provided in section 358.4 and filed with the county auditor.

Sec. 18. Section 358.8, Code 1991, is amended to read as follows:

358.8 EXPENSES AND COSTS OF ELECTION.

The election held pursuant to this chapter shall be conducted by the county commissioner of elections. All expenses incurred in carrying out the foregoing sections of this chapter, together with the costs of the election ~~therein provided for~~, as determined by the ~~board of supervisors~~ county commissioner of elections, shall be paid by those who will be benefited by the proposed sanitary district. If the district is not established, the expenses and costs shall be collected upon the bond or bonds of the petitioners.

Sec. 19. Section 358.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

At the election provided for in section 358.7, the names of candidates for trustee of the district shall be written by the voters on blank ballots without formal nomination, and the board of supervisors which had jurisdiction of the proceedings for establishment of the sanitary district, together with the board of supervisors of any other county in which any part of the district is located, shall appoint three trustees from among the five persons receiving the greatest number of votes as trustees of the district. One of the trustees shall be designated to serve a term expiring on the first day of January which is not a Sunday or legal holiday following the next general election, one to serve a term expiring on the first day of January which is not a Sunday or legal holiday two years later, and one to serve a term expiring on the first day of January which is not a Sunday or legal holiday four years later. Thereafter, each term shall be for a term of years established by the board of supervisors, not less than three years or more than six years. Successors to the initial trustees ~~may~~ shall be chosen by ~~appointment by the same board or boards of supervisors which made the initial appointments or by~~ election, ~~at the option of the remaining trustees. If election is chosen, a successor shall be elected at the general election preceding the expiration of the term to be filled.~~ After the initial election, a candidate for office of trustee shall be nominated by a personal affidavit of the candidate or by petition of at least ten eligible electors of the district and the candidate's personal affidavit, which shall be filed with the county commissioner of elections at least twenty-five days before the date of the election. The form of the candidate's affidavit shall be substantially the same as provided in section 45.3.

Sec. 20. Section 358.9, unnumbered paragraph 4, Code 1991, is amended by striking the unnumbered paragraph.

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

Approved May 14, 1992

CHAPTER 1205

COSMETOLOGY ARTS AND SCIENCES

S.F. 2353

AN ACT relating to cosmetology arts and sciences and imposing fees and penalties, and increasing fees.

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

Section 1. Section 157.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

157.1 DEFINITIONS.

For purposes of this chapter:

1. "Board" means the board of cosmetology arts and sciences examiners.

2. "Cosmetologist" means a person who performs the practice of cosmetology, or otherwise by the person's occupation claims to have knowledge or skill particular to the practice of cosmetology. Cosmetologists shall not represent themselves to the public as being primarily in the practice of haircutting unless that function is, in fact, their primary specialty.

3. "Cosmetology" means all of the following practices:

a. Arranging, dressing, curling, waving, shampooing, cutting, singeing, bleaching, coloring, or similar works, upon the hair of any person; or upon a wig or hairpiece when done in conjunction with haircutting or hairstyling by any means.

b. Massaging, cleansing, stimulating, exercising, beautifying, or similar techniques upon the scalp, face, neck, arms, hands, or upper part of the body of any person with the hands or mechanical or electrical apparatus or appliances or with the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or other preparations.

c. Manicuring the nails of any person.

d. Electrology.

e. Esthetics.

f. Nail technology.

4. "Cosmetology arts and sciences" means any or all of the following practices, performed with or without compensation by a licensee:

a. Cosmetology.

b. Electrology.

c. Esthetics.

d. Nail technology.

5. "Department" means the Iowa department of public health.

6. "Electrologist" means a person who performs the practice of electrology.

7. "Electrology" means the removal of superfluous hair of a person by the use of an electric needle or other electronic process.

8. "Esthetician" means a person who performs the practice of esthetics.

9. "Esthetics" means the following:

a. Beautifying, massaging, cleansing, or stimulating the skin of a person, except the scalp, by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams or any device, electrical or otherwise, for the care of the skin.

b. Applying makeup or eyelashes to a person, tinting eyelashes or eyebrows, or lightening hair on the body except the scalp.

c. Removing superfluous hair from the body of a person by the use of depilatories, waxing, or tweezers.

10. "Instructor" means a person licensed for the purpose of teaching cosmetology arts and sciences.

10A. "Manicuring" means the practice of cleansing, shaping, or polishing the fingernails and massaging the hands and lower arms of a person. "Manicuring" does not include the application of sculptured nails or nail extensions to the fingernails or toenails of a person, and does not include the practice of pedicuring.

10B. "Manicurist" means a person who performs the practice of manicuring.

11. "Nail technologist" means a person who performs the practice of nail technology.

12. "Nail technology" means all of the following:

a. Applying sculptured nails, nail extensions, wraps, overlays, nail art, or any other nail technique to the fingernails and toenails of a person.

b. Massaging the hands, arms, ankles, and feet of a person.

c. Removing superfluous hair from hands, arms, feet, or legs of a person by the use of wax or a tweezer.

d. Manicuring the nails of a person.

13. "Salon" means a fixed establishment or place where one or more persons engage in the practice of cosmetology arts and sciences, including, but not limited to, a retail establishment where cosmetologists engage in the practice of cosmetology arts and sciences.

14. "School of cosmetology arts and sciences" means an establishment licensed for the purpose of teaching all of the cosmetology arts and sciences.

Sec. 2. Section 157.2, Code 1991, is amended to read as follows:

157.2 PROHIBITION – EXCEPTIONS.

It is unlawful for a person to practice cosmetology arts and sciences with or without compensation unless the person possesses a license issued under ~~the provision of~~ section 157.3. However, practices listed in 157.1 when performed by the following persons are not defined as the practice of cosmetology arts and sciences:

1. Licensed physicians and surgeons, osteopaths, osteopathic physicians and surgeons, nurses, dentists, podiatrists, optometrists, chiropractors, and physical therapists, when exclusively engaged in the practice of their respective professions.

2. Licensed barbers who practice barbering as defined in section 158.1.

3. Students enrolled in licensed schools of cosmetology arts and sciences or barber schools who are practicing under the instruction or immediate supervision of an instructor.

4. Persons who perform without compensation any of the practices listed in section 157.1 on an emergency basis or on a casual basis.

5. Employees and residents of hospitals, health care facilities, orphans' homes, juvenile homes, and other similar facilities who shampoo, arrange, dress, or curl the hair of any resident without receiving direct compensation from the person receiving the service.

6. Persons who perform any of the practices listed in section 157.1 on themselves or on a member of the person's immediate family.

~~7. Persons licensed as manicurists pursuant to this chapter, when manicuring the nails of any person.~~

87. Employees of a licensed barbershop when manicuring fingernails, if permitted under section 158.14, subsection 2.

~~9. Persons licensed as electrologists pursuant to section 157.5, when practicing electrolysis as described in that section.~~

Sec. 3. Section 157.3, Code 1991, is amended to read as follows:

157.3 LICENSE REQUIREMENTS.

1. An applicant shall be issued a license to practice any of the cosmetology arts and sciences by the department when the applicant satisfies all of the following:

a. ~~Presents to the department the certificate of a licensed physician and surgeon, osteopath, or osteopathic physician and surgeon that the applicant is free from any infectious or contagious disease.~~

Presents to the department a high school diploma or its equivalent.

b. Presents to the department a diploma, or similar evidence, issued by a licensed school of cosmetology arts and sciences indicating that the applicant has completed the course of study for the appropriate practice of the cosmetology arts and sciences prescribed by the board. An applicant may satisfy this requirement upon presenting a diploma or similar evidence issued by a school in another state, recognized by the board, which provides instruction regarding the practice for which licensure is sought, provided that the course of study is equivalent to or greater in length and scope than that required for a school in this state, and is approved by the board.

c. Completes the application form prescribed by the board.

d. Passes an examination prescribed by the board. The examination ~~shall~~ may include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method. However, a member of the board who is a licensed instructor of cosmetology arts and sciences shall not be involved in the selection or administration of the exam.

2. Notwithstanding ~~the provisions of~~ subsection 1, ~~any~~ a person who completes the application form prescribed by the board and who submits satisfactory proof of having been ~~a~~ licensed ~~cosmetologist~~ in a practice of the cosmetology arts and sciences in another state for at least twelve months in the twenty-four month period preceding the submission of the application shall be allowed to take the examination for a license to practice the appropriate practice of the cosmetology arts and sciences. However, the examination requirement shall be waived for those persons who submit evidence of licensure in another state which has a reciprocal agreement with the state of Iowa under ~~the provisions of~~ sections 147.44 to 147.49.

Sec. 4. Section 157.4, Code 1991, is amended to read as follows:

157.4 TEMPORARY PERMITS.

1. ~~Any~~ A person who completes the requirements for licensure ~~as a cosmetologist~~ listed in section 157.3, except for the examination, shall be known as a trainee and shall be issued a temporary permit by the department which allows the applicant to practice in the cosmetology arts and sciences from the date of ~~graduation from the licensed school of cosmetology to the date on which the results of the next succeeding examination for cosmetologists are available~~ application until passage of the examination subject to this subsection. An applicant shall take the first available examination administered by the board, and may retain the temporary permit if the applicant does not pass the examination. An applicant who does not pass the first examination shall take the next available examination administered by the board. The temporary permit of an applicant who does not pass the second examination shall be revoked. An applicant who passes either examination shall be issued a license pursuant to section 157.3. The board shall adopt rules providing for a waiver of the requirement to take the first available examination for good cause. ~~Only one permit shall be issued to a person. The fee for the temporary permit shall be established by the board as provided in section 147.80.~~

2. The department may issue a temporary permit for the purpose of demonstrating cosmetology arts and sciences upon recommendation of the board. The board shall determine and state its recommendations and the length of time the temporary permit issued under this subsection is valid.

3. The fee for a temporary permit shall be established by the board as provided in section 147.80.

Sec. 5. Section 157.5A, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department shall issue a license to practice manicuring to any person who submits proof of successful completion of a course of at least forty hours of training relating to manicuring in a licensed school of cosmetology arts and sciences or licensed barber school. The board shall adopt rules defining the course of study for a manicurist and the practices which a licensed manicurist may perform.

Sec. 6. Section 157.6, Code 1991, is amended to read as follows:

157.6 SANITARY RULES – PRACTICE IN THE HOME.

The department shall prescribe sanitary rules for ~~beauty~~ salons and schools of cosmetology arts and sciences which shall include the sanitary conditions necessary for the practice of cosmetology arts and sciences and for the prevention of infectious and contagious diseases. Subject to local zoning ordinances, a ~~beauty~~ salon may be established in a residence if a room other than the living quarters is equipped for that purpose. The department shall enforce ~~the provisions of~~ this section and make necessary inspections for enforcement purposes.

Sec. 7. Section 157.8, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

157.8 LICENSING OF SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES AND INSTRUTORS.*

1. It is unlawful for a school of cosmetology arts and sciences to operate unless the owner has obtained a license issued by the department. The owner shall file a verified application with the department on forms prescribed by the board. The application for a license for a school shall be accompanied by the annual license fee determined pursuant to section 147.80 and shall state the name and location of the school and such other additional information as the board may require. The license is valid for one year and may be renewed. A license for a school of cosmetology arts and sciences shall not be issued for any space in any location where the same space is also licensed as a barber school. The school of cosmetology arts and sciences must pass a sanitary inspection under section 157.6. An annual inspection of each school of cosmetology arts and sciences, including the educational activities of each school, shall be conducted and completed by the board prior to renewal of the license.

2. The number of instructors for each school shall be based upon total enrollment, with a minimum of two instructors employed on a full-time basis for up to thirty students and an additional instructor for each fifteen additional students. However, a school operated by an area community college prior to September 1, 1982, with only one instructor per fifteen students is not subject to this paragraph and may continue to operate with the ratio of one instructor to fifteen students.

a. A person employed as an instructor in the cosmetology arts and sciences by a licensed school shall be licensed in the practice and shall possess a separate instructor's license which shall be renewed biennially. An instructor shall file an application with the department on forms prescribed by the board. Prior to licensure, an applicant for an instructor's license shall have been actively engaged in the practice for a period of two years and complete a course of study required by the board or an instructor's course at a school for cosmetology arts and sciences, and meet any other requirement established by the board.

b. The application for an instructor's license shall be accompanied by the biennial fee determined pursuant to section 147.80.

Sec. 8. Section 157.10, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

157.10 COURSE OF STUDY.

1. The course of study required for licensure for the practice of cosmetology shall be two thousand one hundred hours. The hours of a course of study required for licensure for the practices of electrology, esthetics, and nail technology shall be established by the board. The board shall adopt rules to define the course and content of study for each practice of cosmetology arts and sciences.

*According to enrolled Act

2. A person licensed in or a student of a practice of cosmetology arts and sciences shall be granted full credit for each course successfully completed which meets the requirements for licensure in another practice of cosmetology arts and sciences.

3. A barber licensed under chapter 158 or a student in a barber school who applies for licensure in a practice of cosmetology arts and sciences or who enrolls in a school of cosmetology arts and sciences shall be granted, at the discretion of the school, at least half credit and up to full credit for each course successfully completed for licensure as a barber which meets the requirements for licensure in a practice of cosmetology arts and sciences.

Sec. 9. Section 157.11, Code Supplement 1991, is amended to read as follows:

157.11 SALON LICENSES.

~~Commencing January 1, 1977, a beauty~~ A 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 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.

The application shall be accompanied by the annual license fee determined pursuant to section 147.80. The license is valid for one year and may be renewed.

A licensed school of cosmetology arts and sciences at which students practice cosmetology arts and sciences is exempt from licensing as a ~~beauty~~ salon.

Sec. 10. Section 157.12, Code 1991, is amended to read as follows:

157.12 SUPERVISORS ~~OF COSMETOLOGISTS~~.

A person who directly supervises the work of ~~cosmetologists~~ practitioners of cosmetology arts and sciences shall be ~~either a cosmetologist~~ licensed ~~under this chapter~~ in the practice supervised or a barber licensed under section 158.3.

Sec. 11. Section 157.13, Code 1991, is amended to read as follows:

157.13 VIOLATIONS.

1. It is unlawful for a person to employ an individual to practice cosmetology arts and sciences unless that individual is ~~a~~ licensed ~~cosmetologist~~ or has obtained a temporary permit under this chapter. It is unlawful for a ~~licensed cosmetologist~~ licensee to practice ~~cosmetology~~ with or without compensation in any place other than a licensed ~~beauty~~ salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in section 158.1 ~~which has also been licensed as a beauty salon~~, except that a ~~licensed cosmetologist~~ licensee may practice ~~cosmetology~~ at a location which is not a licensed ~~beauty~~ salon or school of cosmetology arts and sciences under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a ~~licensed cosmetologist~~ licensee to claim to be a licensed barber, but it is lawful for a licensed cosmetologist to work in a licensed barbershop ~~if the same premises are also licensed as a beauty salon~~.

2. If the owner or manager of a ~~beauty~~ salon does not comply with the sanitary rules adopted under ~~the provisions of~~ section 157.6 or fails to maintain the ~~beauty~~ salon as prescribed by rules of the department, the department may notify the owner or manager in writing of the failure to comply. If the rules are not complied with within five days after receipt of the written notice by the owner or manager, the department shall in writing order the ~~beauty~~ salon closed until the rules are complied with. It is unlawful for a person to practice ~~cosmetology~~ in a salon which has been closed under ~~the provisions of~~ this section. The county attorney in each county shall assist the department in enforcing ~~the provisions of~~ this section.

Sec. 12. Section 157.15, Code 1991, is amended to read as follows:

157.15 PENALTY.

A person convicted of violating any of the provisions of ~~sections of~~ this chapter ~~shall be fined not to exceed one hundred dollars~~ or rules adopted pursuant to this chapter is guilty of a serious misdemeanor.

Sec. 13. Section 147.1, subsections 2 and 3, Code Supplement 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 arts and sciences, 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 arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, or dietetics.

Sec. 14. Section 147.13, subsection 11, Code Supplement 1991, is amended to read as follows:

11. For cosmetology arts and sciences, cosmetology arts and sciences examiners.

Sec. 15. Section 147.14, subsection 1, Code Supplement 1991, is amended to read as follows:

1. For podiatry, ~~cosmetology,~~ barbering, mortuary science, and social work, three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. 16. Section 147.14, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. For cosmetology arts and sciences examiners, a total of seven members, three who are licensed cosmetologists, one who is a licensed electrologist, esthetician, or nail technologist, one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences, and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the public.

Sec. 17. Section 147.80, subsection 15, Code Supplement 1991, is amended to read as follows:

15. License to practice cosmetology arts and sciences issued upon the basis of an examination given by the board of cosmetology arts and sciences examiners, license to practice cosmetology arts and sciences under a reciprocal agreement, renewal of a license to practice cosmetology arts and sciences, temporary permit to practice as a cosmetology arts and sciences trainee, original license to conduct a school of cosmetology arts and sciences, renewal of license to conduct a school of cosmetology arts and sciences, original license to operate a ~~beauty~~ salon, renewal of a license to operate a ~~beauty~~ salon, ~~original license and examination to practice electrolysis, renewal of a license to practice electrolysis,~~ original license to practice manicuring, renewal of a license to practice manicuring, annual inspection of a school of cosmetology arts and sciences, annual inspection of a ~~beauty~~ salon, original cosmetology arts and sciences school instructor's license, and renewal of cosmetology arts and sciences school instructor's license.

Sec. 18. Section 158.2, subsections 2 and 3, Code 1991, are amended to read as follows:

2. Licensed ~~cosmetologists who practice cosmetology~~ practitioners of cosmetology arts and sciences as defined in section 157.1.

3. Students enrolled in licensed barber schools or schools of cosmetology arts and sciences who are practicing under the instruction or immediate supervision of an instructor.

Sec. 19. Section 158.4, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

158.4 TEMPORARY PERMITS.

1. A person who completes the requirements for licensure listed in section 158.3, except for the examination, shall be known as a trainee and shall be issued a temporary permit by the department which allows the applicant to practice barbering from the date of application until passage of the examination subject to this subsection. An applicant shall take the first available examination administered by the board, and may retain the temporary permit if the applicant does not pass the examination. An applicant who does not pass the first examination shall take the next available examination administered by the board. The temporary permit of an applicant who does not pass the second examination shall be revoked. An applicant who passes either examination shall be issued a license pursuant to section 158.3. The board shall adopt rules providing for a waiver of the requirement to take the first available examination for good cause.

2. The department may issue a temporary permit for the purpose of demonstrating barbering upon recommendation of the board. The board shall determine and state its recommendations and the length of time the temporary permit issued under this subsection is valid.

3. The fee for a temporary permit shall be established by the board as provided in section 147.80.

Sec. 20. Section 158.8, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A ~~cosmetologist~~ person licensed under section 157.3 who enrolls in a barber school shall be granted ~~one thousand fifty hours credit~~ full credit for each course successfully completed which meets the requirements of the barber school, which shall be credited toward the two thousand one hundred hour requirement, and the ten-month period does not apply. A person who has been a student in a school of cosmetology arts and sciences licensed under chapter 157 may enroll in a barber school and~~, at the option of the barber school,~~ shall be granted ~~a credit of one hour for every two hours the student attended at the school of cosmetology, up to a maximum credit of one thousand fifty hours~~, at the discretion of the school, at least half credit and up to full credit for each course successfully completed which meets the requirements of the barber school.

Sec. 21. Section 158.11, Code 1991, is amended to read as follows:

158.11 BARBER ASSISTANTS.

The department shall issue a license to practice as a barber assistant to any person who submits proof of completion of a course of not less than one hundred sixty hours in a licensed barber school or licensed school of cosmetology arts and sciences. The board shall adopt rules defining the course of study of a barber assistant and the practices which a barber assistant may perform. The course of study shall include but not be limited to demonstrations, lectures, and supervised practical instruction in scalp care, rinses, hair treatments, anatomy of scalp and hair and their common disorders, and sanitation and sterilization. A barber assistant shall work under the direct supervision of a licensed barber. The fee for the license shall be established by the board as provided in section 147.80.

Sec. 22. Section 158.13, subsection 1, Code 1991, is amended to read as follows:

1. It is unlawful for a person to employ an individual to practice barbering unless that individual is a licensed barber or has obtained a temporary permit. It is unlawful for a licensed barber to practice barbering with or without compensation in any place other than a licensed barbershop~~, a~~ or barber school, or a licensed ~~beauty~~ salon as defined in section 157.1 ~~which has also been licensed as a barbershop~~, except that a licensed barber may practice barbering at a location which is not a licensed barbershop or barber school under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a licensed barber to claim to be a licensed cosmetologist, but it is lawful for a licensed barber to work in a licensed ~~beauty~~ salon ~~if the same premises are also licensed as a barbershop~~.

Sec. 23. Section 258A.1, subsection 6, paragraph i, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

i. The board of cosmetology arts and sciences examiners, created pursuant to chapter 147.

Sec. 24. Section 258A.2A, Code 1991, is amended to read as follows:

258A.2A CONTINUING EDUCATION MINIMUM REQUIREMENTS – BARBERING AND COSMETOLOGY ARTS AND SCIENCES.

The board of barber examiners and the board of cosmetology arts and sciences examiners, created pursuant to chapter 147, shall each require, as a condition of license renewal, a minimum of six hours of continuing education in the two years immediately prior to a licensee's license renewal. The board of cosmetology arts and sciences examiners may notify cosmetology arts and sciences licensees on a quarterly basis regarding continuing education opportunities.

Sec. 25. APPLICABILITY. This Act does not apply to persons holding a valid license issued by the board of cosmetology examiners before or on July 1, 1992.

A person who can document that the person practiced esthetics or nail technology in this state before or on July 1, 1992, shall be issued an appropriate license without meeting any additional requirements imposed by this Act.

Sec. 26. FEES INCREASED. Effective for fees collected on or after July 1, 1992, the board of cosmetology examiners shall increase by three dollars the fee amounts charged before the effective date of this Act for licensure, license renewal, reciprocal licensure, and temporary permits for all practices or operations regulated by the board of cosmetology examiners.

Sec. 27. Section 157.5, Code 1991, is repealed.

Approved May 14, 1992

CHAPTER 1206

HEALTH FACILITIES AND HEALTH DATA COMMISSION

S.F. 2375

AN ACT relating to the powers and duties of the health data commission, and providing for the collection of fees.

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

Section 1. Section 135.63, subsection 1, Code Supplement 1991, is 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. The application shall be accompanied by a fee equivalent to ~~two-tenths~~ three-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.

Sec. 2. Section 145.3, subsection 1, Code Supplement 1991, is amended to read as follows:

1. The health data commission shall enter into an agreement with the health policy corporation of Iowa or any other corporation, association, or entity it deems appropriate to provide staff for the commission, to provide staff for the compilation, correlation, and development of the data collected by the commission, to conduct or contract for studies on health-related questions which will further the purpose and intent expressed in section 145.1 and to provide data to the health facilities council as requested by the Iowa department of public health. The agreement may provide for the corporation, association, or entity to prepare and distribute or make available data to health care providers, health care subscribers, third-party payers, and the general public.

Sec. 3. Section 145.3, subsection 3, paragraph b, Code Supplement 1991, is amended to read as follows:

b. The commissioner of insurance require that ~~all~~ third-party payers, including but not limited to licensed insurers, medical and hospital service corporations, health maintenance organizations, and self-funded employee health plans, provide hospital inpatient and outpatient claims data and corresponding physician claims data to the commission pursuant to section 505.8. This data shall include the patient's age, sex, zip code, third-party coverage, date of admission, procedure and discharge date, principal and other diagnoses, principal and other procedures, total charges and components of those charges, attending physician identification number and hospital identification number. ~~Prior to July 1, 1984, the commissioner of insurance may limit the data collection to major third-party payers and a sample of those third-party payers with low market penetration; to more frequent diagnoses and procedures; and to hospital inpatient claims.~~ However, in accordance with rules adopted by the commission, an exemption from the data submission requirements of this paragraph may be provided to a third-party payer with a low volume of claims or premiums which would cause compliance with the requirements to be unduly burdensome.

Sec. 4. Section 145.3, subsection 4, paragraph f, Code Supplement 1991, is amended to read as follows:

f. The director of human services, the director of public health, and the director of the department of elder affairs collect and analyze long-term care data including but not limited to occupancy rates reported on a quarterly basis by health care facilities as defined in section 135C.1.

Sec. 5. Section 145.3, subsection 5, Code Supplement 1991, is amended to read as follows:

5. The health data commission shall not contract with a corporation, association, or other entity that engages in whole or in part in the provision of health care services or a corporation, association, or entity that has a material or financial interest in the provision of health care services. The health data commission may, however, contract to purchase from the Iowa hospital association a tape containing data from all in-patient admissions to Iowa hospitals. The health data commission shall develop the specifications for data contained on a tape to ensure the utility of the tape for the production of health data commission reports.

Sec. 6. Section 514B.30, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A health maintenance organization is hereby prohibited from releasing the names of its membership list of enrollees, whether or not for value or consideration, except to the extent necessary to effectuate the provisions of this chapter or to conduct research or analyses regarding cost or quality issues.

Approved May 14, 1992

CHAPTER 1207

GAMBLING AND PARI-MUTUEL WAGERING

H.F. 2489

AN ACT relating to the inspection of slot machines or video games of chance prior to installation on an excursion gambling boat and making technical corrections to pari-mutuel wagering and gambling game amendments, and providing effective and applicability dates.

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

Section 1. Section 99D.11, subsection 5, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2249, section 3, 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. However, the commission shall authorize at the request of the licensee a deduction of a higher or lower percentage of the total sum wagered not to exceed eighteen percent and the additional deduction shall be retained by the licensee. 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 shall authorize at the request of the licensee a deduction of a higher or lower percent of the total sum wagered not to exceed twenty-four percent on multiple or exotic wagering involving not more than two horses or dogs. The deduction authorized above twenty percent on the multiple or exotic wagering involving not more than two dogs or horses shall be retained by the licensee. For exotic wagering involving three or more horses or dogs, the commission shall authorize at the request of the licensee a deduction of a higher or lower percent of the total sum wagered ~~but~~ not ~~more than a total sum wagered of~~ to exceed twenty-five percent on the exotic wagers. The additional deduction authorized above twenty-two percent on the multiple or exotic wagers involving more than two horses or dogs shall be retained by the licensee. One percent of the exotic wagers on three or more horses or dogs shall be distributed as provided in section 99D.12.

Sec. 2. Section 99D.15, subsection 3, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2249, section 9, is amended to read as follows:

d. If the gross sum wagered at a racetrack for the ~~1992~~ 1991-1992 racing season is less than twenty million dollars, the licensee may retain up to three hundred eighty thousand dollars of its tax liability for the ~~1992~~ 1991-1992 racing season as a no interest loan. The loan shall be repaid to the treasurer of state in four equal annual installments. The first installment is due and payable at the conclusion of the ~~1993~~ 1992-1993 racing season and an additional installment is due and payable at the conclusion of each succeeding racing season ending with the ~~1996~~ 1995-1996 racing season. A lien in favor of the state shall attach to the property of the taxpayer as provided in section 422.26 when the tax payment would otherwise be due and may be enforced by the state upon the delinquency of the loan repayment.

Sec. 3. NEW SECTION. 99F.17A INSPECTION OF SLOT MACHINES OR VIDEO GAMES OF CHANCE.

The representative of a licensed manufacturer or distributor of gambling games who takes delivery of slot machines or video games of chance under section 99F.17, subsection 5, shall deliver those slot machines or video games of chance to a land-based facility approved by the commission for inspection and approval prior to installation. Slot machines or video games of chance passing inspection and receiving approval may then be installed on an excursion gambling boat.

Sec. 4. 1992 Iowa Acts, Senate File 2249, section 21, is amended to read as follows:

SEC. 21. EFFECTIVE DATES. Sections 5, 9, 12, 13, ~~and~~ 14, 16, and 17 of this Act and this section, being deemed of immediate importance, take effect upon enactment. Sections 12 and 13 of this Act apply retroactively to January 1, 1992. Section 9 of the Act applies retroactively to April 1, 1992. Sections 5, ~~and~~ 14, 16, and 17 of this Act apply retroactively to May 1, 1992. The remaining sections of this Act take effect on July 1, 1992.

Sec. 5. EFFECTIVE AND APPLICABILITY DATES.

1. This Act, being deemed of immediate importance, takes effect upon enactment. However, sections 1 and 3 of this Act take effect July 1, 1992.

2. Section 2 of this Act applies retroactively to April 1, 1992.

Approved May 14, 1992

CHAPTER 1208

TIME OF PAYMENT OF STATE AID TO SCHOOLS

S.F. 2371

AN ACT relating to the time of payment of state foundation aid to school corporations and providing effective and retroactive applicability date provisions.

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

Section 1. Section 257.16, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on or about June 15 of the budget year ~~and 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. However, the state aid paid to school districts under section 257.13 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to payments made for budget years beginning on or after July 1, 1991.

Approved May 5, 1992

CHAPTER 1209

LEGALIZATION OF URBANDALE INDUSTRIAL PROPERTY TAX EXEMPTION
S.F. 2356

AN ACT legalizing the proceedings of the City Council of the City of Urbandale relating to the granting of retroactive prior approval of an industrial property tax exemption, providing for the Act's applicability, and providing an effective date.

WHEREAS, Interstate Acres Limited Partnership, Petula Associates, Ltd., and Iowa Interstate Acres Corporation constructed a warehouse on Lot 6, Iowa Interstate One, Plat 1, an official plat, Urbandale, Polk County, Iowa, commencing in August 1987; and

WHEREAS, Interstate Acres Limited Partnership, Petula Associates, Ltd., and Iowa Interstate Acres Corporation did not apply under section 427B.4 by February 1, 1988, for the actual value-added property tax exemption, on the value added by the construction which was undertaken during 1987; and

WHEREAS, the City Council of the City of Urbandale undertook by Ordinance No. 89-26, on December 26, 1989, to provide retroactive prior approval for the value-added property tax exemption on the construction which was undertaken during 1987; and

WHEREAS, the eligibility of the construction which was undertaken during 1987 for the actual value-added property tax exemption under chapter 427B in accordance with Ordinance No. 89-26 has been brought into question; and

WHEREAS, it is deemed advisable to remove forever any doubt as to the eligibility of the construction which was undertaken in 1987 for the actual value-added property tax exemption under chapter 427B pursuant to Ordinance No. 89-26; NOW, THEREFORE,

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

Section 1. The proceedings of the City Council of the City of Urbandale pertaining to Ordinance No. 89-26 granting retroactive prior approval for the actual value-added property tax exemption for the construction which was undertaken during 1987 on Lot 6, Iowa Interstate One, Plat 1, an official plat, Urbandale, Polk County, Iowa, by Interstate Acres Limited Partnership, Petula Associates, Ltd., and Iowa Interstate Acres Corporation are hereby legalized and Ordinance No. 89-26 is deemed to constitute prior approval in accordance with section 427B.4 entitling the property owners to claim the actual value-added property tax exemption on the value added by construction which was undertaken during 1987.

Sec. 2. This Act shall have prospective application only and shall not entitle the property owners to a refund of property taxes already paid on the actual value added by construction which was undertaken during 1987.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 15, 1992

CHAPTER 1210

PASSENGER RAIL SERVICE REVOLVING FUND
H.F. 2471

AN ACT creating the passenger rail service revolving fund and providing for its administration.

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

Section 1. Section 307.12, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Administer chapter 327I.

Sec. 2. NEW SECTION. 327I.1 DEFINITIONS.

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

1. "AMTRAK" means the national railroad passenger corporation created under 45 U.S.C. § 541.

2. "Department" means the state department of transportation.

3. "Director" means the director of transportation.

4. "Fund" means the passenger rail service revolving fund created under section 327I.2.

Sec. 3. NEW SECTION. 327I.2 PASSENGER RAIL SERVICE REVOLVING FUND.

1. FUND CREATED. The passenger rail service revolving fund is established as a separate fund in the state treasury under the control of the department. Moneys deposited in the fund shall be administered by the director and shall be used to pay the costs associated with the initiation, operation, and maintenance of rail passenger service.

2. FUNDING. To achieve the purposes of this chapter, moneys shall be credited to the passenger rail service revolving fund by the treasurer of state from the following sources:

a. Private grants and gifts intended for these purposes.

b. Federal, state, and local grants and loans intended for these purposes.

3. NO REVERSION. 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. 4. NEW SECTION. 327I.3 ADMINISTRATION.

1. The director may expend moneys from the fund to pay the costs associated with the initiation, operation, and maintenance of rail passenger service. The director shall report by February 1 of each year to the legislative fiscal bureau concerning the status of the fund including anticipated expenditures for the following fiscal year.

2. The director shall enter into discussions for the purpose of securing AMTRAK passenger service from Chicago to Omaha utilizing the Chicago and Northwestern Transportation Company railroad tracks. The discussions shall include all of the following:

a. Discussions with the states of Illinois and Nebraska regarding an agreement to share capital costs associated with initiating service, annual operating subsidies, and other costs necessary to maintain service.

b. Discussions with AMTRAK regarding the most cost-effective procurement of necessary equipment and a comprehensive agreement with all parties to initiate service and seeking a share of potential future profits from the service with AMTRAK including provisions for the reimbursement of moneys expended from the passenger rail service revolving fund from the profits generated from the resulting rail passenger service.

c. Discussions with Iowa's congressional delegation to ensure that the current federal cost share of operational deficits on AMTRAK passenger service is maintained and to maximize Iowa's share of federal railway moneys.

3. The director may provide technical assistance to cities along the proposed AMTRAK route to ensure that passenger facilities meeting AMTRAK requirements are available in a timely manner.

4. The director shall report regularly to the general assembly concerning the progress of efforts to secure central Iowa AMTRAK passenger service.

Approved May 15, 1992

CHAPTER 1211

LANDLORDS AND TENANTS

S.F. 414

AN ACT relating to landlords and tenants.

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

Section 1. NEW SECTION. 562A.27A TERMINATION FOR CREATING A CLEAR AND PRESENT DANGER TO OTHER TENANTS.

1. Notwithstanding section 562A.27 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, or the landlord's employee or agent, the landlord, after a single three days' written notice of termination and notice to quit, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least five days prior to the hearing.

2. A clear and present danger to the health or safety of other tenants, the landlord, or the landlord's employees or agents includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

a. Physical assault or the threat of physical assault.

b. Illegal use of a firearm or other weapon, the threat to use a firearm or other weapon illegally, or possession of an illegal firearm.

c. Possession of a controlled substance unless the controlled substance was obtained directly from or pursuant to a valid prescription or order by a licensed medical practitioner while acting in the course of the practitioner's professional practice. This paragraph applies to any other person on the premises with the consent of the tenant, but only if the tenant knew of the possession by the other person of a controlled substance.

3. This section shall not apply to a tenant if the activities causing the clear and present danger, as defined in subsection 2, are conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person conducting the activities:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, or 910A, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

b. The tenant reports the activities causing the clear and present danger to a law enforcement agency or the county attorney in an effort to initiate a criminal action against the person conducting the activities.

c. The tenant writes a letter to the person conducting the activities causing the clear and present danger, telling the person not to return to the premises and that a return to the premises may result in a trespass or other action against the person, and the tenant sends a copy of the letter to a law enforcement agency whose jurisdiction includes the premises. If the tenant has previously written a letter to the person as provided in this paragraph, without taking an action specified in paragraph "a" or "b" or filing a trespass or other action, and the person to whom the letter was sent conducts further activities causing a clear and present danger, the tenant must take one of the actions specified in paragraph "a" or "b" to be exempt from proceedings pursuant to subsection 1.

However, in order to fall within the exemptions provided within this subsection, the tenant must provide written proof to the landlord, prior to the commencement of a suit against the tenant, that the tenant has taken one of the measures specified in paragraphs "a" through "c".

Sec. 2. NEW SECTION. 562A.29A METHOD OF NOTICE AND SERVICE OF PROCESS.

Notwithstanding sections 631.4 and 648.5, the written notice of termination required by section 562A.27, subsection 1, a notice of termination and notice to quit under section 562A.27A,

a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, may be served upon the tenant in any of the following ways:

1. By personal service.

2. By sending notice by certified or restricted certified mail, whether or not the tenant signs a receipt for the notice.

Sec. 3. NEW SECTION. 562B.25A TERMINATION FOR CREATING A CLEAR AND PRESENT DANGER TO OTHER TENANTS.

1. Notwithstanding section 562B.25 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, or the landlord's employee or agent, the landlord, after a single three days' written notice of termination and notice to quit, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least five days prior to the hearing.

2. A clear and present danger to the health or safety of other tenants, the landlord, or the landlord's employees or agents includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

a. Physical assault or the threat of physical assault.

b. Illegal use of a firearm or other weapon, the threat to use a firearm or other weapon illegally, or possession of an illegal firearm.

c. Possession of a controlled substance unless the controlled substance was obtained directly from or pursuant to a valid prescription or order by a licensed medical practitioner while acting in the course of the practitioner's professional practice. This paragraph applies to any other person on the premises with the consent of the tenant, but only if the tenant knew of the possession by the other person of a controlled substance.

3. This section shall not apply to a tenant if the activities causing the clear and present danger, as defined in subsection 2, are conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person conducting the activities:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, or 910A, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

b. The tenant reports the activities causing the clear and present danger to a law enforcement agency or the county attorney in an effort to initiate a criminal action against the person conducting the activities.

c. The tenant writes a letter to the person conducting the activities causing the clear and present danger, telling the person not to return to the premises and that a return to the premises may result in a trespass or other action against the person, and the tenant sends a copy of the letter to a law enforcement agency whose jurisdiction includes the premises. If the tenant has previously written a letter to the person as provided in this paragraph, without taking an action specified in paragraph "a" or "b" or filing a trespass or other action, and the person to whom the letter was sent conducts further activities causing a clear and present danger, the tenant must take one of the actions specified in paragraph "a" or "b" to be exempt from proceedings pursuant to subsection 1.

However, in order to fall within the exemptions provided within this subsection, the tenant must provide written proof to the landlord, prior to the commencement of a suit against the tenant, that the tenant has taken one of the measures specified in paragraphs "a" through "c".

Sec. 4. NEW SECTION. 562B.27A METHOD OF NOTICE AND SERVICE OF PROCESS.

Notwithstanding sections 631.4 and 648.5, the written notice of termination required by section 562B.25, subsection 1, a notice of termination and notice to quit under section 562B.25A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, may be served upon the tenant in any of the following ways:

1. By personal service.
2. By sending notice by certified or restricted certified mail, whether or not the tenant signs a receipt for the notice.

Approved May 19, 1992

CHAPTER 1212

SUBSTANTIVE CODE CORRECTIONS
S.F. 2097

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, and providing a retroactive applicability provision, and providing effective date and applicability provisions.

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

Section 1. Section 19B.8, Code 1991, is amended to read as follows:

19B.8 SANCTIONS.

The department of management may impose appropriate sanctions on individual state agencies, including the state board of regents and its institutions, and upon a community college, area education agency, or school district, in order to ensure compliance with state programs emphasizing equal opportunity through affirmative action, contract compliance policies, and requirements for procurement ~~set-asides~~ goals for targeted small businesses.

Sec. 2. Section 20.17, subsection 11, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2216,* section 1, is amended to read as follows:

11. a. In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees represented by a certified employee organization who are teachers licensed under chapter 260 and who are employed by a public employer which is a school district or area education agency shall complete the negotiation of a proposed collective bargaining agreement 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 impasse items in such cases 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 in such cases shall be sufficiently in advance of April 15 to ensure that the arbitrators' decision can be reasonably made before April 15.

b. If the public employer is a community college, the following apply:

(1) The negotiation of a proposed collective bargaining agreement shall be complete not later than June 1 of the year when the agreement is to become effective, absent the existence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date. The board shall adopt rules providing for a date on which impasse items in such cases must be submitted to binding arbitration and for procedures for the completion of negotiations of proposed collective bargaining agreements not later than June 1. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of June 1 to ensure that the arbitrators' decision can be reasonably made by June 1.

(2) Notwithstanding the provisions of ~~paragraph "a"~~ subparagraph (1), the June 1 deadline may be waived by mutual agreement of the parties to the collective bargaining agreement negotiations.

*Chapter 1011 herein

Sec. 3. Section 22.7, subsection 27, Code 1991, is amended to read as follows:

27. Applications, investigation reports, and case records of persons applying for county general ~~relief~~ assistance pursuant to section 252.25.

Sec. 4. Section 116.23, subsections 2, 3, and 10, Code Supplement 1991, are amended to read as follows:

2. A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the board on ~~such~~ the charges shall be served on the accused not less than thirty days prior to the date of hearing either personally or by mailing a copy by ~~registered~~ certified mail to the last known address of the accused.

3. If, after having been served with the notice of hearing, the accused fails to appear at the hearing and defend, the board may proceed to hear evidence against the accused and may enter such order as is justified by the evidence~~, which order shall be final unless the accused petitions for its review as provided in this section. However, within thirty days from the date of any order, upon a showing of good cause for failing to appear and defend, the board may reopen the proceedings and may permit the accused to submit evidence in defense~~.

10. ~~Anyone adversely affected by an order of the board may obtain a review of that order by filing a written petition for review with the district court within thirty days after the entry of the order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of the petition shall be immediately served upon any member of the board and the board shall then certify and file in the court a transcript of the record upon which the order complained of was entered.~~ Judicial review of the board's action may be sought in accordance with chapter 17A.

~~The case shall then be tried de novo on the record made before the board without the introduction of new or additional evidence but the parties shall be permitted to file briefs as in an ordinary case at law.~~

~~The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may, in its discretion, stay the effect of the board's order pending its determination of the case.~~

~~The court's decision shall have the force and effect of a decree in equity.~~

Sec. 5. Section 149.3, subsection 3, Code 1991, is amended to read as follows:

3. Pass an examination in the subjects of anatomy, chemistry, dermatology, diagnosis, pharmacy and materia medica, pathology, physiology, histology, bacteriology, neurology, practical and clinical podiatry, foot orthopedics, and others, as prescribed by the board of podiatry examiners~~, and must obtain a general average of at least seventy-five percent and not less than seventy percent in any one subject~~.

Sec. 6. Section 162.2, subsection 7, Code 1991, is amended to read as follows:

7. "Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or less breeding males or females is not a commercial breeder. However, a person who breeds or harbors more than three breeding male or female greyhounds for the purposes of using them for pari-mutuel racing shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

Sec. 7. Section 176A.10, subsection 6, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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, which levy is payable in the fiscal year beginning July 1, 1992. 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, which levy is payable in fiscal years beginning on or after July 1, 1993, 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.

Sec. 8. Section 232.162, Code 1991, is amended to read as follows:

232.162 AUTHORITY TO ENTER AGREEMENTS.

The officers and agencies of this state and its subdivisions having authority to place children ~~are hereby empowered to~~ may enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph "b" of article V of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or a subdivision or agency ~~thereof~~ of this state shall not be binding unless it has the approval in writing of the administrator of ~~family and children's~~ child and family services in the case of the state and the county general ~~relief~~ assistance director in the case of a subdivision of the state.

Sec. 9. Section 252.6, Code 1991, is amended to read as follows:

252.6 ENFORCEMENT OF LIABILITY.

Upon the failure of such relatives ~~so~~ to ~~relieve~~ assist or maintain a poor person who has made application for ~~relief~~ assistance, the county board of supervisors, county social welfare board, or state division of child and family services of the department of human services may apply to the district court of the county where ~~such~~ the poor person resides or may be found, for an order to compel the ~~same~~ assistance or maintenance.

Sec. 10. Section 252.8, Code 1991, is amended to read as follows:

252.8 SCOPE OF ORDER.

The order may be for the entire or partial support of the applicant, may be for the payment of money or the taking of the applicant to a relative's house, or may assign the applicant for a certain time to one and for another period to another, as ~~may be~~ is just and right, taking into view the means of the several relatives liable, but no such assignment shall be made to one who is willing to pay the amount necessary for support. If the order ~~be~~ is for ~~relief~~ assistance in any other form than money, it shall state the extent and value ~~thereof~~ of the assistance per week, and the time ~~such relief~~ assistance shall continue; or the order may make the time of continuance indefinite, and it may be varied from time to time by a new order, as circumstances ~~may~~ require, upon application to the court by the trustees, the poor person, or the relative affected, ten days' notice ~~thereof~~ being given to the party or parties concerned.

Sec. 11. Section 252.13, Code 1991, is amended to read as follows:

252.13 RECOVERY BY COUNTY.

Any county having expended ~~any~~ money for the ~~relief~~ assistance or support of a poor person, under ~~the provisions of~~ this chapter, may recover the ~~same~~ money from any of ~~that person's kindred mentioned herein,~~ the following: from ~~such~~ the poor person ~~should~~ if the person ~~become~~ becomes able, or from the person's estate; from relatives by action brought within two years from the payment of ~~such expenses~~ the assistance or support, from ~~such~~ the poor person by action brought within two years after ~~becoming~~ the person becomes able, and from ~~such~~ the person's estate by filing the claim as provided by law. There shall be allowed against the person's estate a claim of the sixth class for that portion of the liability to the county which exceeds the total amount of all claims of the first through the fifth classes, inclusive, as defined in section 633.425, which are allowed against that estate.

Sec. 12. Section 252.22, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When ~~relief~~ assistance is granted to a poor person having a settlement in another county, the auditor shall at once by mail notify the auditor of the county of settlement of that fact, and, within fifteen days after receipt of the notice, the auditor shall inform the auditor of the county granting ~~relief~~ assistance if the claim of settlement is disputed. If it is not, the poor person, at the request of the auditor or board of supervisors of the county of settlement, may be maintained where the person then is at the expense of the county of legal settlement, and without affecting legal settlement as provided in section 252.16.

Sec. 13. Section 252.23, Code 1991, is amended to read as follows:

252.23 TRIAL.

If the alleged settlement is disputed, then, within thirty days after notice ~~thereof~~ as ~~above~~ provided in section 252.22, a copy of the notices sent and received shall be filed in the office of the clerk of the district court of the county against which claim is made, and a cause docketed without other pleadings, and tried as an ordinary action, in which the county ~~affording~~ granting the ~~relief~~ assistance shall be plaintiff, and the other defendant, and the burden of proof shall be upon the county granting the ~~relief~~ assistance.

Sec. 14. Section 252.24, Code 1991, is amended to read as follows:

252.24 COUNTY OF SETTLEMENT LIABLE.

The county where the settlement is shall be liable to the county ~~rendering relief~~ granting assistance for all reasonable charges and expenses incurred in the ~~relief~~ assistance and care of a poor person.

When ~~relief as herein provided~~ assistance is furnished by any governmental agency of the county, township, or city, ~~such relief~~ the assistance shall be deemed to have been furnished by the county in which ~~such~~ the agency is located and the agency furnishing ~~such relief~~ the assistance shall certify the correctness of the costs of ~~such relief~~ the assistance to the board of supervisors of ~~said~~ that county and ~~said~~ that county shall collect from the county of ~~such~~ the person's settlement. The amounts ~~herein~~ collected by ~~said~~ the county where the agency is located shall be paid to the agency furnishing ~~such relief~~ the assistance. This statute ~~as herein amended shall apply~~ applies to services and supplies furnished as provided in section 139.30.

Sec. 15. Section 252.25, Code 1991, is amended to read as follows:

252.25 COUNTY GENERAL ~~RELIEF~~ ASSISTANCE.

The board of supervisors of each county shall provide for the ~~relief~~ assistance of poor persons in its county who are ineligible for, or are in immediate need and are awaiting approval and receipt of, assistance under programs provided by state or federal law, or whose actual needs cannot be fully met by the assistance furnished under ~~such~~ those programs. The county board shall establish general rules as its members deem necessary to properly discharge their responsibility under this section.

All applications, investigation reports, and case records of persons applying for county general ~~relief~~ assistance under this chapter are privileged communications and confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and administration of this chapter or as authorized by order of a district court. Examination of an individual's applications, reports, and records may also be authorized by a signed release from the individual.

Sec. 16. Section 252.26, Code 1991, is amended to read as follows:

252.26 GENERAL ~~RELIEF~~ ASSISTANCE DIRECTOR.

The board of supervisors in each county shall appoint or designate a general ~~relief~~ assistance director for the county, who shall have the powers and duties conferred by this chapter. In counties of one hundred thousand or less population, the county board may designate as general ~~relief~~ assistance director an employee of the state department of human services who is assigned to work in that county and is directed by the director of human services, pursuant to an

agreement with the county board, to exercise the functions and duties of general ~~relief~~ assistance director in that county. The director shall receive as compensation an amount to be determined by the county board.

Sec. 17. Section 252.27, Code 1991, is amended to read as follows:

252.27 FORM OF ~~RELIEF~~ ASSISTANCE — CONDITION.

The board of supervisors shall determine the form of the ~~relief~~ assistance. However, legal aid shall be only in civil matters and provided only through a legal aid program approved by the board of supervisors. The amount of assistance issued shall be determined by standards of assistance established by the board of supervisors. They may require any able-bodied person to work on public programs or projects at the prevailing local rate per hour in payment for and as a condition of granting ~~relief~~ assistance. The labor shall be performed under the direction of the officers having charge of ~~such~~ the public programs or projects. Subject to ~~the provisions of~~ section 142.1, ~~relief~~ assistance may consist of the burial of nonresident indigent transients and the payment of the reasonable cost of burial, not to exceed two hundred fifty dollars.

The board shall record its proceedings relating to the provision of ~~relief~~ assistance to specific persons under this chapter. A person who is aggrieved by a decision of the board may appeal the decision as if it were a contested case before an agency and as if the person had exhausted administrative remedies in accordance with the procedures and standards in section 17A.19, subsections 2 to 8 except paragraphs "b" and "c" of subsection 8, and section 17A.20.

Sec. 18. Section 252.33, Code 1991, is amended to read as follows:

252.33 APPLICATION FOR ~~RELIEF~~ ASSISTANCE.

~~The poor~~ A person may make application for ~~relief~~ assistance to a member of the board of supervisors, or to the general ~~relief~~ assistance director of the county where ~~they may be~~ the person is. If application ~~be~~ is made to the general ~~relief~~ assistance director and that officer is satisfied that the applicant is in ~~such~~ a state of want ~~as~~ which requires ~~relief~~ assistance at the public expense, the director may afford ~~such~~ temporary ~~relief~~ assistance, subject to the approval of the board of supervisors, as the necessities of the person require and shall immediately report the case ~~forthwith~~ to the board of supervisors, who may continue or deny ~~relief~~ assistance, as they find cause.

Sec. 19. Section 252.35, Code 1991, is amended to read as follows:

252.35 PAYMENT OF CLAIMS.

All claims and bills for the care and support of the poor shall be certified to be correct by the general ~~relief~~ assistance director and presented to the board of supervisors, and, if the board is satisfied that the claims and bills are reasonable and proper, they shall be paid.

Sec. 20. Section 252.37, Code 1991, is amended to read as follows:

252.37 APPEAL TO SUPERVISORS.

If ~~any~~ a poor person, on application to the general ~~relief~~ assistance director, ~~be~~ is refused the required ~~relief~~ assistance, the applicant may appeal to the board of supervisors, who, upon examination into the matter, may order the director to ~~afford relief~~ provide assistance, or it may direct specific ~~relief~~ assistance.

Sec. 21. Section 252.42, Code 1991, is amended to read as follows:

252.42 CO-OPERATION ON ~~WORK-RELIEF~~ WORK-ASSISTANCE PROJECTS.

The county board of supervisors may join and co-operate with the United States government, or ~~cities~~ a city within ~~their~~ the city's boundaries, or both the United States government and ~~cities~~ a city within ~~their~~ the city's boundaries, in sponsoring work projects, provided that the money used does not exceed the cost per month of supplying ~~relief~~ assistance to the certified persons working on projects who would be receiving direct ~~relief~~ assistance if they were not employed on the projects.

Sec. 22. Section 255.2, Code 1991, is amended to read as follows:

255.2 DUTY OF PUBLIC OFFICERS AND OTHERS.

~~It shall be the duty of physicians~~ Physicians, public health nurses, members of boards of supervisors, general ~~relief~~ assistance directors, sheriffs, police officers, and public school teachers, having knowledge of persons suffering from any such malady or deformity, ~~to~~ shall file or cause ~~such~~ a complaint to be filed.

Sec. 23. Section 255.6, Code 1991, is amended to read as follows:

255.6 INVESTIGATION AND REPORT.

When ~~such~~ a complaint is filed, the clerk of juvenile court shall furnish the county attorney and board of supervisors with a copy ~~thereof~~ and ~~said~~ the board shall, by the general ~~relief~~ assistance director or ~~such~~ other agent ~~as~~ it ~~may select~~ selects, make a thorough investigation of facts as to the legal residence of the patient, and the ability of the patient or others chargeable with the patient's support to pay the expense of ~~such~~ treatment and care; and shall file a report of ~~such~~ the investigation in the office of the clerk, at or before the time of hearing.

Sec. 24. Section 255.8, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The county attorney and the general ~~relief~~ assistance director, or other agent of the board of supervisors of the county ~~where the hearing is held~~, shall appear ~~thereat~~ at the hearing. The complainant, the county attorney, the general ~~relief~~ assistance director or other agent of the board of supervisors, and the patient, or any person representing the patient, may introduce evidence and be heard. If the court finds that ~~said~~ the patient is a legal resident of Iowa and is pregnant or is suffering from a malady or deformity which can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither the patient nor any person legally chargeable with the patient's support is able to pay the expenses ~~thereof~~, then the clerk of court, except in obstetrical cases and orthopedic cases ~~of crippled children~~, shall immediately ascertain from the admitting physician at the university hospital whether ~~such~~ the person can be received as a patient within a period of thirty days, and if the patient can be ~~so~~ received, the court, or in the event of no actual contest, the clerk of the court, shall ~~then~~ enter an order directing that ~~said~~ the patient be sent to the university hospital for proper medical and surgical treatment and hospital care. If the court ascertain, ~~excepting~~ except in obstetrical cases and orthopedic cases, that a person of the age or sex of the patient, or afflicted by the complaint, disease, or deformity with which ~~such~~ the person is ~~affected~~ afflicted, cannot be received as a patient at the university hospital within the period of thirty days, then the court or the clerk shall enter an order directing the board of supervisors of the county to provide adequate treatment at county expense for the patient at home or in a hospital. Obstetrical cases and orthopedic cases may be committed to the university hospital without regard to the limiting period of thirty days.

Sec. 25. Section 260.4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Terms of office for regular appointments ~~begin on July 1, and~~ shall begin and end as provided in section 69.19. Terms of office for members appointed to fill vacancies shall begin on the date of appointment and end as provided in section 69.19. Members may be removed for cause by a state court with competent jurisdiction after notice and opportunity for hearing. The board may remove a member for three consecutive absences or for cause.

Sec. 26. Section 260B.1, unnumbered paragraph 3, Code 1991, is amended to read as follows:

All voting members shall be appointed by the governor, subject to confirmation by the senate. Terms of office of voting members are four years ~~commencing on July 1~~ beginning and ending as provided in section 69.19.

Sec. 27. Section 279.49, Code Supplement 1991, is amended to read as follows:

279.49 CHILD DAY CARE PROGRAMS.

The board of directors of a school corporation may operate or contract for the operation of a program to provide child day care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both. The person employed to be responsible for a program operated by a board shall be an appropriately certificated teacher

under chapter 260 or the program operated by contract with the board shall be licensed as a child care center under chapter 237A. The board shall require the employment of adequate personnel for a program to meet the personnel standards adopted by the state board of education, pursuant to section 256.7, ~~subsections 13 and 14~~ subsection 13, or the department of human services, pursuant to section 237A.12, subsection 1.

The board may establish a fee for the cost of participation in a ~~before and after school~~ child day care program authorized under this section. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed upon fee. The board may require the parent or guardian to furnish transportation of the child.

The board may utilize or make application for program subsidies from any existing day care funding streams.

Programs established under this section for ~~before and after school~~ child day care shall include, but are not limited to, parental involvement in program design and direction, activities designed to further children's physical, mental, and emotional development, and a parental education component to educate parents about the physical, mental, and emotional development of children.

Sec. 28. Section 312.2, subsection 15, Code Supplement 1991, is amended to read as follows:

15. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the public transit assistance fund, created under section 601J.6, from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "c", an amount equal to one-twentieth of eighty percent of the revenue ~~credited to~~ from the ~~road use tax fund under~~ operation of section ~~423.24, subsection 1, paragraph "c"~~ 423.7.

Notwithstanding the provisions of this subsection directing that one-twentieth of eighty percent of the revenue ~~credited to~~ derived from the ~~road use tax fund under~~ operation of section ~~423.24, subsection 1, paragraph "c"~~ 423.7, 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. 29. Section 321J.4, subsection 2, Code 1991, is amended to read as follows:

2. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, the court shall order the department to revoke the defendant's motor vehicle license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days if the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 or has not otherwise been revoked for the occurrence from which the arrest arose. The court shall immediately require the defendant to surrender to it all Iowa licenses or permits held by the defendant, which the court shall forward to the department with a copy of the order deferring judgment.

Sec. 30. Section 331.321, subsection 1, paragraph i, Code 1991, is amended to read as follows:

i. A general ~~relief~~ assistance director in accordance with section 252.26.

Sec. 31. Section 331.323, subsection 1, paragraph f, Code 1991, is amended to read as follows:

f. General ~~relief~~ assistance director

Sec. 32. Section 331.381, subsection 8, Code 1991, is amended to read as follows:

8. Administer general ~~relief~~ assistance for the poor in accordance with chapter 252.

Sec. 33. Section 331.604, Code Supplement 1991, as amended by 1992 Iowa Acts, House File 39,* is amended to read as follows:

*Chapter 1005 herein

331.604 GENERAL RECORDING AND FILING FEE.

1. Except as otherwise provided by state law, subsection 2, or section 331.605, ~~subsection 2,~~ 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.

2. A county shall not be required to pay a fee to the recorder for filing or recording instruments.

Sec. 34. Section 347.16, subsection 2, Code 1991, is amended to read as follows:

2. Free care and treatment shall be furnished in a county public hospital to any sick or injured person who fulfills the residency requirements under section 47.4, subsection 4, in the county maintaining the hospital, and who is indigent. The board of hospital trustees shall determine whether a person is indigent and entitled to free care under this subsection, or may delegate that determination to the general ~~relief~~ assistance director or the office of the department of human services in that county, subject to ~~such~~ guidelines ~~as~~ the board may adopt in conformity with applicable statutes.

Sec. 35. Section 428A.1, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

When each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. A declaration of value is not required for those instruments described in section 428A.2, subsections 2 to 5, 7 to 13, and 16 to ~~20~~ 21, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain.

PARAGRAPH DIVIDED. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 172C.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. The county recorder shall not record the declaration of value, but shall enter on the declaration of value information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value the information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue and finance, at times as directed by the director of revenue and finance. The assessor shall retain one copy of each declaration of value for three years from December 31 of the year in which the transfer of realty for which the declaration was filed took place. The director of revenue and finance shall, upon receipt of the information required to be filed under this chapter by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 172C.1.

Sec. 36. Section 453.14, unnumbered paragraph 3, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 37. Section 504A.84, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The annual report of a domestic or foreign corporation shall be delivered to the secretary of state for filing in the secretary of state's office between the first day of May and the thirty-first day of July of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of May and the thirty-first day of July of the year

succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state~~, and except that if the existence of the domestic corporation or the authority of the foreign corporation to conduct affairs in this state began in April of any year, its first annual report shall be filed between the first day of May and the thirty-first day of July of the second year succeeding the calendar year in which the corporate existence or authority to conduct affairs began~~.

Sec. 38. Section 663A.9, Code 1991, is amended to read as follows:

663A.9 APPEAL.

An appeal from a final judgment entered under this chapter may be taken, perfected, and prosecuted either by the applicant or by the state in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments in criminal cases. However, if ~~the applicant~~ a party is seeking an appeal under section 663A.2, subsection 6, the appeal shall be by writ of certiorari.

Sec. 39. Section 815.1, Code 1991, is amended to read as follows:

815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

All costs and fees incurred in a parole revocation proceeding or in a criminal case brought against an inmate of a state institution for a crime committed while confined in the institution, or for a crime committed by the inmate while placed outside the walls or confines of the institution under the control and direction of a warden, supervisor, officer, or employee of the institution, or for a crime committed by the inmate during an escape or other unauthorized departure from the institution or from the control of a warden, supervisor, officer, or employee of the institution, or from wherever the inmate may have been placed by authorized personnel of the institution, are waived if the prosecution fails, or if the person liable to pay the costs and fees cannot pay the costs and fees. An award of attorney fees to a court-appointed attorney incurred in these cases shall be paid out of the state treasury from the general fund if the prosecution fails or if the person liable to pay the attorney fees cannot pay them. The facts shall be certified by the clerk of the district court under the clerk's seal of office to the director of ~~inspections and appeals~~ the department of corrections, including a statement of the amount of fees or costs incurred, approved by the presiding judge in writing. When a conviction is rendered and the court orders restitution for costs of the prosecution, the inmate, work releasee, or parolee shall make restitution to the general fund pursuant to section 910.2.

Sec. 40. TRANSITION FOR TERMS OF BOARD OF EDUCATIONAL EXAMINERS. Effective July 1, 1992, the term of each member of the board of educational examiners appointed prior to that date is shortened by changing the expiration date from June 30 to April 30 of the final year of the term.

Sec. 41. TRANSITION FOR TERMS OF HIGHER EDUCATION STRATEGIC PLANNING COUNCIL. Effective July 1, 1992, the term of each member of the higher education strategic planning council appointed prior to that date is shortened by changing the expiration date from June 30 to April 30 of the final year of the term.

Sec. 42. USE AND CREDITING OF BOND EARNINGS AND PROCEEDS. The authority granted in 1971 Iowa Acts, chapter 222, section 1, codified as section 453.14, Code 1973, applies to the use and crediting of earnings and investments of the proceeds from bonds issued on or after as well as prior to July 1, 1971.

Sec. 43. Sections 36 and 42 of this Act apply retroactively to July 1, 1971.

Sec. 44. EFFECTIVE DATE PROVISION. Section 7 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 45. CREDITS FROM ROAD USE TAX FUND TO PUBLIC TRANSIT ASSISTANCE FUND – EFFECTIVE DATES.

1. Section 28 of this Act, which amends section 312.2, subsection 15, is effective only if the state sales, services, and use taxes are increased from four to five percent* and applies to the revenues derived from the five percent sales, services, and use tax rate collected on or after June 1, 1992.

2. 1992 Iowa Acts, Senate File 2345,** section 25, which amends section 312.2, subsection 15, is effective only if the state sales, services, and use taxes remain at four percent.

Approved May 19, 1992

CHAPTER 1213

SOLID WASTE REDUCTION – CALCULATION OF GOALS

H.F. 547

AN ACT relating to the inclusion of certain types of refuse-derived fuel in the calculation of the waste reduction goal requirement of a city or county.

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

Section 1. Section 455B.306, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A city or county required to file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents and which seeks approval of the inclusion of refuse-derived fuel as a component of its percentage of waste reduction, shall file an annual report with the director regarding the percentage of reduction attributable to refuse-derived fuel and the justification for such inclusion. The director shall approve or reject the inclusion. The percentage of reduction attributable to refuse-derived fuel and allowable for inclusion shall not exceed fifty percent and only those products established as allowable pursuant to section 455D.20 shall be included in the calculation of the waste reduction goal.

Sec. 2. Section 455D.3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 455D.1, subsection 6, facilities which employ combustion of solid waste with energy recovery and refuse-derived fuel, which are included in an approved comprehensive plan, and which were in operation prior to July 1, 1989, may include these processes in the definition of recycling for the purpose of meeting the state goal if at least thirty-five percent of the waste reduction goal, required to be met by July 1, 2000, pursuant to section 455D.3, is met through volume reduction at the source and recycling and reuse, as established pursuant to section 455B.301A, subsection 1, paragraphs "a" and "b".

Sec. 3. NEW SECTION. 455D.20 REFUSE-DERIVED FUEL – CALCULATION AS PORTION OF WASTE REDUCTION GOAL.

1. The commission shall adopt rules which provide for the inclusion of reduction attributable to refuse-derived fuel in the calculation of a city or county in meeting the waste reduction goal of the state. No more than fifty percent of the waste reduction requirement of a city or county shall be met through inclusion of reduction attributable to refuse-derived fuel in the calculation.

*See 2nd Ex. chapter 1001, division II herein

**Chapter 1238 herein

2. The rules adopted by the commission under subsection 1 shall provide that only fuel derived from paper and paperboard products which are not recyclable due to contamination, including contamination from blood or egg, which occurred at the time of the use of the product for its originally intended purpose, or products which are not recyclable due to composition of the product, such as wax-coated cardboard, are included in the calculation.

Approved May 19, 1992

CHAPTER 1214

WASTE REDUCTION ASSISTANCE PROGRAMS — CONFIDENTIALITY
H.F. 681

AN ACT relating to the confidentiality of certain information relating to waste reduction.

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

Section 1. NEW SECTION. 455B.484A CONFIDENTIALITY FOR ASSISTANCE PROGRAMS.

1. As used in this section:

a. "Applicant" means a person, acting in good faith, who seeks the services of an assistance program.

b. "Assistance information" means all information voluntarily supplied to or obtained by an assistance program for the sole purpose of providing assistance to an applicant and which constitutes information not otherwise available to an assistance program.

c. "Assistance program" means the waste reduction assistance program of the department or of the Iowa waste reduction center for safe and economic management of solid waste and hazardous substances conducted pursuant to section 268.4.

2. Assistance information in the possession of an assistance program or an employee or agent of an assistance program is privileged and confidential, is not subject to discovery, subpoena, or other means of legal compulsion and is not admissible evidence in an administrative or judicial proceeding. However, assistance information discoverable from sources other than an assistance program or prohibited from being made confidential pursuant to federal or state law does not become privileged or confidential merely because it has been made available to or is in the custody of an assistance program or an employee or agent of an assistance program.

3. Assistance information shall not be used by an employee or agent of the state in determining whether to initiate an enforcement action or investigation by the state.

Approved May 19, 1992

CHAPTER 1215

SOLID WASTE

H.F. 2205

AN ACT relating to solid waste and providing a penalty.

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

Section 1. Section 28G.1, Code 1991, is amended to read as follows:

28G.1 PURPOSE.

The purpose of this chapter is to allow two or more local governments to form a public service monopoly when they find that a public service monopoly is an effective means to protect the public health and welfare, and the environment through ~~adequate~~ any of the following:

1. Adequate solid waste collection, transportation, storage and disposal practices ~~and is~~ which are the only effective means of allowing the construction and utilization of a resource recovery facility for the recycling of solid waste for use as an energy source.

2. The implementation of other solid waste management projects, such as source reduction and recycling, which are part of an approved comprehensive plan required under section 455B.306, and if the formation of a public service monopoly is the only effective means of accomplishing solid waste reduction and recycling. The public service monopoly shall utilize private recycling industries in the service area when possible.

Sec. 2. Section 28G.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "Solid waste management project" means a project which is part of the comprehensive plan, approved by the director of the department of natural resources pursuant to section 455B.306, to establish and implement the comprehensive solid waste reduction program of a city or county.

Sec. 3. Section 28G.3, Code 1991, is amended to read as follows:

28G.3 CREATION OF PUBLIC SERVICE MONOPOLY.

If two or more local governments find that the only effective means of allowing the construction and utilization of a resource recovery facility for the recycling of solid waste for use as an energy source or to implement solid waste management projects as defined in section 28G.2 is to create a public service monopoly, a legal entity shall be created pursuant to chapter 28E by agreement of two or more local governments to displace competition with regulation and monopoly of a public service for the collection, transportation, storage, and disposal, or diversion of solid waste to the extent reasonably necessary to carry out these functions. The agreement is subject to approval of the environmental protection commission before it becomes effective.

Sec. 4. Section 28G.4, subsections 3 and 4, Code 1991, are amended to read as follows:

3. Enter into contracts for construction and may contract, license, or permit the construction of resource recovery facilities for recycling of solid waste for an energy source or of facilities necessary to implement solid waste management projects as defined in section 28G.2.

4. Require the use of the resource recovery facilities or of facilities necessary to implement solid waste management projects as defined in section 28G.2, by any person who can be effectively served by the facilities. However, this subsection does not prohibit a private agency from dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining, or commercial activities on land owned or leased by it if the action does not violate any statute of this state or rules ~~promulgated~~ adopted by the environmental protection commission or local boards of health or local ordinances.

Sec. 5. Section 455B.304, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 16. The commission shall adopt rules which require all sanitary landfills in which the tonnage fee pursuant to section 455B.310 is imposed, to install scales by January 1, 1994.

NEW SUBSECTION. 17. The commission shall adopt rules which prohibit the land application of petroleum contaminated soils on flood plains.

Sec. 6. Section 455B.305, subsection 6, Code 1991, is amended to read as follows:

6. Beginning July 1, 1992, the director shall not issue~~, renew, or reissue~~ a permit for a sanitary landfill unless the sanitary landfill is equipped with a leachate control system. Beginning July 1, 1994, the director shall not renew or reissue a permit for an existing sanitary landfill unless the sanitary landfill is equipped with a leachate control system. During the period from July 1, 1992, through June 30, 1994, the director may require an existing sanitary landfill to install a leachate control system if leachate from the sanitary landfill is adversely impacting the public health or safety or the environment. During the period from July 1, 1992, through June 30, 1994, the director shall require an existing sanitary landfill to install a leachate control system if the sanitary landfill has not submitted a completed hydrogeological plan to the department. The director may exempt a permit applicant from ~~this requirement~~ these requirements if the director determines that certain conditions regarding, but not limited to, existing physical conditions, topography, soil, geology, and climate, are such that a leachate control system is unnecessary.

Sec. 7. Section 455B.306, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A completed plan for the control and treatment of leachate, submitted to meet the requirements of section 455B.305, subsection 6, shall be reviewed by the director, and the director shall reject, suggest modifications, or approve the completed plan within six months of submittal of the plan. If no action is taken within the six-month period, the plan shall be considered approved. However, the director may require updating of the plan at the time of renewal or reissuance of a previously issued permit.

Sec. 8. Section 455B.306, subsection 5, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A description of the service area to be served by the city, county, or private agency under the comprehensive plan. A comprehensive plan shall not include a service area, any part of which is included in another comprehensive plan.

Sec. 9. Section 455B.306, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 8. If a city, county, or private agency does not incorporate the elements of the solid waste hierarchy of the state solid waste management policy in a proposed initial or adopted comprehensive plan, the city council or county board of supervisors governing the city or county in which the sanitary landfill is proposed to be located or is located shall hold a public hearing to address the basis for not including any of the elements in the plan.

NEW SUBSECTION. 9. A city council or county board of supervisors governing the area in which a sanitary disposal project is proposed to be located or is located shall hold a public hearing to address the issue of including or not including local curbside recycling in the comprehensive plan.

Sec. 10. NEW SECTION. 455B.307A DISCARDING OF SOLID WASTE — PROHIBITIONS — PENALTY.

1. For the purposes of this section, "discard" means to place, cause to be placed, throw, deposit, or drop.

2. A person shall not discard solid waste onto or in any water or land of the state, or into areas or receptacles provided for such purposes which are under the control of or used by a person who has not authorized the use of the receptacle by the person discarding the solid waste.

3. A person who violates this section is subject to a civil penalty not to exceed five hundred dollars for each violation.

Sec. 11. Section 455B.310, subsection 2, paragraph a, Code Supplement 1991, is amended to read as follows:

a. The tonnage fee is twenty-five cents per ton of solid waste. However, for the year beginning July 1, 1988, the tonnage fee is one dollar and fifty cents per ton of solid waste and shall increase annually in the amount of fifty cents per ton through July 1, 1992. ~~A county in which a privately operated landfill accepts solid waste from outside of the county may charge an additional tonnage fee for disposal of solid waste at the sanitary landfill which is not more than one hundred percent of the fee otherwise established in this section. The additional fee charged and the moneys collected shall be used exclusively for the development and implementation of alternatives to sanitary landfills or for the costs incurred by the county to abate problems associated with the operation of the sanitary landfill.~~ A city, county, or private agency which files a comprehensive plan to operate a sanitary landfill under section 455B.306 and which accepts solid waste from a service area not included in but contiguous to the service area included in the comprehensive plan, shall charge a tonnage fee for the disposal of that solid waste which is at least the amount of the current tonnage fee charged by the sanitary landfill representing the receiving service area or the sanitary landfill representing the service area from which the solid waste originated, whichever amount is greater. A sanitary landfill which accepts solid waste from a service area not included in and not contiguous to the service area included in the comprehensive plan shall charge a tonnage fee for the disposal of the solid waste which is three hundred percent of the fee otherwise established in this section. The additional fee charged and the moneys collected shall be used in accordance with section 455E.11, subsection 2, paragraph "a", subparagraph (11), subparagraph subdivision (b).

Sec. 12. Section 455B.310, subsection 10, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

10. a. Notwithstanding the tonnage fee schedule prescribed under subsection 2, foundry sand used by a sanitary landfill as daily cover, road base, or berm material or for other purposes defined as beneficial uses by rule of the department is exempt from imposition of the tonnage fee imposed under this section.

b. Sanitary landfills shall use foundry sand for beneficial uses as defined by rule of the department as a replacement for earthen material, if the foundry sand is generated by a foundry located within the state and if the foundry sand is provided to the sanitary landfill at no cost to the sanitary landfill.

Sec. 13. Section 455B.311, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Grants shall not be awarded to a city, county, or central planning agency if the entity has not submitted a completed hydrogeological plan to the department.

Sec. 14. Section 455C.16, Code Supplement 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~~. Beginning September 1, 1992, the final disposal of beverage containers used to contain alcoholic liquor as defined in section 123.3, subsection 8, by a dealer, distributor, or manufacturer, or person operating a redemption center in a sanitary landfill, is prohibited.

Sec. 15. NEW SECTION. 455D.10A HOUSEHOLD BATTERIES — HEAVY METAL CONTENT AND RECYCLING REQUIREMENTS.

1. DEFINITIONS. As used in this section and in section 455D.10B unless the context otherwise requires:

a. "Button cell battery" means a household battery which resembles a button or coin in size and shape.

b. "Consumer" means a person who purchases household batteries for personal or business use.

c. "Easily removed" means a battery or battery pack which can be removed from a battery-powered product by the consumer, using common household tools.

d. "Household battery" means any type of dry cell battery used by consumers, including but not limited to mercuric oxide, carbon-zinc, zinc air, silver oxide, nickel-cadmium, nickel-hydride, alkaline, lithium, or sealed lead acid batteries.

e. "Institutional generator" means a governmental, commercial, industrial, communications, or medical facility which generates waste mercuric oxide, nickel-cadmium, or sealed lead acid rechargeable batteries.

f. "Rechargeable consumer product" means a product that is primarily powered by a rechargeable battery and is primarily used or purchased to be used for household purposes.

g. "Rechargeable household battery" means a small sealed nickel-cadmium or sealed lead acid battery used for nonvehicular purposes and weighing less than twenty-five pounds, which can be recharged by the consumer and reused.

2. MERCURY CONTENT LIMITED. Beginning July 1, 1993, a person shall not sell, distribute, or offer for retail sale in this state an alkaline manganese battery that contains more than twenty-five one-thousandths of a percent mercury by weight, or a button cell battery which contains more than twenty-five milligrams of mercury. Effective January 1, 1996, a person shall not sell, distribute, or offer for sale at retail in this state an alkaline manganese household battery to which mercury has been added.

3. RECYCLING/DISPOSAL REQUIREMENTS FOR HOUSEHOLD BATTERIES.

a. Beginning July 1, 1996, a system or systems shall be in place to protect the health and safety of Iowans, and the state's environment, from the toxic components of used household batteries. The system or systems shall include at least one of the following elements:

(1) Elimination or reduction to the extent established by rule of the department, of heavy metals and other toxic components in nickel-cadmium, mercuric oxide, or sealed lead acid household batteries, to ensure protection of public health, safety, and the environment when placed in or disposed of as part of mixed municipal solid waste.

(2) Establishment of a comprehensive recycling program for each type of battery listed in subparagraph (1) that is sold, distributed, or offered for sale in this state. An institutional generator shall provide for the on-site source separation and collection of used mercuric oxide batteries, nickel-cadmium rechargeable batteries, and sealed lead acid rechargeable batteries. All participants in the stream of commerce relating to the batteries, which are listed in subparagraph (1) and which are not designated as exempt pursuant to section 455D.10B, subsection 2, paragraph "c" or "d", shall, individually or collectively, be responsible for developing and operating a system for collecting and transporting used batteries to the appropriate dry cell battery manufacturer or to a site or facility designated by a manufacturer. Additionally, dry cell battery manufacturers shall be responsible for the recycling of used batteries in an environmentally sound manner.

(3) Provision for collection, transporting, and proper disposal of used household batteries of the types listed in subparagraph (1) which are distributed, sold, or offered for retail sale in the state. For the purposes of this paragraph, "proper disposal" means disposal which complies with all applicable state and federal laws. All participants in the stream of commerce relating to the batteries, which are listed in subparagraph (1) and which are not designated as exempt pursuant to section 455D.10B, subsection 2, paragraph "c" or "d", shall, individually or collectively, be responsible for developing and operating a system for collecting and transporting used batteries to the appropriate dry cell battery manufacturer or to a site or facility designated by a manufacturer. Additionally, dry cell battery manufacturers shall be responsible for proper disposal of the used batteries.

b. To meet the recycling and disposal requirements of this subsection, participants in the systems established under this subsection, either individually or collectively, shall do all of the following:

(1) Identify a collection entity, other than a local government collection system, unless the local government agrees otherwise, through which the discarded batteries listed in paragraph "a", subparagraph (1) shall be returned for collection and recycling or disposal.

(2) Inform each customer of the prohibition of disposal of batteries listed in paragraph "a", subparagraph (1), and a safe and convenient return process available to the customer for recycling or proper disposal.

c. After July 1, 1996, nickel-cadmium, sealed lead acid, or mercuric oxide household batteries shall not be sold, distributed, or offered for sale in the state, unless a system required by this section is in operation.

d. The department may make recommendations to the commission to include other types of household or rechargeable batteries, not enumerated in paragraph "a", subparagraph (1), in the requirements of this subsection.

e. This subsection does not apply to batteries subject to regulation under the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.

4. RULES ADOPTED. The commission shall adopt, upon recommendation of the director, the rules necessary to carry out the provisions of this section pursuant to chapter 17A.

5. PENALTIES. A person violating a provision of this section is subject to a civil penalty of not more than ten thousand dollars per day of violation.

Sec. 16. NEW SECTION. 455D.10B BATTERIES USED IN RECHARGEABLE CONSUMER PRODUCTS.

1. A person shall not distribute, sell, or offer for retail sale in the state a rechargeable consumer product manufactured on or after January 1, 1994, unless all of the following conditions are met:

a. The battery can be easily removed by the consumer, or is contained in a battery pack that is separate from the product and can be easily removed.

b. The product, the battery, and the product package are clearly labeled to indicate that the battery must be recycled or disposed of properly, and meets the requirements of the international standards organization (ISO 7000-1135) recycling symbol which includes the designation "Cd" for nickel-cadmium batteries and "Pb" for small lead batteries.

2. A rechargeable consumer product manufacturer may apply to the department for exemption from the requirements of subsection 1 if any of the following apply:

a. The product cannot be redesigned or manufactured to comply with the requirements prior to January 1, 1994.

b. The redesign of the product to comply with the requirements would result in significant danger to public health and safety.

c. The battery poses no unreasonable hazard to public health, safety, or the environment when placed in and processed or disposed of as part of mixed municipal solid waste, pursuant to section 455D.10A.

d. The consumer product manufacturer has in operation a program to recycle used batteries in an environmentally sound manner.

3. An exemption granted by the department under subsection 2, paragraph "a" is limited to a maximum of two years, but may be renewed.

Sec. 17. NEW SECTION. 455D.20 LOCAL ORDINANCE – CURBSIDE COLLECTION.

A city council or county board of supervisors which provides for the collection of solid waste by its residents shall consider as a proposed ordinance, the mandatory curbside collection of recyclable materials which have been separated from other solid waste. The proposed ordinance shall be considered in accordance with chapter 331 or 380.

Sec. 18. Section 455E.11, subsection 2, paragraph a, Code Supplement 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (14) Notwithstanding the limitations of use of the fees imposed under section 455B.310 and retained by a city, county, public agency, or private agency under this section, moneys retained by the city, county, public agency, or private agency may be used to defray the cost of installation of a scale at a sanitary landfill or to defray the costs of closure of the sanitary landfill, the costs related to the establishment of a transfer station, or the costs of a hydrogeological plan.

Sec. 19. Sections 455D.17 and 455D.18, Code 1991, are repealed.

Sec. 20. LEACHATE CONTROL STUDY. The department shall conduct a study to determine the most efficient leachate control technology available or under development and shall make recommendations to the general assembly by January 15, 1993, regarding leachate control requirements for existing landfills for which no negative environmental impact has been demonstrated.

Approved May 19, 1992

CHAPTER 1216

REGULATION OF AQUACULTURE

H.F. 2334

AN ACT relating to the regulation of aquaculture by the department of natural resources, and by providing penalties for violations.

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

Section 1. Section 109.1, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 27. "Aquaculture" means the controlled propagation, growth, and harvest of aquatic organisms, including, but not limited to fish, amphibians, reptiles, mollusks, crustaceans, gastropods, algae, and other aquatic plants, by an aquaculturist.

NEW SUBSECTION. 28. "Aquaculturist" means an individual involved in producing, transporting, or marketing aquatic products from private waters for commercial purposes.

NEW SUBSECTION. 29. "Aquaculture unit" means all private waters for aquaculture with or without buildings, used for the purpose of propagating, raising, holding, or harvesting aquatic organisms for commercial purposes.

NEW SUBSECTION. 30. "Commercial purposes" means selling, giving, or furnishing to others.

NEW SUBSECTION. 31. "Private waters for aquaculture" means waters confined within an artificial containment, such as man-made ponds, vats, tanks, raceways, and other indoor or outdoor facilities constructed wholly within or on the land of an owner or lessee and used for aquaculture.

Sec. 2. Section 109.2, Code 1991, is amended to read as follows:

109.2 STATE OWNERSHIP AND TITLE — EXCEPTIONS.

The title and ownership of all fish, mussels, clams, and frogs in any of the public waters of the state, and in all ponds, sloughs, bayous, or other land and waters adjacent to any public waters stocked with fish by overflow of public waters, and of all wild game, animals, and birds, including their nests and eggs, and all other wildlife, found in the state, whether game or nongame, native or migratory, except deer in parks and in public and private preserves, the ownership of which was acquired prior to April 19, 1911, are hereby declared to be in the state, except as otherwise provided in this chapter ~~provided~~. The title and ownership of all ~~fish~~ aquatic organisms in ~~private fish hatcheries, as defined in section 109.64,~~ aquaculture units and private aquacultural waters shall be in private persons.

Sec. 3. NEW SECTION. 109.141 AQUACULTURE — LICENSE REQUIRED.

1. A person shall not engage in the business of aquaculture until that person has applied for and has been issued an aquaculture unit license from the department. The application period extends from January 1, or the date of the application, through December 31. A license shall not be issued to operate an aquaculture unit on private or nonmeandered lakes and streams

and ponds that may become stocked with fish from public waters or natural migration. A pond stocked by the department pursuant to section 109.78 shall not be used for aquaculture purposes.

2. The following persons must obtain an aquaculture unit license:

a. A person who, for commercial purposes, rears or maintains live animals or plants for food, bait, or for stocking in waters of the state.

b. An owner or operator of a pond where guests or customers are allowed to fish for a fee, or allowed to take fish without regard to angling licenses, seasons, gear restrictions, or bag limits.

3. The cultivation and sale of tropical fish species or ornamental aquatic plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems and utilized by the pet industry or hobbyists are exempt from license requirements.

Sec. 4. NEW SECTION. 109.142 LICENSED AQUACULTURE UNITS – ACTIVITIES ALLOWED.

A holder of an aquaculture unit license may:

1. Possess, propagate, buy, sell, deal in, and transport the aquatic organisms produced from breeding stock legally acquired, including minnows.

2. Sell fish for stocking purposes within or outside the state. Fish which are nonindigenous to Iowa shall not be received or sold in the state unless the aquaculture unit has obtained an importation permit from the department. The department shall establish, by rule, requirements governing importation, and shall include a list of approved aquaculture species. Failure to comply with this subsection will result in loss of license and a violator is subject to the scheduled fine provided in section 805.8.

3. Hold, feed, and sell carp, buffalofish, and other fish legally taken by commercial fishers.

4. Harvest aquatic life on land under control of the aquaculture unit with commercial devices without obtaining any permits for the devices.

5. Sell bait, including minnows, frogs, and clams, propagated or raised within the licensed unit without having to obtain a bait dealer's license. However, aquaculture units wishing to take bait from areas other than their licensed units must also obtain a bait dealer's license.

6. Take any gull, tern, or merganser within the bounds of the unit. An owner or operator of the licensed aquaculture unit, however, must first obtain a permit for this activity from the department or the United States fish and wildlife service. Each permittee shall file an annual report with the department which itemizes the birds taken during the period covered by the permit, and dispose of birds taken according to methods established by the department. The department shall not issue a subsequent permit to any person failing to file this report.

Sec. 5. NEW SECTION. 109.143 LICENSED AQUACULTURE UNITS – REQUIREMENTS.

1. Each licensed aquaculture unit shall prepare an annual report of all fish bought, sold, and shipped. The records shall include species name as well as the weight, volume, or count of fish involved. Reports shall be filed on or before December 31 of each year for the preceding year. The department may refuse to renew a unit license if the annual report is not provided.

2. Each licensed aquaculture unit shall secure its breeding stock from licensed aquaculture units or licensed aquaculturists in the state or from lawful sources outside the state. An aquaculture unit shall not secure stock in any other manner.

3. A shipment of fish must be accompanied by a duplicate of the sales invoice showing the name and address of the producer, date of shipment, the species being transported, the weight, volume, or count of each species being shipped and the name and address of the consignee. A duplicate of the sales invoice must be retained by the aquaculture unit or aquaculturist for one year following the sale.

4. A licensed aquaculture unit shall comply with all state laws pertaining to possession, taking, or selling of bait which it handles. The director may revoke the unit license of any person violating this subsection or a rule adopted by the department.

5. Minnow and bait boxes and tanks within licensed aquaculture units shall be open for inspection by the department at all times.

6. Aquaculture units shall not import live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon, or char) and ictalurid family (catfishes and bullheads), including hybrids, unless the owner or operator possesses a fish importation permit. For the species listed in this subsection only, importation permits shall not be issued unless the fish, eggs, or semen have been inspected by the department and found to be free of disease detrimental to the state's fishery resources. The owner or operator of an aquaculture unit must provide a statement certifying the fish listed in this subsection or their eggs or semen to be disease free, and include the date of inspection. Certification is not required for other fish species, but the department may require inspection at any time. The department shall establish, by rule, those diseases detrimental to the state's fishery resources and the location of authorized certified pathologists for inspection.

Sec. 6. NEW SECTION. 109.144 LICENSED BAIT DEALERS — REQUIREMENTS.

1. When taking bait from lakes and streams, bait dealers shall only take the size bait which they can use, and shall return all small minnows and frogs to the water immediately.

2. Minnow and bait boxes and tanks shall be open to inspection by the department at all times.

Sec. 7. NEW SECTION. 109.145 TAKING AND SELLING OF MINNOWS — REGULATIONS.

1. For the purposes of this section, "minnows" are defined as chubs, shiners, dace, stonerollers, mud minnows, redhorse, blunt-nose, and fathead minnows.

2. Except as otherwise provided in this chapter, a person shall not carry, transport, ship, or cause to be carried, transported, or shipped, any minnows outside the state which were taken in the state. Minnows which are bred, hatched, propagated, or raised on a licensed aquaculture unit may be transported outside the state. The director, however, may transport minnows pursuant to section 109.146. Green sunfish, orange-spotted sunfish, and gizzard shad may also be taken for bait.

3. A person shall not take or attempt to take minnows for commercial purposes from any water of the state, or transport the minnows without first procuring a bait dealer's license; however, a bait dealer's license shall not be required of persons taking minnows as bait for their individual use.

4. Minnow traps not exceeding thirty-six inches in length may be used when the taking of minnows is allowed. Each trap, when in use, shall have a metal tag attached plainly labeled with the owner's name and address.

5. A person shall not use a minnow dip net which exceeds fifteen feet in length or has a mesh size smaller than one-quarter inch bar measure. Licensed bait dealers may obtain a permit from the department to use minnow seines longer than fifteen feet, but not exceeding fifty feet in length.

6. The department may designate certain lakes and streams, and parts of them, from which minnow populations should be protected for the best management of the lakes or streams. If an investigation of a lake or stream or a portion of a lake or stream by the department indicates that the minnow population should be protected, the lake or stream or a portion of the lake or stream shall be closed to the taking of minnows for a period of time deemed advisable by the department.

Sec. 8. NEW SECTION. 109.146 AUTHORITY OF THE DIRECTOR.

The director may take any fish from the public waters of the state, at any time and in any manner, for the purpose of propagation or restocking other waters, or exchanging with fish and wildlife agencies of other states, the federal government, or licensed aquaculture units.

Sec. 9. NEW SECTION. 109.147 THEFT OF FISH.

All fish in an aquaculture unit are private property and are not the property of the state, and the theft of fish from an aquaculture unit is punishable as provided in section 714.2.

Sec. 10. Section 110.1, subsection 6, paragraph b, Code Supplement 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Aquaculture unit license, resident
..... $ 25.00

Sec. 11. Section 110.1, subsection 6, Code Supplement 1991, is amended by adding the following new paragraph after paragraph b and relettering the remaining paragraphs:

NEW PARAGRAPH. c. Nonresident aquaculture unit license
..... $ 50.00

Sec. 12. Section 805.8, subsection 5, paragraph d, Code 1991, is amended to read as follows:

d. For violations of sections 109.7, 109.47, 109.52, 109.53, 109.55, 109.58, 109.63, ~~109.64,~~ 109.76, 109.81, 109.90, 109.91, 109.97, 109.122, 109.126, 109.142, 109B.8, and 110.37, the scheduled fine is fifty dollars.

Sec. 13. Sections 109.49 and 109.64, Code 1991, are repealed.

Approved May 19, 1992

CHAPTER 1217

REGULATION OF PETROLEUM STORAGE TANKS AND RELATED PROVISIONS

H.F. 2417

AN ACT relating to groundwater professionals, exempting certain aboveground tanks from payment of the environmental protection charge and providing a refund, relating to the underground storage tank fund board and the board's authority for certain expenditures from the fund, relating to underground storage tank contracts by requiring public bid and board approval of certain contracts, relating to remedial authority of the department of natural resources, and providing an effective date.

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

Section 1. Section 422.43, subsection 11, unnumbered paragraph 3, as enacted by 1992 Iowa Acts, Senate File 2116,* section 406, is amended to read as follows:

For purposes of this subsection, "consultant services" means services provided, except as otherwise stated in this paragraph, by a person who purports to give expert or professional advice on any subject including, but not limited to, advice on audiovisual, business, computer and data processing, insurance, management, marketing, security, and weather and meteorology. "Consultant services" does not mean services provided by a person licensed, registered, or certified by boards listed in section 258A.1, or licensed under chapter 80A, 152A, 154C, 522, ~~or~~ 602, article 10, or registered under section 455G.18, if the services provided come within the purview of such person's license, registration, or certification.

Sec. 2. Section 424.2, subsections 5, 9, and 12, Code Supplement 1991, are amended to read as follows:

5. "Depositor" means the person who deposits petroleum into 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 if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

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 if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

*Chapter 1232 herein

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 if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

Sec. 3. Section 455G.4, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The director of the legislative fiscal bureau, or the director's designee. The director under this paragraph shall not participate as a voting member of the board.

Sec. 4. Section 455G.4, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 4. PUBLIC BID. All contracts entered into by the board, including contracts relating to community remediation, shall be awarded on a competitive basis to the maximum extent practical. In those situations where it is determined that public bidding is not practical, the basis for the determination of impracticability shall be documented by the board or its designee. This subsection applies only to contracts entered into on or after July 1, 1992.

NEW SUBSECTION. 5. CONTRACT APPROVAL.

a. The board shall approve any contract entered into pursuant to this chapter if the cost of the contract exceeds seventy-five thousand dollars.

b. A listing of all contracts entered into pursuant to this chapter shall be presented at each board meeting and shall be made available to the public. The listing shall state the interested parties to the contract, the amount of the contract, and the subject matter of the contract.

c. The board shall be required to review and approve or disapprove the administrator's failure to approve a contract under section 455G.12A. Review by the board shall not be required for cancellation or replacement of a contract for a site included in a community remediation project or when an emergency situation exists.

Sec. 5. Section 455G.5, unnumbered paragraph 1, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

The board shall administer the fund. A contract entered into on or after July 1, 1992, to retain a person to act as the administrator of the fund shall be subject to public bid. All other contracts to retain a person under this section shall be in compliance with the public bidding requirements of section 455G.4, subsection 4.

Sec. 6. Section 455G.6, subsection 15, Code 1991, is amended to read as follows:

15. a. Subject to the terms of any bond documents, moneys in the fund or fund accounts may be expended for administration expenses, civil penalties, moneys paid under an agreement, stipulation, or settlement, ~~and~~ for the costs associated with sites within a community remediation project, for costs related to contracts entered into with a state agency or university, costs for activities relating to litigation, or for the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.

b. The authority granted under this subsection which allows the board to expend fund moneys on an activity the board determines is necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter, shall only be used in accordance with the following:

(1) Prior board approval shall be required before expenditure of moneys pursuant to this authority shall be made.

(2) If the expenditure of fund moneys pursuant to this authority would result in the board establishing a policy which would substantially affect the operation of the program, rules shall be adopted pursuant to chapter 17A prior to the board or the administrator taking any action pursuant to this proposed policy.

Sec. 7. Section 455G.9, subsection 1, paragraph e, Code Supplement 1991, is amended by striking the paragraph.

Sec. 8. Section 455G.11, subsection 8, Code Supplement 1991, is amended to read as follows:

8. Account expenditures. Moneys in the insurance account may be expended ~~for the following purposes:~~

~~a.~~ ~~To~~ to take corrective action for and to compensate a third party for damages, including but not limited to payment of a judgment for bodily injury or property damage caused by a release from a tank, where coverage has been provided to the owner or operator from the insurance account, up to the limits of coverage extended. A personal injury is not a compensable third-party liability damage.

~~b. For the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.~~

Sec. 9. NEW SECTION. 455G.20 FINAL APPROVAL.

Notwithstanding any other provision to the contrary, the department of natural resources shall have final approval for a determination as to when remediation shall begin on a site.

Sec. 10. The department of revenue and finance shall refund the amount of the environmental protection charge on petroleum diminution paid pursuant to chapter 424, as authorized by 1991 Iowa Acts, chapter 252, section 2, for aboveground storage tanks located at retail motor vehicle fuel outlets that are not physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

Sec. 11. Sections 1, 2, and 10 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 19, 1992

CHAPTER 1218

WASTE TIRE MANAGEMENT

H.F. 2475

AN ACT relating to waste tire management, including the imposing of fees, providing a penalty, and providing an effective date.

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

Section 1. Section 9B.1, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A certificate of registration shall at all times be carried and displayed in the vehicle used for transportation of waste tires and shall be shown to a representative of the state department of transportation, upon request. The state department of transportation may inspect vehicles used for the transportation of waste tires and request that the certificate of registration of the waste tire hauler be shown, upon request.

Sec. 2. Section 455B.423, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For the administration of the waste tire collection or processing site permit program.

Sec. 3. Section 455D.11, subsection 1, paragraphs d and f, Code Supplement 1991, are amended to read as follows:

d. "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than ~~fifty~~ five hundred waste tires.

f. "Waste tire" means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect. "Waste tire" does not include a nonpneumatic tire.

Sec. 4. NEW SECTION. 455D.11A FINANCIAL ASSURANCE — WASTE TIRE COLLECTION OR PROCESSING SITES.

1. A person owning or operating a waste tire collection or processing site shall provide a financial assurance instrument to the department prior to the initial approval of a permit or prior to the renewal of a permit for an existing or expanding facility. The financial assurance instrument shall be used to provide for closure of the waste tire collection or processing facility.

2. The financial assurance instrument shall meet all requirements adopted by rule by the commission, and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department.

3. Financial assurance instruments may include instruments such as cash or surety bond, a letter of credit in a form prescribed by the department, or a secured trust fund.

3A. If the owner or operator of a waste tire collection or processing site chooses to provide financial assurance in the form of a surety bond, the bond shall be executed by a surety company authorized to do business in this state. The bond shall be continuous in nature until canceled by the surety. A surety shall provide at least ninety day's notice in writing to the owner or operator and to the department 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 compliance 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 an owner or operator in the amount of the surety bond. This subsection shall not limit the recovery of damages to 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. If a surety bond is canceled which has been provided as financial assurance under this subsection, the owner or operator of the waste tire collection or processing site shall demonstrate to the department within thirty days of the cancellation, a means of continued compliance with the financial assurance requirements of this section. If a means of continued compliance is not demonstrated within the thirty-day period, the department shall suspend the permit for the site, and the owner or operator shall perform proper closure of the site within thirty days. If the owner or operator does not properly close the site within the time period allowed, the department shall file a claim with the surety company, prior to the effective date of cancellation of the bond, to collect the amount of the bond for use in performing proper closure. A person who fails to provide for proper closure, notwithstanding collection by the department of the amount of the bond, is guilty of a serious misdemeanor.

4. Financial assurance shall be provided in the amounts as follows:

a. For a waste tire collection or processing site initially permitted on or after July 1, 1992, the financial assurance instrument for a waste tire collection site shall provide coverage in an amount which is equivalent to eighty-five cents per tire collected by the site and the financial assurance instrument for a waste tire processing site shall provide coverage in an amount which is equivalent to eighty-five cents per tire collected for processing by the site which is above the three-day processing supply of tires for the site as determined by the department.

b. For a waste tire collection or processing site in existence prior to July 1, 1992, a waste tire collection site shall provide a financial assurance instrument in an amount which is eighty-five cents per additional tire collected after July 1, 1992, and a waste tire processing site shall provide a financial assurance instrument in an amount which is eighty-five cents per additional tire collected for processing, above the three-day processing supply of tires for the site as determined by the department, after July 1, 1992.

c. Six months after the adoption of financial assurance rules by the department, for a waste tire collection or processing site in existence prior to July 1, 1992, the financial assurance instrument shall provide coverage in an amount which is equivalent to eighty-five cents per tire based upon one-half of the aggregate amount of tires collected prior to July 1, 1992, and remaining on site. One year after the adoption of financial assurance rules by the department, a waste tire collection or processing site shall provide a financial assurance instrument in an amount which is eighty-five cents per tire for all waste tires stored at the site above the three-day processing supply of tires.

5. The financial assurance instrument shall not be assigned for the benefit of creditors with the exception of the state, and shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site. The commission shall adopt rules to establish conditions under which the department may gain access to the financial assurance instrument.

6. The requirement for financial assurance shall not apply to waste tire collection or processing sites operated by a city or county, or operated in conjunction with a sanitary landfill.

Sec. 5. NEW SECTION. 455D.11B PERMITTING OF WASTE TIRE COLLECTION OR PROCESSING SITES — FEES.

An owner or operator of a waste tire collection or processing site, including an enclosed site, shall obtain a permit from the department prior to operation of the site. The owner or operator shall pay an annual fee of eight hundred fifty dollars to the department. The moneys collected by the department shall be deposited in the hazardous substance remedial fund established pursuant to section 455B.423 and shall be used for the purposes of administering the waste tire collection or processing site permit program.

Sec. 6. WASTE TIRE COLLECTION PILOT PROGRAM.

1. The waste management authority division of the department of natural resources shall establish a waste tire collection pilot program to promote the safe collection and disposal of waste tires, beginning July 1, 1992, and ending June 30, 1993. The following counties shall be included in the pilot program: Benton, Black Hawk, Carroll, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Lee, Linn, Marshall, Polk, Pottawattamie, Scott, Story, Wapello, Webster, Winnesheik, and Woodbury.

2. Moneys shall be allocated to the board of supervisors of a county for the establishment and implementation of the program. The board of supervisors shall work in cooperation with the city councils of the cities located within the county in developing and implementing the program, and may work with nonprofit organizations in implementing the program.

3. Notwithstanding section 455B.310, subsection 2, paragraph "b", subparagraphs (2) and (4), $300,000 of the moneys collected pursuant to subparagraph (2) and $233,000 of the moneys collected pursuant to subparagraph (4) are appropriated to the department of natural resources for the fiscal year beginning July 1, 1992, and ending June 30, 1993, to provide grants to counties for the development and implementation of waste tire collection pilot projects. Not more than $18,000 of the $233,000 collected pursuant to section 455B.310, subsection 2, paragraph "b", subparagraph (4), may be used by the department for administrative costs of the waste tire collection or processing site permit program.

Of the amount appropriated, the moneys shall be allocated as follows:

1. Counties with populations of less than 60,000 shall each be allocated $15,000.
2. Counties with populations of 60,000 through 110,000 shall each be allocated $30,000.
3. Counties with populations of 110,001 through 200,000 shall each be allocated $50,000.
4. Counties with populations of 200,001 or more shall each be allocated $65,000.

5. Each county participating in the pilot program is encouraged to promote the pilot program, to encourage nonprofit organization participation, and to generate local funding for the development and implementation of the initial program and for the continuation of the program.

6. The pilot program in each county shall be available to private citizens at no charge, and limitations regarding the number of waste tires accepted from an individual may be

established by each county. A pilot program shall not accept waste tires from tire dealers, distributors, or manufacturers, waste tire collection sites, waste tire haulers, or any other person who collects, stores, processes, or recycles waste tires for a profit. A county collecting waste tires shall not store the waste tires, but shall provide for the recycling, processing, or safe disposal of the waste tires collected, which shall not include disposal at a sanitary landfill.

7. Each county participating in the pilot program shall submit a report to the waste management authority division by September 1, 1993, which shall include an itemization of expenditures, a report of the volume of tires collected, and recommendations for the establishment of permanent waste tire collection programs or sites. Following receipt of the reports, the waste management authority division shall submit a compilation of the reports to the general assembly by January 15, 1994.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 19, 1992

CHAPTER 1219

INTERNAL REVENUE CODE REFERENCES

H.F. 2401

AN ACT updating the Iowa Code reference to the federal Internal Revenue Code and providing retroactive applicability and effective dates.

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

Section 1. Section 422.3, subsection 5, Code Supplement 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, ~~1991~~ 1992, whichever is applicable.

Sec. 2. This Act applies retroactively to January 1, 1991, for tax years beginning on or after that date.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 22, 1992

CHAPTER 1220

RETIREMENT INCENTIVES AND EFFICIENCY IN GOVERNMENT

H.F. 2454

AN ACT relating to efficiency in government and providing effective dates.

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

Section 1. Section 279.46, Code 1991, is amended to read as follows:

279.46 RETIREMENT INCENTIVES — TAX.

The board of directors of a school district may adopt a program for payment of a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees between fifty-nine and sixty-five years of age who notify the board of directors prior to March 1 of the fiscal year that they intend to retire not later than the next following June 30. An employee retiring under this section shall apply for a retirement allowance under chapter 97B or chapter 294. If the total estimated accumulated cost to a school district of the health or medical insurance coverage, bonus, or other incentives for employees who retire under this section does not exceed the estimated savings in salaries and benefits for employees who replace the employees who retire under the program, the board may include in the district management levy an amount to pay the costs of the program provided in this section.

Sec. 2. PARTICIPATION IN HEALTH OR MEDICAL INSURANCE PROGRAMS BY RETIREES AGE FIFTY-FIVE OR OLDER.

1. As used in this section, unless the context otherwise requires:

a. "Health or medical insurance program" means a health or medical group insurance plan for employees of the state.

b. "Member" means an employee of the executive branch of the state or the judicial branch of the state who is a member of the Iowa public employees' retirement system or the Iowa department of public safety peace officers' retirement, accident, and disability system, who at the date of termination of employment is receiving full health or medical insurance benefits pursuant to a health or medical insurance program in which the state makes contributions, and is not receiving disability payments under the state employees' disability insurance program, and who is not a member of the general assembly. "Member" does not mean an employee of the state board of regents.

2. A member with at least twenty years of membership service who retires on or after May 15, 1992, and before January 15, 1993, who applies to receive retirement benefits under this Act prior to January 15, 1993, who has attained at least the age of fifty-nine 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 the health or medical insurance program in which the member is enrolled on April 1, 1992, as authorized by law. However, a member may choose to participate in a health or medical insurance program after April 1, 1992, which incurs less cost to the state. Notwithstanding any other provision of law to the contrary, the state shall continue to pay the employer's portion of the premium at the cost existing at the time of retirement under the program for the retiree until the retiree attains the age of sixty-five. Any additional premium costs for coverage incurred after the time of retirement shall be paid by the retiree. 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 after the effective date of this section and prior to November 15, 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. However, this subsection shall not apply to a member who is elected to a public office as defined in chapter 56.

4. A state department shall not be required to delete more than its proportionate share of all general fund full-time equivalent 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 originating fund 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 revenue and finance 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 the vacancy with a position or positions determined by the department of management to be of an equal value, and delete that position or positions. 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 vacancy. It is the intent of the general assembly that retirement taken pursuant to this section be used to eliminate the greatest number of employment positions as is feasible. The department of management shall report to the legislative fiscal bureau and the fiscal committee of the legislative council the number of vacancies retained and filled pursuant to this subsection.

It is the intent of the general assembly that the cost of premiums incurred by a state department be included within that department's annual budget and be paid from originating funds.

Sec. 3. INITIATIVES FOR EFFICIENCY IN STATE GOVERNMENT – SPAN OF CONTROL AND LAYERS OF MANAGEMENT, JOB CLASSIFICATION SYSTEM, AND TOTAL QUALITY MANAGEMENT. It is the intent of the general assembly to restore the confidence of citizens of Iowa in the value of their investment in state government, to improve efficiency and productivity of state government, and to instill in all state employees pride for their work. The general assembly supports the concept of total quality management achieved through an incremental long-term process involving employee teams examining and improving work procedures, using data-based problem-solving tools to analyze work systems, and making improvements which enhance service to the citizens of Iowa. In order to accomplish these goals, the following initiatives shall be performed:

1. SPAN OF CONTROL AND LAYERS OF MANAGEMENT. The department of personnel, in consultation with the department of management, shall, after discussion and collaboration with executive branch agencies, reduce the layers of management in executive branch agencies in the aggregate from those existing on July 1, 1991, by at least 50 percent by July 1, 1994, and increase the ratio of number of employees per supervisor for executive branch agencies in the aggregate from those existing on July 1, 1991, by up to 50 percent by July 1, 1993. The department shall present an interim report to the general assembly by April 1, 1993, and a final report by April 1, 1994, regarding the progress of the department in completing this task and its outcome.

However, before any reduction in layers of management is implemented, the department of personnel shall notify the legislative fiscal committee of the legislative council regarding the proposed reduction. The notification shall include all of the following: a description of the proposed reduction; a list of the positions and employment responsibilities to be eliminated or reduced; a list of activities to be eliminated or reduced; and an estimate of savings expected to result from the reduction of layers of management. The legislative fiscal committee shall report to the legislative council concerning notifications received pursuant to this paragraph.

2. JOB CLASSIFICATION SYSTEM. The department of personnel shall evaluate the state's system of job classification for state employees in order to ensure the existence of technical skill-based career paths in state employment which do not depend on an employee gaining supervisory responsibility to gain advancement, and which provide incentives for state employees to broaden their knowledge and skill base. The department shall include in its review the elimination of obsolete, duplicative, or unnecessary job classifications. The department shall present interim reports to the general assembly by January 15, 1993, and January 15, 1994, regarding the progress of the department in completing this task and its outcome.

3. PRIORITIES IN IMPLEMENTATION. In implementation of this section, priority shall be given to elimination or reduction of middle management employee positions. In addition, prior to the elimination of employee positions other than middle management positions or positions eliminated due to early retirement, priority shall be given to elimination or deferral by executive branch agencies of purchases and out-of-state travel.

The department of management shall report quarterly to the fiscal committee of the legislative council and to the legislative fiscal bureau regarding out-of-state travel authorized by executive branch agencies including a listing by agency of personnel authorized to travel, and the cost and purpose of the travel authorized.

Sec. 4. EFFECTIVE DATES. Sections 1 and 2 of this Act take effect upon enactment.

Approved May 22, 1992

CHAPTER 1221

FAMILY RESOURCE CENTERS

H.F. 2467

AN ACT to establish a family resource center demonstration program.

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

Section 1. LEGISLATIVE INTENT. It is the intent of the general assembly to provide the means by which the state of Iowa can achieve the national education goal that states every child should start school ready to learn. It is also the intent of the general assembly to strengthen partnerships between schools and parents and schools and the community, to coordinate existing services to families in order that services can be provided in a cost-effective manner, and to promote strong and responsible family relationships. The family resource center demonstration program should be established to enable this state to develop ways to successfully meet these goals.

Sec. 2. Section 256.9, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 46. Cooperate with the child development coordinating council in establishing the family resource center demonstration program. Assistance may include, but is not limited to, providing or directing the area education agencies to provide technical assistance to school districts in establishing and maintaining the services specified in section 256B.3, and recommending rules for adoption by the state board relating to the development of family resource centers in school districts. Technical assistance shall include, but is not limited to, assistance to local districts in developing an appropriate financial package that will permit the districts to set up and maintain a family resource center.

Sec. 3. Section 256A.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Cooperate with the department of education in establishing the family resource center demonstration program. Assistance shall include, but is not limited to, identification of various funding sources which, in addition to or in combination with state funds, can be used to support the services provided in a family resource center demonstration program and the development of recommended approaches for obtaining and blending funds from various sources.

Sec. 4. NEW SECTION. 256B.1 FAMILY RESOURCE CENTER DEMONSTRATION PROGRAM ESTABLISHED.

The department of education, in conjunction with the child development coordinating council, shall establish and coordinate a family resource center demonstration program to provide comprehensive child development and child care services, remedial educational and literacy services, and supportive services to parents who are recipients of aid to families with dependent children and other parents in need of services. The program shall provide for the establishment of family resource centers by the school year commencing July 1, 1993, which shall be located in at least three public schools, one located in a large school district, one in a medium-sized school district, and one in a small school district. For purposes of this section a large school district is a district with an actual enrollment of five thousand or more pupils; a medium-sized school district is a district with an actual enrollment that is greater than one thousand one hundred ninety-nine pupils, but less than five thousand pupils; and a small school district is a district with an actual enrollment of one thousand one hundred ninety-nine or fewer pupils.

Sec. 5. NEW SECTION. 256B.2 GRANT CRITERIA — ADVISORY COMMITTEES.

The child development coordinating council shall develop the criteria and process to be used in selecting school district grant recipients. Criteria for the selection shall include the service requirements contained in section 256B.3, a requirement that the program administrator in each district's center have at least two years of experience in early childhood development and a master's degree in home economics, and a method for prioritizing grant applications based on illustrated efforts to meet the critical social welfare needs of the children and families in the surrounding community. Critical social welfare needs that may entitle a grant application to priority, if the application including methods of amelioration of an identified community problem, shall include, but are not limited to, a significant infant mortality rate in the community, a significant rate of incidence of teenage pregnancy in the community, a significant number of single-parent families in the community that are living below the federal poverty guidelines, a lack of available affordable child care within the community, a significant number of children qualifying for free or reduced price lunches within the district, and a significant illiteracy rate within the community. The department shall assist the council in creating a grant application process and shall provide technical assistance to districts chosen to establish a family resource center. The process shall include, but is not limited to, a process through which grant recipients may renew their grant application for purposes of receiving funds in succeeding years.

Each school district that receives a grant and establishes a family resource center, as part of the district program, shall also establish an advisory committee to the center that shall advise the center on program and services planning and development. The advisory committee shall also establish service goals for the center and create an evaluation process to permit the committee to assess the center's progress toward achieving the goals. A majority of the members of each advisory committee shall consist of parents who participate in programs or receive services at the center. Other members of the committee may include, but are not limited to, school officials, home economists, child care providers, public or private child and family service agency providers, recreational service providers, health care professionals, and other members of the community.

Sec. 6. NEW SECTION. 256B.3 FAMILY RESOURCE CENTERS — SERVICES PROVIDED.

Each family resource center shall provide all of the following:

1. Child development and education services that meet the requirements established for early childhood programs under chapter 256A.

2. All-day child care for children ages three and older who are not enrolled in school, before and after school child care for children ages twelve and younger who are enrolled in school during the time school is in session, and full-day child care for children ages twelve and younger who are enrolled in school during the time when school is not in session. All child care shall comply with federal and state child day care requirements.

3. Support services to parents of newborn infants to ascertain the parents' and infants' needs, provide the parents and infants with referrals to other services and organizations, and, if necessary, provide education in parenting skills to parents of newborn infants.

4. Support and educational services to parents whose children are participants in the child care services portion of the family resource center demonstration program and who are interested in obtaining a high school diploma or a high school equivalency diploma under chapter 259A. Parents and their preschool age children may attend classes in parenting and child learning skills together so as to promote the mutual pursuit of education and to enhance interaction between parent and child.

5. Training, technical assistance, and other support by the family resource center staff to family day care providers in the community. The center may serve as an information and referral clearinghouse for other child care needs and services in the community and shall coordinate the center's information and efforts with any child care delivery systems that may already exist in the community. The center may also provide an adolescent pregnancy prevention program for adolescents emphasizing responsible decision making and communication skills.

6. Other services deemed necessary or appropriate by the advisory committee.

7. A sliding scale for payment of child day care expenses provided at the family resource center based on an individual's ability to pay for services.

A family resource center shall coordinate services provided with existing federal, state, and local programs both to avoid duplication and to provide continuity of services. A family resource center shall, if possible, be located in a school building or in an existing community facility. Regardless of where the center is located, the school district shall be the primary decision-making body in any partnership established to create a family resource center. The establishment of a family resource center is a comprehensive school transformation program under chapter 294A.

Sec. 7. DEPARTMENTAL REVIEW. The department of education shall review the provisions of this Act, develop estimates of the costs associated with the establishment of at least three family resource center demonstration sites, and recommended funding sources for the establishment of the centers in the manner provided in this Act. The department shall report the cost estimates and the funding recommendations to the general assembly by January 1, 1993.

Approved May 26, 1992

CHAPTER 1222

MOTOR VEHICLE REGISTRATION FEES

H.F. 2477

AN ACT relating to motor vehicle registration fees and providing for income tax deductions for a portion of those fees and providing effective date and applicability provisions.

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

Section 1. Section 321.109, subsection 1, Code 1991, as amended by 1992 Iowa Acts, Senate File 2116,* section 401, and 1992 Iowa Acts, Senate File 2346,** section 1, is amended to read as follows:

1. The annual fee for all motor vehicles including vehicles designated by manufacturers as station wagons, and 1993 and subsequent model years for multipurpose vehicles, except motor trucks, motor homes, ~~multipurpose vehicles,~~ ambulances, hearses, motorcycles, ~~and~~ motor bicycles, and 1992 and older model years for multipurpose vehicles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or

*Chapter 1232 herein

**Chapter 1019 herein

fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ten dollars, issue a certificate of title in the name and address of the nonresident purchaser delivering the same to the person entitled to the title as provided in this chapter. The provisions of this subsection relating to multipurpose vehicles are effective January 1, 1993, for all 1993 and subsequent model years. The annual registration fee for multipurpose vehicles that are 1992 model years and older shall be in accordance with section 321.124.

The annual registration fee for a vehicle with permanently installed equipment manufactured for and necessary to assist a handicapped person who is either the owner or a member of the owner's household in entry and exit of the vehicle shall be seventy-five dollars for the first through fifth model years and shall be fifty-five dollars for each model year thereafter. To qualify under this paragraph, the owner's income and earnings must not exceed one hundred fifty percent of the federal poverty level as published by the United States department of health and human services.

Sec. 2. Section 321.124, subsection 3, Code 1991, as amended by 1992 Iowa Acts, Senate File 2116,* section 402, and 1992 Iowa Acts, Senate File 2346,** section 2, is amended to read as follows:

3. The annual registration fee for motor homes and 1992 and older model years for multipurpose vehicles is as follows:

a. For class "A" motor homes with a list price of eighty thousand dollars or more as certified to the department by the manufacturer, four hundred dollars for registration each year through five model years and three hundred dollars for each succeeding registration.

b. For class "A" motor homes with a list price of forty thousand dollars or more but less than eighty thousand dollars as certified to the department by the manufacturer, two hundred dollars for registration each year through five model years and one hundred fifty dollars for each succeeding registration.

c. For class "A" motor homes with a list price of twenty thousand dollars or more but less than forty thousand dollars as certified to the department by the manufacturer, one hundred forty dollars for the first five registrations and one hundred five dollars for each succeeding registration.

d. For class "A" motor homes with a list price of less than twenty thousand dollars as certified to the department by the manufacturer, one hundred twenty dollars for registration each year through five model years and eighty-five dollars for each succeeding registration.

e. For a class "A" motor home which is a passenger-carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters, ninety dollars for registration each year through ten model years and sixty-five dollars for each succeeding registration. In computing the number of registrations, the registrations shall be cumulative beginning with the registration of the class "A" motor home as a motor truck prior to its conversion, modification, or alteration to provide temporary living quarters.

*Chapter 1232 herein

**Chapter 1019 herein

f. For class "B" motor homes, ninety dollars for registration each year through five model years and sixty-five dollars for each succeeding registration.

g. For class "C" motor homes, one hundred ten dollars for registration each year through five model years and eighty dollars for each succeeding registration.

h. For multipurpose vehicles in accordance with the following:

(1) Two hundred dollars for registration for the first and second model years.

(2) One hundred seventy-five dollars for registration for the third and fourth model years.

(3) One hundred fifty dollars for registration for the fifth model year.

(4) Seventy-five dollars for registration for the sixth model year.

(5) Fifty-five dollars for registration for each succeeding model year.

(6) The annual registration fee for a multipurpose vehicle with permanently installed equipment manufactured for and necessary to assist a handicapped person who is either the owner or a member of the owner's household in entry and exit of the vehicle shall be seventy-five dollars for the first through fifth model years and shall be fifty-five dollars for each model year thereafter. To qualify under this subparagraph, the owner's income and earnings must not exceed one hundred fifty percent of the federal poverty level as published by the United States department of health and human services.

The registration fees required by this lettered paragraph are applicable to all 1992 and older model years for multipurpose vehicles beginning January 1, 1993. The registration fees for multipurpose vehicles that are 1993 and subsequent model years shall be in accordance with section 321.109.

For purposes of determining that portion of the annual registration fee which is based upon the value of the multipurpose vehicle, sixty percent of the annual fee is attributable to the value of the vehicle.

Sec. 3. Section 321.159, Code 1991, is amended to read as follows:

321.159 EXCEPTIONAL CASES.

The department shall have the power to fix the registration fee on all makes and models of ~~cars~~ motor vehicles which are not now being furnished or upon which the statement from the factory cannot be obtained.

Sec. 4. Section 422.9, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. To the extent not otherwise included pursuant to section 164 of the Internal Revenue Code, add the amount of the annual registration fee paid for a multipurpose vehicle pursuant to section 321.124, subsection 3, paragraph "h", which is based upon the value of the vehicle. For purposes of this paragraph, sixty percent of the amount of the registration fee is based upon the value of the multipurpose vehicle.

Sec. 5. Section 422.35, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. To the extent not otherwise included pursuant to section 164 of the Internal Revenue Code, subtract the amount of the annual registration fee paid for a multipurpose vehicle pursuant to section 321.124, subsection 3, paragraph "h", which is based upon the value of the vehicle. For purposes of this subsection, sixty percent of the amount of the registration fee is based upon the value of the vehicle.

Sec. 6. Except for sections 4 and 5 of this Act, this Act takes effect January 1, 1993. Sections 4 and 5 of this Act, being deemed of immediate importance, take effect upon enactment, and apply retroactively to January 1, 1992, for tax years beginning on or after that date.

Approved May 26, 1992

CHAPTER 1223

STATE ASSISTANCE FOR FEDERAL PROJECT

H.F. 2481

AN ACT relating to authorizing the use of state income tax withholding moneys for debt service costs incurred in funding capital improvements for purposes of a federal project and providing a repeal date.

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

Section 1. NEW SECTION. 15A.6 STATE ASSISTANCE FOR FEDERAL PROJECT.

1. The general assembly finds and declares that:

a. The planned United States department of defense consolidation of its finance and accounting services at a few sites within the United States offers a rare opportunity for economic growth in those states and communities in the states where consolidation occurs.

b. The economic growth for the state would involve the direct creation of potentially two thousand to two thousand five hundred jobs for Iowa residents and indirect jobs of potentially double the direct ones.

c. The increase in state and local taxes, including income, sales and use, and property taxes, will provide an additional boost to the well-being of the state and its communities.

d. Any financial assistance which the state or a local community may provide in order to obtain a consolidation site within or adjacent to the borders of the state will be for the well-being and benefit of the residents of the state and will be spent for a public purpose.

e. For purposes of this section, an island located in a river which borders the state is declared to be adjacent to the borders of the state.

2. In order to assist a community or communities located in the state within the quad cities area in attracting the United States department of defense finance and accounting services project to locate within or adjacent to the borders of the state, the state of Iowa makes available, to the extent provided in subsection 3, to the community or communities moneys which will be withheld, for Iowa state income tax purposes, from the salaries, wages, and benefits of the individuals in the new jobs created as a result of such federal project locating within or adjacent to the borders of the state. The state assistance shall only be available to pay the debt services costs of bonds issued by the quad cities regional economic development authority on behalf of the community or communities to fund the construction, rehabilitation, expansion, and remodeling of facilities which will be used for the federal department of defense defense* finance and accounting services project. As a condition for the providing of state assistance, the community or communities shall participate in the locating of the federal project within or adjacent to the border of the state by providing money, land, services, or other contributions. However, the bonds issued, for which state assistance is available to pay the debt services costs, shall be scheduled to mature within a period not exceeding twenty-five years.

3. Before state assistance shall be available, an agreement authorizing a new jobs credit from withholding shall be entered into between the department of revenue and finance, the quad cities regional economic development authority, and the employer of the individuals for the federal project. The agreement shall take into consideration a provision to assign the liability, in regard to the new jobs credit, where the employer does not maintain the number of jobs for the number of years claimed. The agreement shall specify the date of maturity of the bonds, which maturity date shall not exceed twenty-five years from the date of issuance. The agreement providing for the debt services costs to be paid by receipt of the new jobs credit from withholding shall be done as follows:

a. The new jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs at the federal project.

b. An amount equal to two percent of the gross wages paid by the employer to each employee at the federal project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than two percent of

*According to enrolled Act

the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue and finance, to the quad cities regional economic development authority to be allocated to and when collected paid into a special fund of the authority to pay the principal of and interest on the bonds issued to finance in whole or in part, the project. When the principal and interest on the bonds have been paid, the employer credits shall cease and any money received after the bonds have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

c. The new jobs credit from withholding and the special fund into which it is paid, may be irrevocably pledged by the authority for the payment of the principal of and interest on the bonds issued to finance, in whole or in part, the federal project.

d. The employer shall certify to the department of revenue and finance that the credit in withholding is in accordance with an agreement and shall provide other information the department may require.

e. The authority shall certify to the department of revenue and finance the amount of the new jobs credit from withholding an employer has remitted to the special fund and shall provide other information the department may require.

f. An employee at the federal project shall receive full credit for the amount withheld as provided in section 422.16.

4. This section is repealed January 1, 1996, unless an agreement to provide for a new jobs credit from withholding under this section is entered into prior to that date.

Approved May 26, 1992

CHAPTER 1224

INTERSTATE INCOME TAX AGREEMENTS

H.F. 2483

AN ACT relating to interstate income tax agreements and the withholding of income tax from or the reporting of pensions, annuities, or deferred compensation paid to nonresidents and providing effective and retroactive applicability provisions.

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

Section 1. Section 422.8, subsection 2, Code 1991, is amended to read as follows:

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. If a business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "j" and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state. ~~However, income received by an individual who is a resident of another state is not allocated to Iowa if the income is subject to an income tax imposed by the state where the individual resides, and if the state of residence allows a similar exclusion for income received in that state by residents of Iowa. In order~~

~~to implement the exclusions, the director shall designate by rule the states which allow a similar exclusion for income received by residents of Iowa, and may enter into agreements with other states to provide that similar exclusions will be allowed, and to provide suitable withholding requirements in each state.~~

Sec. 2. Section 422.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The director may, when cost-efficient, administratively feasible, and of mutual benefit to both states, enter into reciprocal agreements with tax administration agencies of other states to further tax administration and eliminate duplicate withholding by exempting from Iowa taxation income earned from personal services in Iowa by residents of another state, if the other state provides a tax exemption for the same type of income earned from personal services by Iowa residents in the other state. For purposes of this subsection, "income earned from personal services" means wages, salaries, commissions, and tips, and earned income from other sources. This subsection does not authorize the department to withhold taxes on deferred compensation payments, pension distributions, and annuity payments when paid to a nonresident of the state of Iowa. All the terms of the agreements shall be described in the rules adopted by the department.

Sec. 3. Section 422.15, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding subsections 1, 2, and 3, or any other provision of this chapter, withholding of income tax and any reporting requirement shall not be imposed upon a person, corporation, or withholding agent or any payor of deferred compensation, pensions, or annuities with regard to such payments made to a nonresident of the state.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992, for tax years beginning on or after that date.

Approved May 26, 1992

CHAPTER 1225

TAXATION OF SPECULATIVE SHELL BUILDINGS

H.F. 2484

AN ACT relating to speculative shell buildings by allowing a for-profit entity to receive a property tax exemption for the building under certain circumstances and allowing accelerated depreciation of the building for income tax purposes and providing applicability date provisions.

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

Section 1. Section 422.7, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Add depreciation taken for federal income tax purposes on a speculative shell building defined in section 427.1, subsection 41 which is owned by a for-profit entity and the for-profit entity is receiving the proper tax exemption. Subtract depreciation computed as if the speculative shell building were classified as fifteen-year property under the accelerated cost recovery system of the Internal Revenue Code during the period during which it is owned by the for-profit entity and is receiving the property tax exemption. However, this subsection does not apply to a speculative shell building which is used by the for-profit entity, subsidiary of the for-profit entity, or majority owners of the for-profit entity, for other than as a speculative shell building, as defined in section 427.1, subsection 41.

Sec. 2. Section 422.35, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Add depreciation taken for federal income tax purposes on a speculative shell building defined in section 427.1, subsection 41 which is owned by a for-profit entity and the for-profit entity is receiving the proper tax exemption. Subtract depreciation computed as if the speculative shell building were classified as fifteen-year property during the period during which it is owned by the taxpayer and is receiving the property tax exemption. However, this subsection does not apply to a speculative shell building which is used by the taxpayer, subsidiary of the taxpayer, or majority owners of the taxpayer, for other than as a speculative shell building, as defined in section 427.1, subsection 41.

Sec. 3. Section 427.1, subsection 41, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

New construction of shell buildings by community development organizations or for-profit entities for speculative purposes or the portion of the value added to buildings being reconstructed or renovated by community development organizations or for-profit entities in order to become speculative shell buildings. The exemption or partial exemption shall be allowed only pursuant to ordinance of a city council or board of supervisors, which ordinance shall specify if the exemption will be available for community development organizations, for-profit entities, or both, and shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value and all subsequent years until the property is leased or sold or for a specific time period stated in the ordinance or until the exemption is terminated by ordinance of the city council or board of supervisors which approved the exemption. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. However, an exemption shall not be granted a speculative shell building of a for-profit entity if the building is used by the for-profit entity, subsidiary of the for-profit entity, or majority owners of the for-profit entity for other than as a speculative shell building. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to an exemption under this subsection for subsequent years. An application shall be filed pursuant to section 427B.4 for each project for which an exemption is claimed. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of section 427B.1 if used for purposes set forth in section 427B.1.

Sec. 4. Section 427.1, subsection 41, paragraphs b and c, Code Supplement 1991, are amended to read as follows:

b. "New construction" means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New construction" also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations or for-profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval from the city council of the city or county board of supervisors of the county.

c. "Speculative shell building" means a building or structure owned and constructed or reconstructed by a community development organization or a for-profit entity without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

Sec. 5. Section 1 of this Act applies retroactively to January 1, 1992, for tax years beginning on or after that date. Section 2 of this Act applies to tax years beginning on or after July 1, 1992.

Approved May 26, 1992

CHAPTER 1226

EMERGENCY MEDICAL SERVICES

H.F. 2400

AN ACT relating to the funding for emergency medical services, authorizing a county to impose a local option tax or combination of taxes to provide local funding, and authorizing the establishment of benefited emergency medical services districts.

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

Section 1. Section 298.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

For each fiscal year, the cumulative total of the percents of surtax approved by the board of directors of a school district and collected by the department of revenue and finance under sections 257.21, 257.29, 279.54, and 298.2, and the enrichment surtax under section 442.15, Code 1989, and an income surtax collected by a political subdivision under chapter 422C, shall not exceed twenty percent.

Sec. 2. NEW SECTION. 357F.1 DEFINITIONS.

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

1. "District" means a benefited emergency medical services district.
2. "Board" means the board of supervisors of a county.
3. "Trustee" means a trustee of a district.

Sec. 3. NEW SECTION. 357F.2 PETITION FOR PUBLIC HEARING.

1. The board shall, on the petition of twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. The petition shall include a statement containing the following information:

a. The need for emergency medical services.

b. The district to be served.

c. The approximate number of families in the district.

d. The proposed personnel, equipment, and facilities to provide the emergency medical services.

2. The board of supervisors may require a bond of the petitioners conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not established.

Sec. 4. NEW SECTION. 357F.3 LIMITATION ON AREA.

A district may include all or parts of the unincorporated areas of one township and any unincorporated areas of adjoining townships or parts of adjoining townships, but shall not include property assessed as agricultural land, or centrally assessed property.

Sec. 5. NEW SECTION. 357F.4 TIME OF HEARING.

The public hearing required in section 357F.2 shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication in two successive issues of any paper of general circulation within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 6. NEW SECTION. 357F.5 ACTION BY BOARD.

After, and within ten days of, the hearing, the board shall either establish the district by resolution or disallow the petition.

Sec. 7. NEW SECTION. 357F.6 ENGINEER.

1. When the board establishes a district, the board shall appoint a competent disinterested civil engineer, who shall prepare a preliminary plat showing:

a. The proper design in general outline of the district.

b. The lots and parcels of land within the proposed district as they appear on the county auditor's plat books with the names of the owners.

c. The assessed valuation of the lots and parcels.

2. The compensation of the engineer on the preliminary investigation shall be determined by the board. The engineer shall file a report with the county auditor within thirty days of appointment. The board may extend the time upon good cause shown.

Sec. 8. NEW SECTION. 357F.7 HEARING ON ENGINEER'S REPORT.

After the engineer's report is filed, the board shall give notice as provided in section 357F.4, of a public hearing to be held concerning the engineer's preliminary plat.

Sec. 9. NEW SECTION. 357F.8 ELECTION ON PROPOSED LEVY.

When a preliminary plat has been approved by the board, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than one dollar per thousand dollars of assessed value on all the taxable property within the district and to choose candidates for the offices of trustees of the district. The ballot shall set out the reason for the tax and the amount needed. The tax shall be set to raise only the amount needed. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357F.4. The vote shall be by ballot which shall state clearly the proposition to be voted upon and any qualified elector residing within the district at the time of the election may vote. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this chapter. Judges shall be appointed to serve without pay by the board from among the qualified electors of the district to be in charge of the election. The proposition is approved if sixty percent of those voting on the proposition vote in favor of it.

Sec. 10. NEW SECTION. 357F.9 TRUSTEES — TERM AND QUALIFICATION.

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. 11. NEW SECTION. 357F.10 TRUSTEES' POWERS.

The trustees may purchase, own, rent, or maintain emergency medical services apparatus or equipment within the state or outside the territorial jurisdiction and boundary limits of this state, provide housing for such apparatus and equipment, provide emergency medical service and facilities, and may certify for levy an annual tax as provided in section 357F.8. The trustees may purchase material, employ emergency medical service and other personnel, and may perform all other acts necessary to properly maintain and operate the district. The trustees may contract with any city or county or public or private agency under chapter 28E for the purpose of providing emergency medical services under this chapter. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Sec. 12. NEW SECTION. 357F.11 BONDS IN ANTICIPATION OF REVENUE.

A district may anticipate the collection of taxes by the levy authorized in this chapter, and to carry out the purposes of this chapter may issue bonds payable in not more than ten equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this chapter until authorized by an election. The election shall be held and notice given in the same manner as provided in section 357F.8, and the same sixty percent vote shall be necessary to authorize indebtedness. Both propositions may be submitted to the voters at the same election.

Sec. 13. NEW SECTION. 357F.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. 14. NEW SECTION. 357F.13 INCORPORATION OF DISTRICT LAND.

If part of a district is incorporated by a city and there are outstanding indebtedness obligations against the district, the city shall pay the outstanding obligations against the part of the district which is incorporated by the city.

Sec. 15. NEW SECTION. 357F.14 ADDING PROPERTY TO DISTRICT.

The owner of any property in an unincorporated area contiguous to the boundaries of an established district may petition the board to be included in the district. Upon receipt of the petition, the board shall submit the request to a competent disinterested civil engineer to investigate the feasibility of adding the additional territory and to make a report to the board. If the board agrees that the property should be added to the district, the tax levy for the next year shall be applied to the property and on the first day of the next fiscal year the property shall become a part of the district. If the district lies in more than one county the joint action of the boards involved is required to add additional territory.

Sec. 16. NEW SECTION. 357F.15 DETERMINATION OF FEE.

1. The owner of any property joining an established district shall pay to the trustees of the district an initial fee to be computed as follows:

a. The trustees shall first determine fair market value of all property and improvements owned by the district, less any indebtedness.

b. The board shall then determine the assessed value of all property in the district which is not assessed as agricultural land. This shall be divided into the value determined in paragraph "a".

c. The board shall determine the assessed value of the property of each landowner joining the established district which is not assessed as agricultural land.

d. The result obtained in paragraph "b" shall be multiplied by the result obtained in paragraph "c". The result shall be the initial fee to be charged each landowner.

2. The initial fees paid to the trustees shall be used to help defray the cost and maintenance of the district's emergency medical services.

Sec. 17. NEW SECTION. 422C.1 AUTHORIZATION — ELECTION — IMPOSITION AND REPEAL — USE OF REVENUES.

1. A county board of supervisors may offer for voter approval any of the following taxes or a combination of the following taxes:

a. Local option income surtax.

b. An ad valorem property tax.

Revenues generated from these taxes shall be used for emergency medical services as provided in section 422C.6.

2. The taxes for emergency medical services shall only be imposed after an election at which a majority of those voting on the question of imposing the tax or combination of taxes specified in subsection 1, paragraph "a" or "b" vote in favor of the question. However, the tax or combination of taxes specified in subsection 1 shall not be imposed on property within or on residents of a benefited emergency medical services district under chapter 357F. The question of imposing the tax or combination of the taxes may be submitted at the regular city election, a special election, or state general election. Notice of the question shall be provided by publication at least sixty days before the time of the election and shall identify the tax or combination of taxes and the rate or rates, as applicable. If a majority of those voting on the question approve the imposition of the tax or combination of taxes, the tax or combination of taxes shall be imposed as follows:

a. A local option income surtax shall be imposed for tax years beginning on or after January 1 of the fiscal year in which the favorable election was held.

b. An ad valorem property tax shall be imposed for the fiscal year in which the election was held.

Before a county imposes an income surtax as specified in subsection 1, paragraph "a", a benefited emergency medical services district in the county shall be dissolved, and the county shall be liable for the outstanding obligations of the benefited district. If the benefited district extends into more than one county, the county imposing the income surtax shall be liable for only that portion of the obligations relating to the portion of the benefited district in the county.

3. Revenues received by the county from the taxes imposed under this chapter shall be deposited into the emergency medical services trust fund created pursuant to section 422C.6 and shall be used as provided in that section.

4. Any tax or combination of taxes imposed shall be for a maximum period of five years.

Sec. 18. NEW SECTION. 422C.2 LOCAL INCOME SURTAX.

A county may impose by ordinance a local income surtax as provided in section 422C.1 at the rate set by the board of supervisors, of up to one percent, on the state individual income tax of each individual residing in the county at the end of the individual's applicable tax year. However, the cumulative total of the percents of income surtax imposed on any taxpayer in the county shall not exceed twenty percent. The reason for imposing the surtax and the amount needed shall be set out in the ordinance. The surtax rate shall be set to raise only the amount needed. For purposes of this section, "state individual income tax" means the tax computed under section 422.5, less the credits allowed in sections 422.11A, 422.11B, 422.11C, 422.12, and 422.12B.

Sec. 19. NEW SECTION. 422C.3 ADMINISTRATION.

A local income surtax shall be imposed January 1 of the fiscal year in which the favorable election was held for tax years beginning on or after January 1, and is repealed as provided in section 422C.1, subsection 4, as of December 31 for tax years beginning after December 31.

The director of revenue and finance shall administer the local income surtax as nearly as possible in conjunction with the administration of state income tax laws. The director shall provide on the regular state tax forms for reporting local income surtax.

An ordinance imposing a local income surtax shall adopt by reference the applicable provisions of the appropriate sections of chapter 422, division II. All powers and requirements of the director in administering the state income tax law apply to the administration of a local income surtax, including but not limited to, the provisions of sections 422.4, 422.20 to 422.31, 422.68, 422.70, and 422.72 to 422.75. Local officials shall confer with the director of revenue and finance for assistance in drafting the ordinance imposing a local income surtax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

The director, in consultation with local officials, shall collect and account for a local income surtax and any interest and penalties. The director shall credit local income surtax receipts and any interest and penalties collected from returns filed on or before November 1 of the

calendar year following the tax year for which the local income surtax is imposed to a "local income surtax fund" established in the office of the treasurer of state. All local income surtax receipts and any interest and penalties received or refunded from returns filed after November 1 of the calendar year following the tax year for which the local income surtax is imposed shall be deposited in or withdrawn from the state general fund and shall be considered part of the cost of administering the local income surtax.

Sec. 20. NEW SECTION. 422C.4 PAYMENT TO LOCAL GOVERNMENT — USE OF RECEIPTS.

1. On or before December 15, the director of revenue and finance shall make an accounting of the local income surtax receipts and any interest and penalties collected from returns filed on or before November 1 and shall certify to the treasurer of state this amount collected. The treasurer of state shall remit within fifteen days of the certification by the director to each county which has imposed a local income surtax the amount in the local income surtax fund collected as a result of its surtax.

2. Local income surtax moneys received by a county shall be deposited and used as provided in section 422C.6.

Sec. 21. NEW SECTION. 422C.5 PROPERTY TAX LEVY.

A county may levy an emergency medical services tax at the rate set by the board of supervisors and approved at the election as provided in section 422C.1, on all taxable property in the county for fiscal years beginning with the fiscal year in which the favorable election was held. The reason for imposing the tax and the amount needed shall be set out on the ballot. The rate shall be set so as to raise only the amount needed. The levy is repealed for subsequent fiscal years as provided in section 422C.1, subsection 4.

Sec. 22. NEW SECTION. 422C.6 EMERGENCY MEDICAL SERVICES TRUST FUND.

1. A county authorized to impose a tax under this chapter shall establish an emergency medical services trust fund into which revenues received from the taxes imposed shall be deposited. Moneys in the trust fund shall be used for emergency medical services. In addition, moneys in the fund may be used for the purpose of matching federal or state funds for education and training related to emergency medical services.

2. A county may enter into chapter 28E agreements with other counties in order to ensure adequate coverage of the county's service area.

3. Costs which are eligible for emergency medical services trust fund expenditures include, but are not limited to:

a. Defibrillators.

b. Nondisposable essential ambulance equipment, as defined by rule by the Iowa department of public health.

c. Communications pagers, radios, and base repeaters.

d. Training in the use of emergency medical services equipment.

e. Vehicles including, but not limited to, ambulances, fire apparatus, boats, rescue/first response vehicles, and snowmobiles.

f. Automotive parts.

g. Buildings.

h. Land.

Approved May 28, 1992

CHAPTER 1227

STATE BUDGET AND FINANCIAL CONTROL

S.F. 2351

AN ACT relating to state budget and financial control by requiring certain financial practices, providing an appropriation, and providing effective date and applicability provisions.

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

Section 1. Section 8.21, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the governor is required to use a lesser amount in the budget process because of a later meeting of the state revenue estimating conference under section 8.22A, subsection 3, the governor shall transmit recommendations for a balanced budget meeting this requirement within fourteen days of the later meeting of the state revenue estimating conference.

Sec. 2. Section 8.22A, Code 1991, is amended to read as follows:

8.22A REVENUE ESTIMATING CONFERENCE.

1. The state revenue estimating conference is created consisting of the governor or the governor's designee, the director of the legislative fiscal bureau, and a third member agreed to by the other two.

2. The conference shall meet as often as deemed necessary, but shall meet at least quarterly. The conference may use sources of information deemed appropriate.

3. By December 15, ~~1986 and~~ of each ~~succeeding~~ fiscal year the conference shall agree to a revenue estimate for the fiscal year beginning the following July 1. That estimate shall be used by the governor in the preparation of the budget message under section 8.22 and by the ~~legislature~~ general assembly in the budget process. If the conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount agreed to by December 15, the governor and the general assembly shall continue to use the initial estimate amount in the budget process for that fiscal year. However, if the conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount, the governor and the general assembly shall use the lesser amount in the budget process for that fiscal year. As used in this subsection, "later meeting" means only those later meetings which are held prior to the conclusion of the regular session of the general assembly.

Sec. 3. NEW SECTION. 8.53 GAAP DEFICIT — GAAP IMPLEMENTATION.

For the fiscal year beginning July 1, 1992, and the two succeeding fiscal years, the governor shall recommend in the governor's budget and the general assembly shall provide funds to eliminate the state generally accepted accounting principles (GAAP) deficit, as reported in the state's comprehensive annual financial report issued during the prior fiscal year, and taking into account the revised GAAP standards that are projected to be in place by the fiscal year ending in 1995, either through the appropriation of specific funds to provide an adjustment in the GAAP deficit or by setting funds aside in a special account in an amount equal to the GAAP deficit.

For the fiscal year beginning July 1, 1996, and each succeeding fiscal year, the governor shall recommend in the governor's budget and the general assembly shall provide funds to eliminate the GAAP deficit of the general fund of the state, as reported in the state's comprehensive annual financial report issued during the prior fiscal year, either through the appropriation of specific funds to correct a GAAP adjustment or by setting funds aside in a special account in an amount equal to the GAAP deficit.

Sec. 4. NEW SECTION. 8.54 GENERAL FUND EXPENDITURE LIMITATION.

1. For the purposes of this section and sections 8.55 through 8.57:

a. "Adjusted revenue estimate" means the appropriate revenue estimate for the general fund for the following fiscal year as determined under section 8.22A, subsection 3, adjusted by subtracting estimated tax refunds payable from that estimated revenue and adding any new revenues which may be considered to be eligible for deposit in the general fund.

b. "New revenues" means moneys which are received by the state due to increased tax rates and fees or newly created taxes and fees over and above those moneys which are received due to state taxes and fees which are in effect as of January 1 following the December state revenue estimating conference. "New revenues" also includes moneys received by the state due to new transfers over and above those moneys received by the state due to transfers which are in effect as of January 1 following the December state revenue estimating conference.

2. There is created a state general fund expenditure limitation for each fiscal year beginning on or after July 1, 1993, calculated as provided in this section.

3. Except as otherwise provided in this section, the state general fund expenditure limitation for a fiscal year shall be ninety-nine percent of the adjusted revenue estimate.

4. The state general fund expenditure limitation amount provided for in this section shall be used by the governor in the preparation of the budget under section 8.22 and by the general assembly in the budget process. If a source for new revenues is proposed, the budget revenue projection used for that new revenue source for the period beginning on the effective date of the new revenue source and ending in the fiscal year in which the source is included in the revenue base shall be an amount determined by subtracting estimated tax refunds payable from the projected revenue from that new revenue source, multiplied by ninety-five percent. If a new revenue source is established and implemented, the original state general fund expenditure limitation amount provided for in subsection 3 shall be readjusted to include ninety-five percent of the estimated revenue from the new revenue source.

5. For fiscal years in which section 8.55, subsection 2, results in moneys being transferred to the general fund, the original state general fund expenditure limitation amount provided for in subsection 3 shall be readjusted to include the moneys which are so transferred.

6. The scope of the expenditure limitation under subsection 3 shall not encompass federal funds, donations, constitutionally dedicated moneys, and moneys in expenditures from state retirement system moneys.

7. The governor shall submit and the general assembly shall pass a budget which does not exceed the state general fund expenditure limitation. The governor in submitting the budget under section 8.21, and the general assembly in passing a budget, shall not have recurring expenditures in excess of recurring revenues.

Sec. 5. Section 8.55, Code 1991, is amended to read as follows:

8.55 IOWA ECONOMIC EMERGENCY FUND.

1. The Iowa economic emergency fund is created. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state~~, except for purposes of determining the annual inflation factor under section 422.4, subsection 17, the balance in the fund shall be considered part of the general fund of the state~~. The moneys in the fund shall not revert to the general fund, notwithstanding section 8.33, unless and to the extent the fund exceeds the maximum balance.

2. ~~The maximum balance of the Iowa economic emergency fund is the amount equal to ten percent of the funds appropriated from the general fund of the state during the preceding fiscal year. There is appropriated from any surplus existing in the general fund of the state at the conclusion of the fiscal year to the Iowa economic emergency fund an amount equal to the smaller of the amount of the surplus or the amount necessary to achieve the maximum balance.~~ The maximum balance of the fund is the amount equal to five percent of the adjusted revenue estimate for the fiscal year. If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be transferred to the general fund.

3. The moneys in the Iowa economic emergency fund may be appropriated by the general assembly only in the fiscal year for which the appropriation is made ~~and only for a purpose~~

~~for which the general assembly previously appropriated funds for that fiscal year~~. The moneys shall only be appropriated by the general assembly for emergency expenditures. However, except as provided in section 8.58, the balance in the Iowa economic emergency fund may be used in determining the cash position of the general fund of the state for the payment of state obligations.

4. Notwithstanding section 453.7, subsection 2, interest or earnings on moneys deposited in the Iowa economic emergency fund shall be credited to the Iowa economic emergency fund.

Sec. 6. NEW SECTION. 8.56 CASH RESERVE FUND.

1. A cash reserve fund is created in the state treasury. The cash reserve fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state except in determining the cash position of the state as provided in subsection 3. The moneys in the cash reserve fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Notwithstanding section 453.7, subsection 2, interest or earnings on moneys deposited in the cash reserve fund shall be credited to the Iowa economic emergency fund. Moneys in the cash reserve fund may be used for cash flow purposes provided that any moneys so allocated are returned to the cash reserve fund by the end of each fiscal year.

2. The maximum balance of the cash reserve fund is the amount equal to the cash reserve goal percentage, as defined in section 8.57, multiplied by the adjusted revenue estimate for the general fund of the state for the current fiscal year.

3. The moneys in the cash reserve fund may be appropriated by the general assembly in accordance with subsection 4 only in the fiscal year for which the appropriation is made. The moneys shall only be appropriated by the general assembly for nonrecurring emergency expenditures and shall not be appropriated for payment of any collective bargaining agreement or arbitrator's decision negotiated or awarded under chapter 20. However, except as provided in section 8.58, the balance in the cash reserve fund may be used in determining the cash position of the general fund of the state for payment of state obligations.

4. a. Except as provided in subsection 1, an appropriation shall not be made from the cash reserve fund unless the appropriation is in accordance with all of the following:

(1) The appropriation is contained in a bill or joint resolution in which the appropriation is the only subject matter of the bill or joint resolution.

(2) The bill or joint resolution states the reasons the appropriation is necessary.

b. In addition to the requirements of paragraph "a", an appropriation shall not be made from the cash reserve fund which would cause the fund's balance to be less than three percent of the adjusted revenue estimate for the year for which the appropriation is made unless the bill or joint resolution is approved by vote of at least three-fifths of the members of both chambers of the general assembly and is signed by the governor.

Sec. 7. NEW SECTION. 8.57 ANNUAL APPROPRIATION.

1. a. For each fiscal year beginning on or after July 1, 1993, there is appropriated from the general fund of the state an amount to be determined as follows:

(1) If the balance of the cash reserve fund has not yet at any point reached four percent of the adjusted revenue estimate during a budget year, the amount appropriated shall be determined under this subparagraph.

(a) The amount appropriated under this subparagraph is the amount necessary for the cash reserve fund to reach the cash reserve goal percentage of the adjusted revenue estimate for the fiscal year. However, moneys appropriated under this subparagraph shall not exceed more than one percent of the adjusted revenue estimate for the fiscal year.

(b) The "cash reserve goal percentage" for the fiscal year beginning July 1, 1993, is one percent; for the fiscal year beginning July 1, 1994, is two percent; for the fiscal year beginning July 1, 1995, is three percent; for the fiscal year beginning July 1, 1996, is four percent; and for fiscal years beginning on or after July 1, 1997, is five percent.

(2) If at any point in any prior fiscal year the balance of the cash reserve fund reached four percent of the adjusted revenue estimate for that fiscal year, the moneys appropriated under this paragraph for a fiscal year shall be one percent of the adjusted revenue estimate for the fiscal year.

(3) The moneys appropriated under this paragraph shall be credited in equal and proportionate amounts in each quarter of that fiscal year.

b. Commencing June 30, 1993, the surplus existing in the general fund of the state at the conclusion of the fiscal year is appropriated for distribution as provided in this section. As used in this paragraph, "surplus" means the positive ending balance in the general fund, if any.

c. The amount appropriated in this section is not subject to the provisions of section 8.31, relating to quarterly requisitions and allotment, or to section 8.32, relating to conditional availability of appropriations.

2. Moneys appropriated under subsection 1 shall be first credited to the cash reserve fund. To the extent that moneys appropriated under subsection 1 would make the moneys in the cash reserve fund exceed the cash reserve goal percentage of the adjusted revenue estimate for the fiscal year, the moneys are appropriated to the department of management to be spent for the purpose of eliminating Iowa's GAAP deficit. The department of management shall annually file with both houses of the general assembly at the time of the submission of the governor's budget a schedule of the items for which moneys appropriated under this subsection for the purpose of eliminating Iowa's GAAP deficit shall be spent in the fiscal year commencing July 1 following the date of the filing of the report. The schedule shall list each item of expenditure and the maximum dollar amount of moneys to be spent on that item for the fiscal year. If moneys appropriated under this subsection are not enough to pay for all listed expenditures, the department of management shall allocate the payments among the listed expenditure items. Moneys appropriated to the department of management under this subsection shall not be spent on items other than those included in the filed schedule.

3. To the extent that moneys appropriated under subsection 1 exceed the amounts necessary for the cash reserve fund to reach its maximum balance and the amounts necessary to eliminate Iowa's GAAP deficit, the moneys shall be appropriated to the Iowa economic emergency fund.

4. As used in this section, "GAAP" means generally accepted accounting principles as established by the governmental accounting standards board.

Sec. 8. NEW SECTION. 8.58 EXEMPTION FROM AUTOMATIC APPLICATION.

To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund and Iowa economic emergency fund shall not be considered in the application of any formula, index, or other statutory triggering mechanism which would affect appropriations, payments, or taxation rates, contrary provisions of the Code notwithstanding.

To the extent that moneys appropriated under section 8.57 do not result in moneys being credited to the general fund under section 8.55, subsection 2, moneys appropriated under section 8.57 and moneys contained in the cash reserve fund and Iowa economic emergency fund shall not be considered by an arbitrator or in negotiations under chapter 20.

Sec. 9. NEW SECTION. 8.59 APPROPRIATIONS FREEZE.

Notwithstanding contrary provisions of the Code, the amounts appropriated under the applicable sections of the Code for fiscal years commencing on or after July 1, 1993, are limited to those amounts expended under those sections for the fiscal year commencing July 1, 1992. If an applicable section appropriates moneys to be distributed to different recipients and the operation of this section reduces the total amount to be distributed under the applicable section, the moneys shall be prorated among the recipients. As used in this section, "applicable sections" means the following sections: 53.50, 98.7, 229.35, 230.8, 230.11, 411.20, 425.1, 425.39, 426A.1, 663.44, and 663A.5.

Sec. 10. Section 18.75, subsection 8, Code Supplement 1991, is amended to read as follows:

8. By November 1 of each year supply a report which contains the name, gender, county or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the superintendent, the head of each department, board, or commission shall furnish the data covering that agency. ~~The report shall be paid for out of moneys in the general fund not otherwise appropriated.~~ ~~A~~ The report shall be distributed upon request without charge to each ~~member~~ caucus of the general assembly, ~~and the state law library~~ the legislative service bureau, the legislative fiscal bureau, the chief clerk of the house of representatives, and the secretary of the senate. ~~Six copies shall be distributed without charge to the state library and one copy shall be distributed without charge to each library which is designated as a documents depository by the state library. Other persons may purchase a copy for a fee not less than the amount required to print the copy.~~ Copies of the report shall be made available to other persons in both print or electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in the general fund.

Sec. 11. Section 20.17, subsection 11, Code Supplement 1991, as amended by Senate File 2216,* section 1, is amended to read as follows:

11. a. In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees represented by a certified employee organization who are teachers licensed under chapter 260 and who are employed by a public employer which is a school district or area education agency shall complete the negotiation of a proposed collective bargaining agreement not later than ~~April 15~~ May 31 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which impasse items in such cases 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~~ May 31. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of ~~April 15~~ May 31 to ensure that the arbitrators' decision can be reasonably made before ~~April 15~~ May 31.

b. If the public employer is a community college, the following apply:

(1) The negotiation of a proposed collective bargaining agreement shall be complete not later than ~~June 1~~ May 31 of the year when the agreement is to become effective, absent the existence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date. The board shall adopt rules providing for a date on which impasse items in such cases must be submitted to binding arbitration and for procedures for the completion of negotiations of proposed collective bargaining agreements not later than ~~June 1~~ May 31. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of ~~June 1~~ May 31 to ensure that the arbitrators' decision can be reasonably made by ~~June 1~~ May 31.

(2) Notwithstanding the provisions of paragraph "a", the ~~June 1~~ May 31 deadline may be waived by mutual agreement of the parties to the collective bargaining agreement negotiations.

Sec. 12. Section 20.19, Code Supplement 1991, as amended by Senate File 2216,* section 2, 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

*Chapter 1011 herein

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 public employees represented by the employee organization are teachers licensed under chapter 260, and the public employer is a school district or area education agency, the agreement shall provide for implementation of impasse procedures not later than one hundred twenty days prior to ~~April 15~~ May 31 of the year when the collective bargaining agreement is to become effective. If the public employer is a community college, the agreement shall provide for implementation of impasse procedures not later than one hundred twenty days prior to ~~June 1~~ May 31 of the year when the collective bargaining agreement is to become effective. 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. 13. Section 20.20, Code Supplement 1991, as amended by Senate File 2216,* section 3, is amended to read as follows:

20.20 MEDIATION.

In the absence of an impasse agreement negotiated pursuant to section 20.19 or the failure of either party to utilize its procedures, one hundred twenty days prior to the certified budget submission date, or one hundred twenty days prior to ~~April 15~~ May 31 of the year when the collective bargaining agreement is to become effective if public employees represented by the employee organization are teachers licensed under chapter 260 and the public employer is a school district or area education agency, the board shall, upon the request of either party, appoint an impartial and disinterested person to act as mediator. If the public employer is a community college, and in the absence of an impasse agreement negotiated pursuant to section 20.19 or the failure of either party to utilize its procedures, one hundred twenty days prior to ~~June 1~~ May 31 of the year when the collective bargaining agreement is to become effective, the board, upon the request of either party, shall 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. 14. Section 24.17, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The local budgets of the various political subdivisions shall be certified by the chairperson of the certifying board or levying board, as the case may be, in duplicate to the county auditor not later than March 15 of each year ~~unless a city or county holds a special levy election, in which case certification shall not be later than fourteen days following the special levy election,~~ on blanks prescribed by the state board, and according to the rules and instruction which shall be furnished all certifying and levying boards in printed form by the state board or city finance committee in the case of cities. However, if a city or county holds a special levy election, the certification shall be not later than fourteen days following the special levy election, and if the political subdivision is a school district, as defined in section 257.2, its budget shall be certified not later than April 15 of each year.

Sec. 15. Section 257.8, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

257.8 STATE PERCENT OF GROWTH — ALLOWABLE GROWTH.

1. STATE PERCENT OF GROWTH. The state percent of growth for a budget year shall be established by statute which shall be enacted within thirty days of the submission in the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

2. ALLOWABLE GROWTH CALCULATION. The department of management shall calculate the regular program allowable growth for a budget year by multiplying the state percent of growth for the budget year by the regular program state cost per pupil for the base year and shall calculate the special education support services allowable growth for the budget year by multiplying the state percent of growth for the budget year by the special education support services state cost per pupil for the base year.

*Chapter 1011 herein

3. COMBINED ALLOWABLE GROWTH. The combined allowable growth per pupil for each school district is the sum of the regular program allowable growth per pupil and the special education support services allowable growth per pupil for the budget year, which may be modified as follows:

a. By the school budget review committee under section 257.31.

b. By the department of management under section 257.36.

Sec. 16. Section 257.20, Code Supplement 1991, is amended to read as follows:

257.20 INSTRUCTIONAL SUPPORT STATE AID APPROPRIATION.

1. In order to determine the amount of instructional support state aid and the amount of local funding for the instructional support program for a district, the department of management shall divide the total assessed valuation in the state by the total budget enrollment for the budget year in the state to determine a state assessed valuation per pupil and shall divide the assessed valuation in each district by the district's budget enrollment for the budget year to determine the district assessed valuation per pupil. The department of management shall multiply the ratio of the state's valuation per pupil to the district's valuation per pupil by twenty-five hundredths and subtract that result from one to determine the portion of the instructional support program budget that is local funding. The remaining portion of the budget shall be funded by instructional support state aid.

2. There is appropriated for each fiscal year from the general fund of the state to the department of education, an amount necessary to pay instructional support state aid as ~~provided in this section~~ determined under subsection 1.

a. However, moneys appropriated under this subsection shall not exceed the amount of moneys appropriated as instructional support state aid for the budget year which commenced on July 1, 1992.

b. If the amount appropriated under this subsection is insufficient to pay the amount of instructional support state aid determined under subsection 1, the department of education shall prorate the amount of the instructional support state aid provided to each district.

3. If the general assembly makes an appropriation for instructional support state aid in lieu of the standing appropriation provided under subsection 2, the appropriation for instructional support state aid shall include in the appropriation the allocation of the instructional support state aid to the school districts applicable for that appropriation and subsections 1 and 2 do not apply to the appropriation.

4. Instructional support state aid shall be paid at the same time and in the same manner as foundation aid is paid under section 257.16.

Sec. 17. Section 273.3, subsection 12, Code 1991, is amended to read as follows:

12. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 281 within the limits of funds provided under section 281.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall be not later than ~~February~~ March 1 of each year, the time, and the location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of education, on forms provided by the department, no later than ~~February~~ March 15 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall before ~~March~~ April 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15.

Sec. 18. Section 279.15, subsection 1, Code Supplement 1991, is amended to read as follows:

1. The superintendent or the superintendent's designee shall notify the teacher not later than April ~~15~~ 30 that the superintendent will recommend in writing to the board at a regular or special meeting of the board, held not later than ~~April 30~~ May 15, 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.

Sec. 19. Section 279.16, unnumbered paragraph 6, Code 1991, as amended by House File 2235,* section 1, is amended to read as follows:

If the teacher fails to timely request a private hearing or does not appear at the private hearing, the board may proceed and make a determination upon the superintendent's recommendation, ~~which~~. If the teacher fails to timely file a request for a private hearing, the determination ~~in that case~~ shall be not later than May ~~10, or~~ 31. If the teacher fails to appear at the private hearing, the determination shall be not later than five days after the scheduled date for the private hearing, ~~whichever is applicable~~. The board shall convene in open session and by roll call vote determine the termination or continuance of the teacher's contract.

Sec. 20. Section 279.24, unnumbered paragraphs 3, 5, and 7, Code 1991, as amended by House File 2245,** section 1, are amended to read as follows:

Administrators employed in a school district for less than two consecutive years are probationary administrators. However, a school board may waive the probationary period for any administrator who has previously served a probationary period in another school district and the school board may extend the probationary period for an additional year with the consent of the administrator. If a school board determines that it should terminate a probationary administrator's contract, the school board shall notify the administrator not later than ~~April 30~~ May 15 that the contract will not be renewed beyond the current year. The notice shall be in writing by letter, personally delivered, or mailed by certified mail. The notification shall be complete when received by the administrator. Within ten days after receiving the notice, the administrator may request a private conference with the school board to discuss the reasons for termination. The school board's decision to terminate a probationary administrator's contract shall be final unless the termination was based upon an alleged violation of a constitutionally guaranteed right of the administrator.

On or before ~~April 30~~ May 15, the administrator shall be notified in writing by a letter personally delivered or mailed by certified mail that the school board has voted to consider termination of the contract. The notification shall be complete when received by the administrator.

Within five days after receipt of the written notice that the school board has voted to consider termination of the contract, the administrator may request in writing to the secretary of the school board that the notification be forwarded to the board of educational examiners along with a request that the board of educational examiners submit a list of five qualified administrative law judges to the parties. Within three days from receipt of the list the parties shall select an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The hearing shall be held no sooner than ten days and not later than thirty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a hearing, the school board, not later than May ~~15~~ 31, may determine the continuance or discontinuance of the contract. School board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of school board action shall be personally delivered or mailed to the administrator.

Sec. 21. Section 279.51, subsection 1, unnumbered paragraph 1, Code Supplement 1991, 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, 1990, the sum of eight million seven hundred thousand dollars. ~~For the fiscal year beginning July 1, 1991, and each succeeding fiscal year, there is appropriated the sum of eleven million two hundred thousand dollars plus an additional amount equal to the state percent of growth as calculated in section 257.8 multiplied by the amount appropriated the previous fiscal year.~~ For each fiscal year beginning on or after July 1, 1993,

*Chapter 1008 herein

**Chapter 1009 herein

there is appropriated the sum which was appropriated for the fiscal year commencing July 1, 1992.

Sec. 22. Section 280A.50, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department of education shall provide for the establishment of a staff development account in the office of treasurer of state for purposes of providing moneys to community colleges for staff development. There is appropriated from the general fund of the state to the department of education on July 1 of each fiscal year beginning July 1, ~~1992~~ 1993, for crediting to the staff development account for each budget year ~~an amount equal to an amount which is five-tenths of one percent of the total state general aid generated under chapter 286A for all community colleges during the base year. In the fiscal years succeeding June 30, 1993, an additional five-tenths of one percent shall be added to the percent multiplier, used to determine the appropriation in this section, until that percent multiplier reaches four percent. Once the percent multiplier has reached the four percent level, it shall remain at that level for purposes of calculating the amount to be appropriated in succeeding fiscal years~~ the sum of six hundred thousand dollars. Moneys appropriated by the general assembly to the department of education for the purpose of the staff development program shall be paid to community colleges upon approval by the department of education of an application submitted by a community college. Funds shall be distributed to a community college based upon the proportion that a college's state general aid paid for the base year bears to the total state general aid paid that year to all community colleges.

Sec. 23. Section 294A.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Phase II is established to improve the salaries of teachers. For each fiscal year ~~through the fiscal year~~ beginning on or after July 1, ~~1990~~ 1992, the ~~department of education shall allocate to each school district for the purpose of implementing phase II~~ a per pupil amount upon which the phase II moneys are based is equal to ~~seventy-five dollars and ninety-three cents multiplied by the district's certified enrollment and to each area education agency for the purpose of implementing phase II a per pupil amount equal to three dollars and fifty-five cents multiplied by the enrollment served in the area education agency. Notwithstanding the per pupil amount of the payments specified in this section, for the fiscal year beginning July 1, 1991, and each succeeding fiscal year, the per pupil amounts upon which the phase II moneys are based shall be increased by an amount equal to the product of the state percent of growth calculated under section 257.8 and the per pupil amount for the previous fiscal year~~ the per pupil allocation plus supplemental allocations for the immediately preceding fiscal year.

Sec. 24. Section 294A.14, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 25. Section 294A.14, unnumbered paragraph 13, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

For purposes of this section, "comprehensive school transformation" means activities which focus on the improvement of student achievement and the attainment of student achievement goals under sections 280.12 and 280.18. A comprehensive school transformation plan submitted by a school district shall demonstrate the manner in which the components of the plan are integrated with a school's student achievement goals. Components of the plan may include, but are not limited to, providing salary increases to teachers who implement site-based shared decision making, building-based goal-oriented compensation mechanism, or approved innovative educational programs; who focus on student outcomes; who direct accountability for student achievement or accountability for organizational success; and who work to foster relationships between a school and businesses or public agencies which provide health and social services.

Sec. 26. 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 considering the approval of a plan submitted by a school district, the department shall give emphasis to plans which include a comprehensive school transformation plan or which include a component which is part of a statewide systemic school transformation initiative. In considering the approval of a plan submitted by an area education agency, the department shall give emphasis to plans which are integrated with and supportive of the comprehensive school transformation plans submitted by the school districts within the area education agency.

Sec. 27. Section 294A.25, subsection 1, Code 1991, is amended to read as follows:

1. For the fiscal year beginning July 1, 1990, there is appropriated from the general fund of the state to the department of education the amount of ninety-two million one hundred thousand eighty-five dollars to be used to improve teacher salaries. For each fiscal year ~~thereafter~~ in the fiscal period commencing July 1, 1991, and ending June 30, 1993, there is appropriated an amount equal to the amount appropriated for the fiscal year beginning July 1, 1990, plus an amount sufficient to pay the costs of the additional funding provided for school districts and area education agencies under sections 294A.9 and 294A.14. For each fiscal year beginning on or after July 1, 1993, there is appropriated the sum which was appropriated for the fiscal year commencing July 1, 1992, including supplemental payments. The moneys shall be distributed as provided in this section.

Sec. 28. Section 421.31, subsection 5, Code 1991, is amended to read as follows:

5. ACCOUNTS. To keep the central budget and proprietary control accounts of the state government ~~in accordance with generally accepted accounting principles~~. Budget accounts are those accounts maintained to control the receipt and disposition of all funds, appropriations, and allotments. Proprietary accounts are those accounts relating to assets, liabilities, income, and expense. For each fiscal year, the financial position and results of operations of the state shall be reported in a comprehensive annual financial report prepared in accordance with generally accepted accounting principles, as established by the governmental accounting standards board.

Sec. 29. Section 422.69, subsection 3, Code Supplement 1991, is amended by striking the subsection.

Sec. 30. 1986 Iowa Acts, chapter 1245, section 2046, as amended by 1986 Iowa Acts, chapter 1238, section 59, is repealed.

Sec. 31. Section 427B.13, Code Supplement 1991, is repealed.

Sec. 32. The state percent of growth for the school budget year beginning July 1, 1993, computed by the department of management on or before September 15, 1991, is null and void.

Sec. 33. Sections 15, 16, and 32 of this Act take effect July 1, 1992, for purposes of computing state aid to school corporations, area education agencies, and merged area schools for school budget years beginning on or after July 1, 1993. This section and sections 28, 29, and 30 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 2, 1992

CHAPTER 1228

GOVERNMENT ETHICS

H.F. 2466

AN ACT relating to government ethics, the use and receipt of certain campaign contributions by government officials and candidates for government office and providing for effective dates, an applicability provision, and transition provisions.

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

DIVISION I

Section 1. Section 68B.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.2 DEFINITIONS.

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

1. "Agency" means a department, division, board, commission, bureau, or office of the executive or legislative branch of state government, the office of attorney general, the state board of regents, community colleges, and the office of the governor, including a regulatory agency, or any political subdivision of the state.

2. "Candidate" means a candidate under chapter 56.

3. "Candidate's committee" means the committee designated by the candidate, as provided under chapter 56, to receive contributions, expend funds, or incur indebtedness on behalf of the candidate in the aggregate as follows:

a. For a state, or county office, in excess of two hundred fifty dollars in any calendar year.

b. For a city or school office, in excess of five hundred dollars in any calendar year.

4. "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.

5. "Contribution" means a gift, loan, advance, deposit, rebate, refund, transfer of money, an in-kind transfer, or the payment of compensation for the personal services of another person.

6. a. "Gift" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:

(1) Is or is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the agency in which the donee holds office or is employed.

(2) Is engaged in activities which are regulated or controlled by a regulatory agency in which the donee holds an office or is employed.

(3) Will be directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.

(4) Is a lobbyist with respect to matters within the donee's jurisdiction.

b. However, "gift" does not mean any of the following:

(1) Contributions to a candidate or a candidate's committee.

(2) Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents, or periodicals.

(3) Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(4) An inheritance.

(5) Anything available or distributed to the public generally without regard to the official status of the recipient.

(6) Actual expenses of a donee for food, beverages, travel, and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the donee has participation or presentation responsibilities.

(7) Plaques or items of negligible resale value given as recognition for public services.

(8) Items of food and drink with a value of less than three dollars that are received from any one donor during one calendar day.

(9) Items or services solicited or given to a state, national, or regional organization in which the state of Iowa or a political subdivision of the state of Iowa is a member.

(10) Items or services received as part of a regularly scheduled event that is part of a conference, seminar, or other meeting that is sponsored and directed by any state, national, or regional organization in which the state of Iowa or a political subdivision of the state of Iowa is a member.

c. For purposes of determining the value of an item given or received, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value of an item received shall be the value actually received by the donee.

7. a. "Honorarium" means anything of value that is accepted by, or on behalf of, a public official or public employee as consideration for an appearance, speech, or article if the person giving the thing of value is in any of the following categories:

(1) Is or is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the agency in which the public official or public employee serves or is employed.

(2) Is engaged in activities which are regulated or controlled by a regulatory agency in which the public official holds an office or the public employee is employed.

(3) Will be directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.

(4) Is a lobbyist with respect to matters within the public official's or public employee's jurisdiction.

b. "Honorarium" does not include any of the following:

(1) Actual expenses of a donee for food, beverages, travel, and lodging paid as provided under subsection 6, paragraph "b", subparagraph (6).

(2) A nonmonetary gift or series of nonmonetary gifts donated within thirty days to a public body, a bona fide educational or charitable organization, or the department of general services as provided in section 68B.7B, subsection 3.

(3) A payment made to a public official or public employee for services rendered as part of a bona fide private business, trade, or profession in which the public official or public employee is engaged if the payment is commensurate with the actual services rendered and is not being made because of the person's status as a public official or public employee, but, rather, because of some special expertise or other qualification.

8. "Immediate family members" means the spouse and minor children of a public official or public employee.

9. "Legislative employee" means a permanent full-time official or employee of the general assembly but does not include members of the general assembly.

10. a. "Lobbyist" means a person who does any of the following:

(1) Is paid compensation for encouraging the passage, defeat, or modification of legislation or regulation, or for influencing the decision of the members of the general assembly, a state agency, or any statewide elected official.

(2) Represents on a regular basis an organization which has as one of its purposes the encouragement of the passage, defeat, or modification of legislation or regulation, or the influencing of a decision of the members of the general assembly, a state agency, or any statewide elected official.

(3) Is a federal, state, or local government official or employee who represents the official position of the official or employee's agency and who encourages the passage, defeat, or modification of legislation or regulation, or the influencing of a decision of the members of the general assembly, a state agency, or the office of the governor.

b. "Lobbyist" does not mean:

(1) Officials and employees of a political party organized in the state of Iowa representing more than two percent of the total votes cast for governor in the last preceding general election, but only when representing the political party in an official capacity.

(2) Representatives of the news media only when engaged in the reporting and dissemination of news and editorials.

(3) The governor and lieutenant governor of the state of Iowa, all other statewide elected officials, and elected federal officials.

(4) Persons whose activities are limited to formal appearances to give testimony at public sessions of committees of the general assembly or public hearings of state agencies and whose appearances as a result of testifying, are recorded in the records of the committee or agency.

(5) A person who appears or communicates as a lawyer licensed to practice law in this state representing a client before any agency or in a contested case proceeding under chapter 17A.

(6) Members of legislative staff.

(7) Agency officials and employees who influence the decisions of the agency in which they serve or are employed.

11. "Local employee" means a person employed by a political subdivision of this state.

12. "Local official" means an officeholder of a political subdivision of this state.

13. "Member of the general assembly" means an individual duly elected to the senate or the house of representatives of the state of Iowa.

14. "Official" means an officer of the state of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time but does not include officers or employees of political subdivisions of the state. "Official" includes but is not limited to supervisory personnel, members and employees of the governor's office, members of other statewide elected offices, and members of state agencies and does not include members of the general assembly, legislative employees, or officers or employees of the judicial branch of government who are not members or employees of the office of attorney general.

15. "Person" means, without limitation, any individual, corporation, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

16. "Public disclosure" means a written report filed by a person as required by this chapter or required by rules adopted and issued pursuant to this chapter.

17. "Public employee" means state employees, legislative employees, and local employees.

18. "Public office" means any state, county, city, or school office or any other office of a political subdivision of the state that is filled by election.

19. "Public official" means officials, local officials, and members of the general assembly.

20. "Regulatory agency" means the department of agriculture and land stewardship, department of employment services, department of commerce, Iowa department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue and finance, department of inspections and appeals, department of personnel, public employment relations board, state department of transportation, civil rights commission, department of public defense, and department of natural resources.

21. "State employee" means a paid employee of the state of Iowa and does not include an independent contractor, an employee of the judicial department, a legislative employee, or an employee of a political subdivision of the state. "State employee" includes but is not limited to all clerical personnel.

Sec. 2. Section 68B.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.3 WHEN PUBLIC BIDS REQUIRED — DISCLOSURE OF INCOME FROM OTHER SALES.

1. An official, state employee, member of the general assembly, or legislative employee shall not sell, in any one occurrence, any goods or services having a value in excess of five hundred dollars to any state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding. This subsection shall not apply to the publication of

resolutions, advertisements, or other legal propositions or notices in newspapers designated pursuant to law for the publication of legal propositions or notices and for which rates are fixed pursuant to law.

For purposes of this section, "services" does not include instruction at an accredited education institution if the person providing the instruction meets the minimum education and licensing requirements established for teachers at the education institution.

2. An official or member of the general assembly who sells goods or services to a political subdivision of the state shall disclose whether income has been received from commissions from the sales in the manner provided under section 68B.10D.

Sec. 3. NEW SECTION. 68B.4A SALES BY LEGISLATIVE EMPLOYEES.

A permanent legislative employee shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations which employ persons who are registered lobbyists before the general assembly, except when the legislative employee has met all of the following conditions:

1. The consent of the person or persons responsible for hiring or approving the hiring of the legislative employee is obtained.

2. The duties and functions performed by the legislative employee for the general assembly are not related to the legislative authority of the general assembly over the individual, association, or corporation, or the selling of goods or services by the legislative employee to the individuals, associations, or corporations does not affect the employee's duties or functions at the general assembly.

3. The selling of any goods or services by the legislative employee to an individual, association, or corporation does not include lobbying of the general assembly.

4. The selling of any goods or services by the legislative employee does not cause the official or employee to sell goods or services to the general assembly on behalf of the individual, association, or corporation.

Sec. 4. NEW SECTION. 68B.4B SALES BY MEMBERS OF THE OFFICE OF THE GOVERNOR.

A permanent full-time member of the office of the governor shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations which employ persons who are registered lobbyists before the general assembly, except when the member of the office of the governor has met all of the following conditions:

1. The consent of the person or persons responsible for hiring or approving the hiring of the member of the office of the governor is obtained.

2. The duties and functions performed by the member for the office of the governor are not related to the authority of the office of the governor over the individual, association, or corporation, or the selling of goods or services by the member of the office of the governor to the individuals, associations, or corporations does not affect the member's duties or functions at the office of the governor.

3. The selling of any goods or services by the member of the office of the governor to an individual, association, or corporation does not include lobbying of the office of the governor.

4. The selling of any goods or services by the member of the office of the governor does not cause the member to sell goods or services to the office of the governor on behalf of the individual, association, or corporation.

Sec. 5. Section 68B.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.5 TWO-YEAR BAN ON LOBBYING ACTIVITIES AFTER SERVICE.

1. A person who has served as an official, state employee, member of the general assembly, or legislative employee shall not within two years after the termination of service or employment become a lobbyist.

2. This section shall not apply to a person who is a former official, state employee, member of the general assembly, or legislative employee who, within two years of leaving service or

employment with the state, is elected to another office of the state or to an office of a political subdivision of the state and appears or communicates on behalf of that office.

Sec. 6. Section 68B.6, Code 1991, is amended to read as follows:

68B.6 SERVICES AGAINST STATE PROHIBITED.

No official, state employee, or legislative employee shall receive, directly or indirectly, or enter into any agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services by that person or another against the interest of the state in relation to any case, proceeding, application, or other matter before any state agency, any court of the state of Iowa, any federal court, or any federal bureau, agency, commission or department.

Sec. 7. Section 68B.7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~No~~ A person who has served as an official, ~~or~~ state employee of a state agency, member of the general assembly, or legislative employee shall not within a period of two years after the termination of such service or employment appear before ~~such state~~ the agency or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application with respect to which ~~such~~ the person was directly concerned and personally participated during the period of service or employment.

DIVISION II

Sec. 8. NEW SECTION. 68B.7A LEGISLATIVE INTENT.

It is the goal of the general assembly that public officials and public employees of the state be extremely cautious and circumspect about accepting a gratuity or favor, especially from persons that have a substantial interest in the legislative, administrative, or political actions of the official or employee. Even where there is a genuine personal friendship, the acceptance of personal benefits from those who could gain advantage by influencing official actions raises suspicions that tend to undermine the public trust. It is therefore the intent of the general assembly that the provisions of this division be construed to discourage all gratuities, but to prohibit only those that create unacceptable conflicts of interest or appearances of impropriety.

Sec. 9. NEW SECTION. 68B.7B GIFTS ACCEPTED OR RECEIVED.

1. Except as otherwise provided in this section, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts.

2. Except as otherwise provided in this section, a person shall not, directly or indirectly, offer or make a gift or a series of gifts to a public official, public employee, or candidate. Except as otherwise provided in this section, a person shall not, directly or indirectly, join with one or more other persons to offer or make a gift or a series of gifts to a public official, public employee, or candidate.

3. A person may give, and a public official, public employee, or candidate, or the person's immediate family member, may accept a nonmonetary gift or a series of nonmonetary gifts and not be in violation of this section if the nonmonetary gift or series of nonmonetary gifts is donated within thirty days to a public body, the department of general services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual. All such items donated to the department of general services shall be disposed of by assignment to state agencies for official use or by public sale.

4. Gifts of food, beverages, travel, and lodging which would otherwise be prohibited may be received by a public official or public employee if all of the following apply:

a. The public official or public employee is officially representing an agency in a delegation whose sole purpose is to attract a specific new business to locate in the state or encourage expansion or retention of an existing business already established in the state.

b. The donor of the gifts is not the business being contacted.

c. The public official or public employee makes a planned presentation to the business on behalf of the public official's or public employee's agency.

5. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts at any time.

6. A person shall not request, and a member of the general assembly shall not agree, that a member of the general assembly sell tickets for a community related social event that is to be held for members of the general assembly in Polk county during the legislative session. This section shall not apply to Polk county or city of Des Moines events that are open to the public generally or are held only for Polk county or city of Des Moines legislators.

Sec. 10. NEW SECTION. 68B.7C HONORARIA — BANNED.

A public official or public employee shall not seek or accept an honorarium as defined in section 68B.2, subsection 7.

Sec. 11. NEW SECTION. 68B.7D LOANS — RECEIPT FROM LOBBYISTS PROHIBITED.

An official, member of the general assembly, state employee, or candidate for state office shall not, directly or indirectly, seek or accept a loan or series of loans from a person who is a lobbyist.

A lobbyist shall not, directly or indirectly, offer or make a loan or series of loans to an official, member of the general assembly, state employee, or candidate for state office. A lobbyist shall also not, directly or indirectly, join with one or more persons to offer or make a loan or series of loans to an official, member of the general assembly, state employee, or candidate for state office.

Sec. 12. Section 68B.8, Code 1991, is amended to read as follows:

68B.8 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates a provision of ~~section 68B.3 to 68B.6~~ sections 68B.3 through 68B.7D is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

DIVISION III

Sec. 13. Section 68B.10, Code 1991, is amended to read as follows:

68B.10 LEGISLATIVE ETHICS COMMITTEE.

1. There shall be an ethics committee in the senate and an ethics committee in the house, each to consist of ~~seven~~ six members; three members to be appointed by the majority leader in each house, ~~two~~ and three members by the minority leader in each house ~~and two individuals who shall not be employees of the general assembly by the chief justice of the Iowa supreme court~~. A member of the ethics committee may disqualify himself or herself from participating in any proceeding upon submission of a written statement that the member cannot render an impartial and unbiased decision in a case. A member is ineligible to participate in committee meetings, as a member of the committee, in any proceeding relating to the member's own conduct. A member may be disqualified by a unanimous vote of the remaining eligible members of the committee. If a member of the ethics committee is disqualified from or is ineligible to participate in any committee proceedings, the authority responsible for the original appointment of the disqualified or ineligible member shall appoint a replacement member who shall serve during the period of the original member's disqualification or ineligibility.

~~The two individuals appointed by the chief justice of the supreme court shall receive a per diem as specified in section 7E.6 and travel expenses at the same rate as paid members of interim committees for attending meetings of the ethics committee.~~

2. Members ~~of the general assembly~~ shall receive a per diem ~~as specified in section 7E.6~~ and travel expenses at the same rate as paid members of interim committees for attending meetings held when the general assembly is not in session. The per diem and expenses shall be paid from funds appropriated by section 2.12.

~~The president pro tempore of the senate is designated as chairperson of the senate committee.~~

3. The ~~house committee~~ majority leader of each house shall ~~elect~~ a designate the chairperson and vice-chairperson, and the minority leader of each house shall designate the ranking member, of each committee. The chairperson of each committee shall have the following powers, duties and functions:

a. Preside over meetings of the committee.

b. Call meetings of the committee upon receipt of findings from the independent special counsel that there is probable cause to believe that a member of the general assembly or a lobbyist has committed a violation of a provision of this chapter or of the rules relating to ethical conduct that are adopted pursuant to this chapter.

4. The ethics committee of each house shall have the following powers, duties, and functions:

~~1~~ a. Prepare a code of ethics within thirty days after the commencement of ~~the session~~ each general assembly.

~~2~~ b. Prepare rules relating to lobbyists and lobbying activities in the general assembly.

~~3~~ c. Issue advisory opinions interpreting the intent of constitutional and statutory provisions relating to legislators and lobbyists as well as interpreting the code of ethics and rules issued pursuant to this section. Opinions shall be issued when approved by a majority of the ~~seven~~ six members and may be issued upon the written request of a member of the general assembly or upon the committee's initiation. Opinions are not binding on the legislator or lobbyist.

~~4.~~ d. Receive and ~~investigate~~ hear complaints and charges against members of its house alleging a violation of the code of ethics, rules governing lobbyists, this chapter, or other matters referred to it by its house or the independent special counsel. The committee shall recommend rules for the receipt and processing of ~~complaints made~~ findings of probable cause relating to ethical violations of members of the general assembly or lobbyists during the legislative session and those ~~made~~ received after the general assembly adjourns.

~~5~~ e. Recommend legislation relating to legislative ethics and lobbying activities. ~~The ethics committees may employ independent legal counsel to assist them in carrying out their duties under this chapter with the approval of a committee's house when the general assembly is in session and with the approval of the rules and administration committee of that house when the general assembly is not in session.~~

5. Any person may file a complaint with the ethics committee of either house alleging that a member of the general assembly or a lobbyist before the general assembly has committed a violation of this chapter. The ethics committee shall prescribe and provide forms for this purpose. The complaint shall include the name and address of the complainant and a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

6. The ethics committee shall review a complaint to determine if the complaint meets the requirements for formal sufficiency. If the complaint is deficient as to form, the complaint shall be returned to the complainant with a statement of the nature of the deficiency. If the complaint is sufficient as to form, the ethics committee shall review the complaint to determine whether the complaint states a valid charge which may be investigated. A valid complaint must allege all of the following:

a. Facts, that if true, establish a violation of a provision of this chapter or the code of ethics for which penalties or other remedies are provided.

b. That the conduct providing the basis for the complaint occurred within three years of the filing of the complaint.

c. That the party charged with a violation is a party subject to the jurisdiction of the ethics committee.

7. If the ethics committee determines that a complaint is not valid, the complaint shall be dismissed and returned to the complainant with a notice of dismissal stating the reason or reasons for the dismissal. If the ethics committee determines that a complaint is valid, the

ethics committee shall request that the chief justice of the supreme court appoint an independent special counsel to investigate the allegations contained in the complaint to determine whether there is probable cause to believe that a violation of this chapter has occurred and whether an evidentiary hearing on the complaint should be held. Payment of costs for the independent ~~legal~~ special counsel shall be made from section 2.12.

8. If a hearing on the complaint is ordered the ethics committee shall receive all admissible evidence, determine any factual or legal issues presented during the hearing, and make findings of fact based upon evidence received. Hearings shall be conducted in the manner prescribed in section 17A.12. The rules of evidence applicable under section 17A.14 shall also apply in hearings before the ethics committee. A preponderance of clear and convincing evidence shall be required to support a finding that the member of the general assembly or lobbyist before the general assembly has committed a violation of this chapter. Parties to a complaint may, subject to the approval of the ethics committee, negotiate for settlement of disputes that are before the ethics committee. Terms of any negotiated settlements shall be publicly recorded. If a complaint is filed or initiated less than ninety days before the election for a state office, for which the person named in the complaint is the incumbent officeholder, the ethics committee shall, if possible, set the hearing at the earliest available date so as to allow the issue to be resolved before the election. An extension of time for a hearing may be granted when both parties mutually agree on an alternate date for the hearing. The ethics committee shall make every effort to hear all ethics complaints within three months of the date that the complaints are filed. However, after three months from the date of the filing of the complaint, extensions of time for purposes of preparing for hearing may only be granted by the ethics committee when the party charged in the complaint with the ethics violation consents to an extension. If the party charged does not consent to an extension, the ethics committee shall not grant any extensions of time for preparation prior to hearing. All complaints alleging a violation of this chapter or the code of ethics shall be heard within nine months of the filing of the complaint. Final dispositions of violations, which the ethics committee have found to have been established by a preponderance of clear and convincing evidence, shall be made within thirty days of the conclusion of the hearing on the complaint.

9. The ethics committee shall maintain the confidentiality of a complaint unless either the complainant or the alleged violator publicly discloses the existence of a complaint or a preliminary investigation. The ethics committee, upon such a disclosure by the complainant or the alleged violator, may publicly confirm the existence of the preliminary inquiry and, in the ethics committee's discretion, make public the complaint and any documents which were issued to either party to the complaint.

10. The code of ethics and rules relating to lobbyists and lobbying activities shall not become effective until approved by the members of the house to which the proposed code and rules apply. The code or rules may be amended either upon the recommendation of the ethics committee or by members of the general assembly.

11. Violation of ~~the code of ethics~~ a provision of this chapter or rules adopted relating to ethical conduct may result in censure, reprimand, or other sanctions as determined by a majority of the member's house. However, a member may be suspended or expelled and the member's salary forfeited only if directed by a two-thirds vote of the member's house. A suspension, expulsion, or forfeiture of salary shall be for the duration specified in the directing resolution. However, it shall not extend beyond the end of the general assembly during which the violation occurred. Violation of a rule relating to lobbyists and lobbying activities may result in censure, reprimand, or other sanctions as determined by a majority of the members of the house in which the violation occurred. However, a lobbyist may be suspended from lobbying activities for the duration provided in the directing resolution only if directed by a two-thirds vote of the house in which the violation occurred.

Sec. 14. NEW SECTION. 68B.10A COMPLAINTS AGAINST STATE OFFICIALS AND EMPLOYEES — PROCEDURE.

1. Any person may file a complaint with the executive council established in chapter 19 alleging that an official, state employee, or a lobbyist before the executive branch has committed a violation of this chapter. The executive council shall prescribe and provide forms for this purpose. The complaint shall include the name and address of the complainant and a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

2. The executive council shall review the complaint to determine if the complaint meets the requirements for formal sufficiency. If the complaint is deficient as to form, the complaint shall be returned to the complainant with a statement of the nature of the deficiency. If the complaint is sufficient as to form, the executive council shall review the complaint to determine whether the complaint states a valid charge which may be investigated. A valid complaint must allege all of the following:

a. Facts, that if true, establish a violation of a provision of this chapter for which penalties or other remedies are provided.

b. That the conduct providing the basis for the complaint occurred within three years of the filing of the complaint.

c. That the party charged with a violation is a party subject to the jurisdiction of the executive council.

3. If the executive council determines that the complaint is not valid, the complaint shall be dismissed and returned to the complainant with a notice of dismissal stating the reason or reasons for the dismissal. If the executive council determines that a complaint is valid, the executive council shall request that the chief justice of the supreme court appoint an independent special counsel to investigate the allegations contained in the complaint to determine whether there is probable cause to believe that a violation of this chapter has occurred and whether an evidentiary hearing on the complaint should be held.

4. If a hearing on the complaint is ordered the executive council shall receive all admissible evidence, determine any factual or legal issues presented during the hearing, and make findings of fact based upon evidence received. Hearings shall be conducted in the manner prescribed in section 17A.12. The rules of evidence applicable under section 17A.14 shall also apply in hearings before the executive council. A preponderance of clear and convincing evidence shall be required to support a finding that the official, state employee, or lobbyist before the executive branch has committed a violation of this chapter. Parties to a complaint may, subject to the approval of the executive council, negotiate for settlement of disputes that are before the executive council. Terms of any negotiated settlements shall be publicly recorded. If a complaint is filed or initiated less than ninety days before the election for a state office, for which the person named in the complaint is the incumbent officeholder, the executive council shall, if possible, set the hearing at the earliest available date so as to allow the issue to be resolved before the election. An extension of time for a hearing may be granted when both parties mutually agree on an alternate date for the hearing. The executive council shall make every effort to hear all ethics complaints within three months of the date that the complaints are filed. However, after three months from the date of the filing of the complaint, extensions of time for purposes of preparing for hearing may only be granted by the executive council when the party charged in the complaint with the ethics violation consents to an extension. If the party charged does not consent to an extension, the executive council shall not grant any extensions of time for preparation prior to hearing. All complaints alleging a violation of this chapter, or rules adopted pursuant to this chapter shall be heard within nine months of the filing of the complaint. Final dispositions of violations, which the executive council has found to have been established by a preponderance of clear and convincing evidence, shall be made within thirty days of the conclusion of the hearing on the complaint.

5. The executive council shall maintain the confidentiality of a complaint unless either the complainant or the alleged violator publicly discloses the existence of a complaint or a preliminary investigation. The executive council, upon such a disclosure by the complainant or the alleged violator, may publicly confirm the existence of the preliminary inquiry and, in the executive council's discretion, make public the complaint and any documents which were issued to either party to the complaint.

6. A complaint which is supported by probable cause may be prosecuted at an executive council hearing by the independent special counsel.

7. Upon a finding by the executive council that the party charged has engaged in an act or practice that violates this chapter, the executive council may impose or request that the agency impose any penalty that is appropriate given the terms and conditions of the official's or employee's office or employment or the activity of the lobbyist. Upon a finding that the party charged has not engaged in an act or practice which violates this chapter or the rules adopted by the executive council, the complaint shall be dismissed and the party charged and the complainant shall be notified.

8. The right of an appropriate county attorney or the attorney general to commence and maintain a district court prosecution for criminal violations of the law is unaffected by any proceedings under this section.

9. The executive council shall by rule pursuant to chapter 17A establish procedures to implement this section.

Sec. 15. NEW SECTION. 68B.10B JUDICIAL REVIEW — ENFORCEMENT.

Judicial review of the actions of the executive council may be sought in accordance with chapter 17A. Judicial enforcement of orders of the executive council may be sought in accordance with chapter 17A.

Sec. 16. NEW SECTION. 68B.10C INVESTIGATION BY INDEPENDENT SPECIAL COUNSEL — PROBABLE CAUSE.

The purpose of an investigation by the independent special counsel is to determine whether there is probable cause to proceed with an adjudicatory hearing on the matter. In conducting investigations and holding hearings, the independent special counsel may require by subpoena the attendance and testimony of witnesses and may subpoena books, papers, records, and any other real evidence relating to the matter before the independent special counsel. The independent special counsel shall have the additional authority provided in section 17A.13. If the independent special counsel determines at any stage in the proceedings that take place prior to hearing that the complaint is without merit, the independent special counsel shall report that determination to the appropriate ethics committee or the executive council and the complaint shall be dismissed and the complainant and the party charged shall be notified. If, after investigation, the independent special counsel determines evidence exists which, if proven, would support a finding of a violation of this chapter, a finding of probable cause shall be made and reported to the ethics committee or executive council, and a hearing shall be ordered by the ethics committee as provided in section 68B.10 or by the executive council as provided in section 68B.10A.

Sec. 17. NEW SECTION. 68B.10D PERSONAL FINANCIAL DISCLOSURE — PUBLIC OFFICIALS.

1. Except as otherwise provided in this section, each official, member of the general assembly, and candidate for state office shall file a statement of personal financial disclosure in the manner provided in this section that discloses the sources of the person's income and any significant financial interests of the official, member, or candidate in the manner required in this section.

2. For purposes of this section, "disclosure of sources of income" includes disclosure of the nature of each business in which the official, member, or candidate is engaged and the nature of the business of each company in which the official, member, or candidate has an income-producing interest. For purposes of this section, "significant financial interests" includes

investments in stocks, bonds, bills, notes, mortgages, or other securities offered for sale through recognized financial brokers if greater than five percent of the total outstanding issue of any stocks, bonds, bills, notes, mortgages, or other securities of the offering entity; any in-state or out-of-state business, trade, labor, farm, professional, religious, educational, or charitable association, foundation, or organization which is involved in supporting or opposing any measures brought before the body in which the official, member, or candidate holds office and by which the official, member, or candidate is employed or retained or has rendered services for compensation within the previous twelve months; any office or directorship held during the previous twelve months by the official, member, or candidate in any corporation, firm, enterprise, labor union, farm organization, cooperative, religious, education, or charitable association or organization or trade or professional association.

3. A candidate for state office shall file the statement of personal financial disclosure with the campaign finance disclosure commission concerning the year preceding the year in which the election is to be held. The statement shall be filed no later than thirty days after the date on which the person formally becomes a candidate. Officials shall file the statements at times designated by the executive council. Members of the house of representatives shall file the statements with the chief clerk of the house, and members of the senate shall file the statements with the secretary of the senate, at times designated by the chief clerk and the secretary.

Sec. 18. NEW SECTION. 68B.10E APPLICABILITY — LOBBYIST REGISTRATION REQUIRED.

1. All lobbyists shall, on or before the day their lobbying activity begins, register by filing a lobbyist's registration statement in the manner provided in this section. Lobbyists engaged in lobbying activities before the general assembly shall file the statement with the chief clerk of the house of representatives or the secretary of the senate. Lobbyists engaged in lobbying activities before the office of the governor or any state agency shall file the statement with the executive council or with the agency before which the lobbyist is engaged in lobbying activities. The chief clerk of the house and the secretary of the senate shall provide appropriate registration forms to lobbyists before the general assembly. The executive council shall prescribe appropriate registration forms for lobbyists before the office of the governor and state agencies. Persons receiving registration statement filings from lobbyists in the office of the governor and state agencies shall forward a copy of the statements to the executive council.

2. Registration shall be valid from the date of registration until the expiration of the registration period for the type of lobbying in which the person will be engaging. Any change in or addition to the information shall be registered within ten days after the change or addition is known to the lobbyist. Changes or additions for executive branch lobbyists may be filed either with the executive council or with the agency or office where the original registration was filed. Changes or additions for registrations of lobbyists of the general assembly shall be filed with either the chief clerk of the house or the secretary of the senate.

3. For persons registered to lobby before the general assembly, registration expires upon the commencement of the next regular session of the general assembly, except that the chief clerk of the house and the secretary of the senate may adopt and implement a reasonable preregistration procedure in advance of each regular session during which persons may register for that session and the following legislative interim. For persons registered to lobby before the office of the governor or a state agency, registration expires upon the commencement of a new calendar year. The executive council may adopt and implement a reasonable preregistration procedure in advance of each new calendar year during which persons may register for that year.

4. If a lobbyist's service on behalf of a particular employer, client, or cause is concluded prior to the end of the calendar year, the lobbyist may cancel the registration on appropriate forms supplied by the executive council, the chief clerk of the house, or the secretary of the senate. The cancellation forms shall be filed by the lobbyist in the place where the lobbyist filed the original registration. Persons within the executive branch receiving forms canceling a lobbyist's

registration shall forward the forms to the executive council. Upon cancellation of registration, a lobbyist is prohibited from engaging in any lobbying activity on behalf of that particular employer, client, or cause until reregistering and complying with the rules of the executive council or the general assembly.

5. All federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall, when lobbying the general assembly, present to the chief clerk of the house or the secretary of the senate a letter of authorization from their department or agency heads prior to the commencement of their lobbying. When lobbying a state agency or the office of the governor, the letter shall be presented to the agency or office. The lobbyist registration statement of these officials and employees shall not be deemed complete until the letter of authorization is attached. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies must indicate this on their lobbyist registration statements.

Sec. 19. NEW SECTION. 68B.10F LOBBYIST REPORTING.

1. A lobbyist before the general assembly shall file with the campaign finance disclosure commission, on forms prescribed by the commission, a separate report disclosing the following: the lobbyist's clients; all campaign contributions made by the lobbyist during the prior calendar month; and the recipient of the campaign contributions.

2. A lobbyist before a state agency or the office of the governor shall file with the campaign finance disclosure commission, on forms prescribed by the commission, a report disclosing the same items described in subsection 1.

3. The report of contributions, expenditures, and gifts must be filed on a monthly basis on dates to be determined by the campaign finance disclosure commission.

Sec. 20. NEW SECTION. 68B.10G LOBBYIST'S CLIENT REPORTING.

1. No later than January 31 and July 31 of each year, a lobbyist's client shall file with the general assembly or the executive council a report that contains information on all salaries, fees, and retainers paid by the lobbyist's client to the lobbyist for lobbying purposes during the preceding six calendar months. Reports by lobbyists' clients shall be filed with the same entity with which the lobbyist filed the lobbyist's report and registration.

2. The report due January 31 shall include a cumulative total of all lobbying expenditures for the preceding calendar year.

Sec. 21. Section 68B.11, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.11 SUPREME COURT RULES.

The supreme court of this state shall prescribe rules by January 1, 1993, establishing a code of ethics for officials and employees of the judicial department of this state, and the immediate family members of the officials and employees. Rules prescribed shall include provisions relating to the receipt or acceptance of gifts and honoraria, interests in public contracts, services against the state, and financial disclosure which are substantially similar to the requirements of this chapter.

Sec. 22. Section 56.2, subsection 3, Code Supplement 1991, is amended to read as follows:

3. "Candidate" means any individual who has taken affirmative action to seek nomination or election to a public office ~~but~~ and shall ~~exclude~~ also include any judge standing for retention in a judicial election.

Sec. 23. Section 56.2, subsection 11, Code Supplement 1991, is amended to read as follows:

11. "Disclosure report" means a statement of contributions received, expenditures made, and indebtedness incurred on forms prescribed by rules ~~promulgated~~ adopted by the commission in accordance with chapter 17A.

Sec. 24. Section 56.2, subsection 16, Code Supplement 1991, is amended to read as follows:

16. "Public office" means any ~~federal,~~ state, county, city, or school office filled by election.

Sec. 25. Section 56.6, subsection 1, paragraph c, Code Supplement 1991, is amended by striking the paragraph.

Sec. 26. NEW SECTION. 56.15A PROHIBITING CONTRIBUTIONS DURING THE LEGISLATIVE SESSION.

A lobbyist or political committee, other than a state statutory political committee, county statutory political committee, or a national political party, shall not contribute to, act as an agent or intermediary for contributions to, or arrange for the making of contributions to the campaign funds of an elected state official, member of the general assembly, or candidate for public office on the state level on any day during the regular legislative session and, in the case of the governor or a gubernatorial candidate, during the thirty days following the adjournment of a regular legislative session allowed for the signing of bills. This section shall not apply to the receipt of contributions by an elected state official, member of the general assembly, or other state official who has taken affirmative action to seek nomination or election to a federal elective office.

Sec. 27. Section 56.41, subsection 1, Code Supplement 1991, is amended to read as follows:

1. A candidate and the candidate's committee shall use campaign funds only for campaign purposes or constituency services, and shall not use campaign funds for personal expenses.

Sec. 28. Section 56.41, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The commission shall adopt rules which list items that represent proper campaign expenses.

Sec. 29. Section 56.42, subsections 1, 2, and 5, Code Supplement 1991, are amended to read as follows:

1. In addition to the uses permitted under section 56.41, a candidate's committee may only 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.

5. A candidate, ~~or~~ candidate's committee, or any other person shall not directly or indirectly receive or transfer campaign funds with the intent of circumventing the requirements of this section. A candidate for statewide or legislative office shall not establish, direct, or maintain a political committee.

Sec. 30. Section 602.1609, Code 1991, is amended to read as follows:

602.1609 COMPLIANCE WITH ~~GIFT~~ ETHICS LAW.

Judicial officers and court employees shall comply with rules ~~adopted~~ prescribed by the supreme court ~~under section 68B.11~~ with respect to ethical conduct including the ~~reporting~~ acceptance and receipt of gifts ~~received~~ and honoraria, interests in public contracts, services against the state, and financial disclosure. In prescribing rules, the supreme court shall include any appropriate provisions and limitations contained in chapter 68B. Violations are subject to the ~~criminal~~ imposition of criminal and civil penalties in the manner provided ~~in that section~~ by law.

Sec. 31. Section 602.2101, Code 1991, is amended to read as follows:

602.2101 AUTHORITY.

The supreme court may retire, discipline, or remove a judicial officer from office or may discipline or remove an employee of the judicial department for cause as provided in this part.

Sec. 32. Section 602.2103, Code 1991, is amended to read as follows:

602.2103 OPERATION OF COMMISSION.

A quorum of the commission is four members. Only those commission members that are present at commission meetings or hearings may vote. An application by the commission to the supreme court to retire, discipline, or remove a judicial officer, or discipline or remove an employee of the judicial department, or an action by the commission which affects the final disposition of a complaint, requires the affirmative vote of at least four commission members. Notwithstanding chapter 21 and chapter 22, all records, papers, proceedings, meetings, and hearings of the commission are confidential, but if the commission applies to the supreme court to retire, discipline, or remove a judicial officer, or to discipline or remove an employee of the judicial department, the application and all of the records and papers in that proceeding are public documents.

Sec. 33. Section 602.2104, Code 1991, is amended to read as follows:

602.2104 PROCEDURE BEFORE COMMISSION.

1. Charges before the commission shall be in writing but may be simple and informal. The commission shall investigate each charge as indicated by its gravity. If the charge is groundless, it shall be dismissed by the commission. If the charge appears to be substantiated but does not warrant application to the supreme court, the commission may dispose of it informally by conference with or communication to the judicial officer or employee of the judicial department involved. If the charge appears to be substantiated and if proved would warrant application to the supreme court, notice shall be given to the judicial officer and a hearing shall be held before the commission. The commission may employ investigative personnel, in addition to the executive secretary, as it deems necessary. The commission may also employ or contract for the employment of legal counsel.

2. In case of a hearing before the commission, written notice of the charge and of the time and place of hearing shall be mailed to ~~the~~ a judicial officer or an employee of the judicial department at the ~~officer's~~ person's residence at least twenty days prior to the time set for hearing. Hearing shall be held in the county where the judicial officer or employee of the judicial department resides unless the commission and the judicial officer or employee of the judicial department agree to a different location. The judicial officer shall continue to perform judicial duties during the pendency of the charge and the employee shall continue to perform the employee's assigned duties, unless otherwise ordered by the commission. The commission has subpoena power on behalf of the state and the judicial officer~~, and disobedience~~ or employee of the judicial department. Disobedience of the commission's subpoena is punishable as contempt in the district court for the county in which the ~~hearing~~ proceeding is held. The attorney general shall prosecute the charge before the commission on behalf of the state. ~~The~~ A judicial officer or employee of the judicial department may defend and has the right to participate in person and by counsel, to cross-examine, to be confronted by the witnesses, and to present evidence in accordance with the rules of civil procedure. A complete record shall be made of the evidence by a court reporter. In accordance with its findings on the evidence, the commission shall dismiss the charge or make application to the supreme court to retire, discipline, or remove the judicial officer or to discipline or remove an employee of the judicial department.

Sec. 34. Section 602.2106, Code 1991, is amended to read as follows:

602.2106 PROCEDURE BEFORE SUPREME COURT.

1. If the commission submits an application to the supreme court to retire, discipline, or remove a judicial officer or to discipline or remove an employee of the judicial department, the commission shall promptly file in the supreme court a transcript of the hearing before the commission. The statutes and rules relative to proceedings in appeals of equity suits apply.

2. The attorney general shall prosecute the proceedings in the supreme court on behalf of the state, and the judicial officer or employee of the judicial department may defend in person and by counsel.

3. Upon application by the commission, the supreme court may do ~~either~~ any of the following:

a. Retire the judicial officer for permanent physical or mental disability which substantially interferes with the performance of judicial duties.

b. Discipline or remove the judicial officer for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings judicial office into disrepute, or substantial violation of the canons of judicial ethics. Discipline may include suspension without pay for a definite period of time not to exceed twelve months.

c. Discipline or remove an employee of the judicial department for conduct which violates the code of ethics prescribed by the supreme court for court employees.

4. If the supreme court finds that the application should be granted in whole or in part, it shall render the decree that it deems appropriate.

Sec. 35. Section 602.2107, Code 1991, is amended to read as follows:

602.2107 CIVIL IMMUNITY.

The making of charges before the commission, the giving of evidence or information before the commission or to an investigator or legal counsel employed by the commission, and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court are privileged in actions for defamation.

Sec. 36. STUDIES.

1. a. The legislative council and the governor shall initiate and organize a joint study relating to ethics and embracing subject matter examined by the reform committee on government ethics and procedures and included in that committee's final report to the general assembly, and other related matters considered during the 1992 regular session of the general assembly, as they apply to officials as defined in chapter 68B and members of the general assembly.

b. In addition to other subject matter, the committee shall examine the issue of whether gifts of food, beverages, travel, and lodging which would otherwise be prohibited may be received by an official or member of the general assembly if such person is officially representing an agency in a delegation whose purpose is to attract new business to locate in the state or to encourage expansion or retention of an existing business in this state. If the committee determines that the receipt of such gifts should be permissible, the committee shall make recommendations concerning whether the person should file reports concerning such gifts, where any such reports should be filed, and whether or not such reports should be confidential.

The committee shall also examine the issue of personal financial disclosure by an official or member of the general assembly, and whether such disclosure should include candidates for the office of an official or member of the general assembly.

c. The membership of the committee shall be appointed as follows:

(1) Four members shall be appointed from the general assembly with two members to be appointed from the senate, one member appointed by the president and one member appointed by the minority leader, and with two members to be appointed from the house of representatives, one member appointed by the speaker and one member appointed by the minority leader.

(2) Two members shall be appointed by the executive council.

(3) Two members shall be appointed by the governor.

d. Each appointing authority shall make the appointments under paragraph "c" pursuant to sections 69.16 and 69.16A.

e. The members of the committee shall receive a per diem as specified in section 7E.6 while conducting business of the committee, and payment of actual and necessary expenses incurred in the performance of their duties.

f. The committee shall make a written report to the general assembly and the governor no later than January 1, 1993, which shall include recommendations for legislation and other matters deemed appropriate by the committee. The general assembly shall take action on the recommendations of the committee no later than May 1, 1993.

2. a. The league of Iowa municipalities, the Iowa state association of counties, and the Iowa association of school boards shall create a joint study related to ethics and embracing all of the following:

(1) Personal financial disclosure of local public officials. The study shall examine and make recommendations concerning the personal finances to be disclosed and the local public officials who should make such disclosures. The committee shall examine whether the disclosure requirement should be applied to candidates for local public office and, if so, where such reports should be filed. The study shall examine whether it is appropriate to exempt certain local public officials from such disclosure requirements and shall identify the reasons for such exemption, which may include, but is not limited to, the population base which the local public official serves.

(2) The establishment of a code of ethics applicable to local public officials, including conflict of interest guidelines.

(3) The procedures and enforcement provisions related to complaints made against local public officials.

(4) Mechanisms to educate local public officials concerning recommendations made which are enacted or adopted, and become applicable to local public officials.

(5) Whether gifts of food, beverages, travel, and lodging which would otherwise be prohibited may be received by a local public official if such person is officially representing a local government agency in a delegation whose purpose is to attract new business to locate in the state or to encourage expansion or retention of an existing business in this state. If it is determined that the receipt of such gifts would be permissible, the study shall include recommendations concerning whether the person should file reports concerning such gifts, where any such reports should be filed, and whether or not such reports should be confidential.

b. The study shall not include an examination of, or recommendations related to, campaign finance.

c. The study shall develop and recommend model ordinances and statutes for consideration by local governments and the general assembly which would be applicable to local public officials and local public employees. The results and recommendations of the study shall be reported in writing to the general assembly and governor no later than January 1, 1993, and made available to local governments for their consideration. The general assembly shall consider whether legislative action should be taken on any model statutes recommended by the study.

3. The supreme court shall prescribe rules regarding a code of ethics to be applied to judicial officers and court employees. Such rules shall be prescribed and implemented no later than January 1, 1993.

Sec. 37. Notwithstanding section 68B.10, subsection 4, paragraph "a", rules adopted pursuant to that section for the Seventy-fourth General Assembly shall remain in effect until amended or rescinded as a result of action taken as provided in section 36, subsection 1, paragraph "f", of this Act.

Sec. 38. Sections 5 and 7 of this Act shall apply to officials, employees, members of the general assembly, or legislative employees who are employed, hold office, or terminate service or employment on or after July 1, 1992.

Sec. 39. Section 56.10A, Code 1991, is repealed.

Sec. 40. Sections 1 through 4, 6, 8 through 26, and 30 through 35 of this Act take effect January 1, 1993.

Sec. 41. Sections 27, 29, and 36 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 42. CODIFICATION. The Code editor shall renumber the sections in chapter 68B, reserving section numbers if appropriate, as the Code editor sees fit.

Approved June 2, 1992

CHAPTER 1229

HUMAN SERVICES PROGRAMS AFFECTING CHILDREN AND MEDICAL ASSISTANCE

H.F. 2480

AN ACT relating to department of human services' programs involving child and family services, juvenile justice, foster care, and medical assistance and providing applicability provisions and an effective date.

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

Section 1. Section 217.12, subsection 4, Code 1991, is amended to read as follows:

4. In cooperation with the legislative fiscal bureau, develop measures to independently evaluate the effectiveness of any demonstration program funded, that include measurement of the program's effectiveness in meeting its goals in a quantitative sense through reduction in length of stay on welfare programs or a reduced need for other state child and family welfare services. Families referred to the demonstration programs shall be randomly selected from those meeting the criteria established in the demonstration programs as being at risk~~, and all families meeting the criteria shall be monitored to determine the effect of the demonstration programs in changing the status of the families selected compared with those not selected~~.

Sec. 2. Section 222.31, unnumbered paragraph 1, Code 1991, is amended to read as follows:

If in the opinion of the court, or of a commission as authorized in section 222.28, the person is mentally retarded within the meaning of this chapter and the court determines that it will be conducive to the welfare of that person and of the community to commit the person to a proper institution for treatment, training, instruction, care, habilitation, and support, and that services or support provided to the family of such a person who is a child will not enable the family to continue to care for the child in the child's home, the court shall by proper order:

Sec. 3. Section 232.52, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Notwithstanding subsection 2, the court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the regional plan for group foster care established pursuant to section 232.143 for the departmental region in which the court is located.

Sec. 4. Section 232.71, subsections 10 and 13, Code 1991, are amended to read as follows:

10. Based on the investigation conducted pursuant to this section, the department shall offer to the family of any child believed to be the victim of abuse such services as are available and appear appropriate for either the child, the family, or both, if it is explained that the department has no legal authority to compel ~~such~~ the family to ~~receive such~~ accept the services.

13. The department of human services shall provide for or arrange for and monitor ~~rehabilitative~~ services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court. The department shall adopt rules defining services which the local planning groups authorized to develop plans may recommend.

Sec. 5. Section 232.102, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the regional plan for group foster care established pursuant to section 232.143 for the departmental region in which the court is located.

NEW SUBSECTION. 9. a. As used in this section, "reasonable efforts" means the efforts made to prevent or eliminate the need for removal of a child from the child's home. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

(1) The type, duration, and intensity of services or support offered or provided to the child and the child's family.

(2) The relative risk to the child of remaining in the child's home versus removal of the child.

b. As used in this section:

(1) "Intensive family preservation services" means services provided to a family with a child who is at imminent risk of out-of-home placement. The services are designed to address any problem creating the need for out-of-home placement and have the following characteristics: are persistently offered but provided at the family's option; are provided in the family's home; are available twenty-four hours per day; provide a response within twenty-four hours of the initial contact for assistance; have worker caseloads of not more than two through four families per worker at any one time; are provided for a period of four to six weeks; and provide funding in order to meet the special needs of a family.

(2) "Family-centered services" means services which utilize a comprehensive approach to addressing the problems of individual family members, whether or not the problems are integrally related to the family, within the context of the family. Family-centered services are adapted to the individual needs of a family in the intensity and duration of service delivery and are intended to improve overall family functioning.

Sec. 6. Section 232.117, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the regional plan for group foster care established pursuant to section 232.143 for the departmental region in which the court is located.

Sec. 7. Section 232.127, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the regional plan for group foster care established pursuant to section 232.143 for the departmental region in which the court is located.

Sec. 8. Section 232.141, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. If the department's reimbursement for the allowable costs of a child's shelter care placement exceeds the amount the department is authorized to pay in accordance with law and administrative rule, the unpaid costs may be recovered from the child's county of legal settlement. The unpaid costs are payable pursuant to filing of verified claims against the county of legal settlement. A detailed statement of the facts upon which a claims* is based shall accompany the claim. Any dispute between counties arising from filings of claims pursuant to this subsection shall be settled in the manner provided to determine legal settlement in section 230.12.

Sec. 9. Section 232.142, subsection 3, Code Supplement 1991, is amended to read as follows:

3. A county or multicounty juvenile detention home approved pursuant to this section shall receive financial aid from the state in a manner approved by the director. Aid paid by the state shall be at least ten percent and not more than fifty percent of the total cost of the establishment, improvements, operation, and maintenance of the home.

Sec. 10. NEW SECTION. 232.143 REGIONAL GROUP FOSTER CARE TARGET.

1. A statewide target for the average number of children in group foster care placements on any day of a fiscal year, which placements are a charge upon or are paid for by the state, shall be established annually by the general assembly. The department and the judicial department shall jointly develop a formula for allocating a portion of the statewide target established by the general assembly to each of the department's regions. The formula shall be based upon the region's proportion of the state population of children and of the statewide number of children placed in group foster care in the previous five completed fiscal years. The number determined in accordance with the formula shall be the group foster care placement target for that region.

*According to enrolled Act

2. For each of the department's regions, representatives appointed by the department and the juvenile court shall establish a plan for containing the number of children placed in group foster care ordered by the court within the target allocated to that region pursuant to subsection 1. The plan shall include monthly targets and strategies for developing alternatives to group foster care placements in order to contain expenditures for services provided to children within the amount appropriated by the general assembly for that purpose. Each regional plan shall be established in advance of the fiscal year to which the regional plan applies. To the extent possible, the department and the juvenile court shall coordinate the planning required under this subsection with planning for services paid under section 232.141, subsection 4. The department's regional administrator shall communicate regularly, as specified in the regional plan, with the juvenile courts within that region concerning the current status of the regional plan's implementation.

3. State payment for group foster care placements shall be limited to those placements which are in accordance with the regional plans developed pursuant to subsection 2.

Sec. 11. Section 232.175, Code 1991, is amended to read as follows:

232.175 ~~PURPOSE AND POLICY~~ PLACEMENT OVERSIGHT.

~~It is the purpose and policy of this division to provide court~~ Placement oversight ~~for placements that involve a handicapped child placed voluntarily in foster care by the child's parent or guardian,~~ shall be provided pursuant to this division when the parent, guardian, or custodian of a child with mental retardation or other developmental disability requests placement of the child for a period of more than thirty days. The oversight shall be provided through review of the ~~voluntary placements~~ placement every six months by the department's foster care review committees or by a local foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed eighteen months. It is the purpose and policy of this division to assure the ~~additional safeguard of court oversight~~ existence of oversight safeguards as required by the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 12. Section 232.178, subsections 1, 3, and 4, Code 1991, are amended to read as follows:

1. ~~The~~ For a placement initiated on or after July 1, 1992, the department shall file a petition to initiate a voluntary placement proceeding prior to the child's placement in accordance with criteria established pursuant to the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 627(a). For a placement initiated before July 1, 1992, the department shall file a petition to approve placement on or before September 1, 1992.

3. The petition shall state the names and residence of the child and the child's living parents, guardian, custodian, and guardian ad litem, if any~~;~~, and the age of the child; ~~and the length of time the child has been in foster care~~.

4. The petition shall ~~allege that the child is placed in foster care on the basis of a signed voluntary placement agreement between the department and the child's parent or guardian; that the child has an~~ describe the child's emotional, physical, or intellectual ~~handicap~~ disability which requires care and treatment; ~~that the child's parent or guardian has demonstrated a willingness to fulfill~~ the reasonable efforts to maintain the child in the child's home; the department's request to the family of a child with mental retardation, other developmental disability, or organic mental illness to determine if any services or support provided to the family will enable the family to continue to care for the child in the child's home; and the reason the child's parent, guardian, or custodian has requested a foster care placement. The petition shall also describe the commitment of the parent, guardian, or custodian in fulfilling the responsibilities ~~to the child as~~ defined in the case permanency plan; and ~~that~~ how the ~~voluntary~~ placement ~~is in~~ will serve the child's best interests.

Sec. 13. Section 232.181, Code 1991, is amended to read as follows:

232.181 SOCIAL HISTORY REPORT.

Upon the filing of a petition, the department shall submit a social history report regarding the child and the child's family. The report shall include a description of the child's ~~handicap~~

disability and resultant functional limitations, the case permanency plan, a description of the proposed foster care placement, and a description of ~~parental~~ family participation in developing the child's case permanency plan and the ~~parent's compliance with~~ commitment of the parent, guardian, or custodian in fulfilling the responsibilities ~~to the child as~~ defined in the plan.

Sec. 14. Section 232.182, subsections 5 and 6, Code 1991, are amended to read as follows:

5. After the hearing is concluded, the court shall make and file written findings as to whether reasonable efforts, as defined in section 232.102, subsection 9, have been made and whether the voluntary foster care placement is in the child's best interests. The court shall ~~determine that voluntary~~ order foster care placement ~~is~~ in the child's best interests if the court finds that ~~both~~ all of the following conditions exist:

a. The child has an emotional, physical, or intellectual ~~handicap~~ disability which requires care and treatment.

b. The child's parent, ~~or~~ guardian, or custodian has demonstrated a willingness or ability to fulfill the responsibilities ~~to the child as~~ defined in the case permanency plan.

c. Reasonable efforts have been made and the placement is in the child's best interests.

d. A determination that services or support provided to the family of a child with mental retardation, other developmental disability, or organic mental illness will not enable the family to continue to care for the child in the child's home.

If the court finds that reasonable efforts have not been made and that services or support are available to prevent the placement, the court may order the services or support to be provided to the child and the child's family. If the court finds that the foster care placement is necessary and the child's parent, guardian, or custodian has not demonstrated a commitment to fulfill the responsibilities defined in the child's case permanency plan, the court shall cause a child in need of assistance petition to be filed.

6. The hearing may be waived and the court may issue the findings and order required under subsection 5 on the basis of the department's written report if all parties agree to the hearing's waiver and the department's written report.

Sec. 15. Section 232.182, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. If the court orders placement of the child into foster care, the court shall establish a support obligation for the costs of the placement pursuant to section 234.39.

NEW SUBSECTION. 7. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the regional plan for group foster care established pursuant to section 232.143 for the departmental region in which the court is located.

Sec. 16. Section 232.183, subsections 2 and 5, Code 1991, are amended to read as follows:

2. The dispositional hearing shall be held within eighteen months of the date the child was placed in foster care. ~~The dispositional hearing may be held in conjunction with the initial determination hearing.~~

5. Following the hearing, the court shall issue a dispositional order. The dispositional orders which the court may enter, subject to its continuing jurisdiction, are as follows:

a. An order that the child's voluntary placement shall be terminated and the child returned to the child's home and provided with available services and support needed for the child to remain in the home.

b. An order that the child's voluntary placement may continue if the department and the child's parent or guardian continue to agree to the voluntary placement.

c. ~~An~~ If the court finds that the child's parent, guardian, or custodian has failed to fulfill responsibilities outlined in the case permanency plan, an order that the child remain in foster care and that the county attorney or department file, within three days, a petition alleging the child to be a child in need of assistance.

Sec. 17. NEW SECTION. 232.187 REGIONAL OUT-OF-STATE PLACEMENT COMMITTEES.

1. DUTIES. The department of human services and the judicial department shall jointly establish one or more out-of-state placement committees in each departmental region to review the cases of children who are placed outside the children's homes, in an out-of-state group foster care placement which is more than one hundred twenty-five miles from a child's home. It is the intent of the general assembly that by June 30, 1994, the review committees will reduce the number of children placed in out-of-state group foster care placements by twenty-five percent from the number of those placements in the fiscal year beginning July 1, 1991. A review committee shall perform all of the following activities:

a. Consult with the local experts in reforming youth services.

b. Seek to develop services and use of wrap-around services as alternatives to out-of-state placements. For the purposes of this paragraph, "wrap-around services" means coordinated, highly individualized and community-based services directed to the basic human needs of a child and the child's family which are developed and approved by an interdisciplinary team and focused upon the strengths of the child and the child's family.

c. Meet as necessary to review cases of children who are being referred to an out-of-state placement.

d. Require the presence or testimony of the persons associated with the referral of the child to an out-of-state placement as appropriate for the committee to make findings and recommendations.

e. Make findings and recommendations to the court within ten working days of referral of a child to an out-of-state placement. The department or the juvenile court officer associated with the referral of a child to an out-of-state placement shall report to the court the findings and recommendations of the committee prior to the court making a disposition. A committee shall not recommend out-of-state placement of a child unless committee members representing both the department and the court are present at the meeting in which the recommendation is considered and a majority of the members present approve of the recommendation.

f. The department shall not pay the cost of an out-of-state group foster care placement which is more than one hundred twenty-five miles from a child's home without a review committee recommending the out-of-state group foster care placement.

g. Report annually to the child welfare task force created in Senate File 2355,* if enacted by the Seventy-fourth General Assembly, 1992 Session, concerning the committee's progress in reducing out-of-state placements.

2. MEMBERSHIP. The membership of a review committee shall consist of representatives of the department appointed by the department's regional administrator and representatives of the juvenile court appointed by the chief juvenile court officer of each judicial district within the departmental region. The department and the judicial department shall appoint additional members to ensure at least one representative for each of the following areas of expertise: child welfare, education, juvenile justice, and mental health, mental retardation or other developmental disabilities.

Sec. 18. NEW SECTION. 232.188 DECATEGORIZATION OF CHILD WELFARE FUNDING.

1. Decategorization of child welfare funding is intended to establish a system of delivering human services based upon client needs to replace a system based upon a multitude of categorical programs and funding sources, each with different service definitions and eligibility requirements. The purposes of decategorization include but are not limited to redirecting child welfare funding to services which are more preventive, family-centered, and community-based in order to reduce use of restrictive approaches which rely upon institutional, out-of-home, and out-of-community services.

2. In partnership with an interested county or group of counties which has demonstrated the commitment and involvement of the affected county department of human services, juvenile court system, and board of supervisors, the department shall develop agreements providing

*Chapter 1241 herein

for the decategorization of specific state and state-federal funding categories into a child welfare funding pool for that county or group of counties. A decategorization agreement shall require the decategorization program to be implemented by a decategorization governance board. The decategorization governance board shall develop specific, quantifiable short-term and long-term plans for enhancing the county's or group of counties' family-centered and community-based services and reducing reliance upon out-of-community care. The affected service systems shall include child welfare and juvenile justice systems. A decategorization agreement may vary depending upon the approaches selected by the county or group of counties which shall be detailed in an annual child welfare services plan developed by the decategorization governance board. A decategorization governance board shall involve community representatives and county organizations in the development of the plan.

3. The child welfare funding pool shall be used by the county or group of counties to provide more flexible, individualized, family-centered, preventive, community-based, comprehensive, and coordinated service systems for children and families served in that area. The decategorization of the funding shall not limit the legal rights of those children and families to services, but shall provide more flexibility to the partnership county or counties in responding to individual and family needs.

4. In a decategorization agreement, the department and the county's or group of counties' decategorization governance board shall agree on all of the following items: the governance relationship between the department and the decategorization governance board; the respective areas of autonomy of the department and the board; the budgeting structure for the decategorization; and a method for resolving disputes between the department and the board. The decategorization agreement shall require the department and the decategorization governance board to agree upon a budget on or before June 15 of the fiscal year preceding the fiscal year to which the budget applies. The budget may later be modified to reflect new or changed circumstances.

5. The state shall provide incentives for a county or counties to participate in a decategorization agreement while maintaining an expectation that the service outcomes for children and families can be improved by the funding flexibility, and the redeployment of funding currently available for services within the system. Moneys in the child welfare funding pool established for a county or group of counties participating in a decategorization agreement which remain unobligated or unexpended at the end of a fiscal year shall remain available to the county or group of counties during the succeeding fiscal year to finance other child welfare service enhancements.

6. Initially the department shall work with the five counties previously authorized under law to enter into decategorization agreements with the state. At a minimum, any of those counties may elect to use funding for foster care, family-centered services, subsidized adoption, child day care, local purchase of service, state juvenile institution care, juvenile detention, department direct services, and court-ordered services for juveniles in the child welfare fund established for that county.

7. The annual child welfare services plan developed by a decategorization governance board pursuant to subsection 2 shall be submitted to the department and the statewide decategorization and family preservation committee. In addition, the board shall submit an annual progress report to the department and the committee which summarizes the progress made toward attaining the objectives contained in the plan. The progress report shall serve as an opportunity for information sharing and feedback.

Sec. 19. NEW SECTION. 232.189 REASONABLE EFFORTS ADMINISTRATIVE REQUIREMENTS.

Based upon a model reasonable efforts family court initiative, the director of human services and the chief justice of the supreme court or their designees shall jointly establish and implement a statewide protocol for reasonable efforts to prevent or eliminate the need for placement of a child outside the child's home. In addition, the director and the chief justice shall design and implement a system for judicial and departmental reasonable efforts education for deployment throughout the state.

Sec. 20. Section 234.1, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

"Child" means either a person less than eighteen years of age or a person eighteen, or nineteen ~~or twenty~~ years of age who meets any of the following conditions:

Sec. 21. Section 234.6, subsection 6, paragraphs c and f, Code 1991, are amended by striking the paragraphs and inserting in lieu thereof the following:

c. Intensive family preservation services and family-centered services, as defined in section 232.102, subsection 9, paragraph "b".

f. Services or support provided to a child with mental retardation or other developmental disability or to the child's family, either voluntarily by the department of human services or in accordance with a court order entered under section 222.31 or 232.182, subsection 5.

Sec. 22. Section 234.6, subsection 6, paragraph g, Code 1991, is amended by striking the paragraph.

Sec. 23. Section 234.6, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In determining the reimbursement rate for services purchased by the department of human services from a person or agency, the department shall not include private moneys contributed to the person or agency unless the moneys are contributed for services provided to a specific individual.

Sec. 24. NEW SECTION. 234.8 FEES FOR CHILD WELFARE SERVICES.

The department of human services may charge a fee for child welfare services to a person liable for the cost of the services. The fee shall not exceed the reasonable cost of the services. The fee shall be based upon the person's ability to pay and consideration of the fee's impact upon the liable person's family and the goals identified in the case permanency plan. The department may assess the liable person for the fee and the means of recovery shall include a setoff against an amount owed by a state agency to the person assessed pursuant to section 421.17, subsection 29. In addition the department may establish an administrative process to recover the assessment through automatic income withholding. The department shall adopt rules pursuant to chapter 17A to implement the provisions of this section. This section does not apply to court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141 and services for which the department has established a support obligation pursuant to section 234.39.

Sec. 25. Section 234.35, Code 1991, is amended to read as follows:

234.35 WHEN STATE TO PAY FOSTER CARE COSTS.

1. The department of human services ~~shall be~~ is responsible for paying the cost of foster care for a child, according to rates established pursuant to section 234.38, under any of the following circumstances:

~~1~~ a. When a court has committed the child to the director of human services or the director's designee.

~~2~~ b. When a court has transferred legal custody of the child to the department of human services.

~~3~~ c. When the department has agreed to provide foster care services for the child for a period of not more than thirty days on the basis of a signed placement agreement between the department and the child's parent or guardian initiated on or after July 1, 1992.

~~4~~ d. When the child has been placed in emergency care for a period of not more than thirty days upon approval of the director or the director's designee.

~~5~~ e. When a court has entered an order transferring the legal custody of the child to a foster care placement pursuant to section 232.52, subsection 2, paragraph "d", or section 232.102, subsection 1. However, payment for a group foster care placement shall be limited to those placements which conform to a regional group foster plan established pursuant to section 232.143.

f. When the department has agreed to provide foster care services for a child who is eighteen years of age or older on the basis of a signed placement agreement between the department and the child or the person acting on behalf of the child.

g. When the department has agreed to provide foster care services for the child on the basis of a signed placement agreement initiated before July 1, 1992, between the department and the child's parent or guardian.

h. When the child is placed in shelter care pursuant to section 232.20, subsection 1, or section 232.21.

i. When the court has entered an order in a voluntary foster care placement proceeding pursuant to section 232.182, subsection 5, placing the child into foster care.

2. Except as provided under section 234.38 for direct payment of foster parents, payment for foster care costs shall be limited to foster care providers with whom the department has a contract in force.

3. The department shall not pay for an out-of-state foster care placement of a child which is more than one hundred twenty-five miles from the child's home unless the placement is approved by an out-of-state placement committee established pursuant to section 232.187.

4. Payment for foster care services provided to a child who is eighteen years of age or older shall be limited to the following:

a. For a child who is eighteen years of age, family foster care or independent living arrangements.

b. For a child who is nineteen years of age, independent living arrangements.

c. For a child who is at imminent risk of becoming homeless or failing to graduate from high school or to obtain a graduate equivalency diploma, if the services are in the child's best interests, funding is available for the services, and an appropriate alternative service is unavailable.

Sec. 26. Section 234.38, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

234.38 FOSTER CARE REIMBURSEMENT RATES.

1. The department of human services shall make reimbursement payments directly to foster parents for services provided to children pursuant to section 234.6, subsection 6, paragraph "b", or section 234.35. For each of the following fiscal years, the reimbursement rate shall be based upon the indicated percentage of the United States department of agriculture estimate of the cost to raise a child in the calendar year immediately preceding the indicated fiscal year: 1992-1993, sixty-five percent; 1993-1994, seventy-five percent; and 1994-1995 and subsequent fiscal years, eighty percent. The department may pay an additional stipend for a child with special needs.

2. For fiscal years beginning on or after July 1, 1993, the department shall reimburse foster group care facilities, as defined under section 237.3, subsection 2, paragraph "a", subparagraphs (1) through (4) and (6), and shelter care facilities approved under section 232.142 at one hundred percent of the cost of maintenance as specified in Pub. L. No. 96-272, as codified in 42 U.S.C. § 475(4), not to exceed the maximum allowable reimbursement rate authorized for foster group care. The service portion of the reimbursement rate shall be negotiated between the department and the facility and specified in a purchase of service agreement. Reimbursement payments made under this subsection shall use rates which are based upon reasonable and necessary costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal requirements, and quality and safety standards, and to ensure that individuals eligible for the services have reasonable access to services of adequate quality.

Sec. 27. Section 234.39, subsections 1 and 2, Code 1991, are amended to read as follows:

1. For an individual to whom section 234.35, subsection ~~2, 4, or 5~~ 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department, if a support obligation has not previously been established under an order of the district court or court of comparable jurisdiction in another state. The court shall establish the amount of the parent's or guardian's support obligation and the amount of support debt accrued and

accruing in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court may adjust the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. The order shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and enter the disbursements in a record book. If payments are not made as ordered, the child support recovery unit shall certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

2. For an individual who is served by the department of human services under section 234.35, ~~subsection 3,~~ and is not subject to a dispositional order of the juvenile court requiring the provision of foster care, the department shall determine the obligation of the individual's parent or guardian in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8.

Sec. 28. Section 235.1, unnumbered paragraph 2, Code 1991, is amended to read as follows:

"Child welfare services" means social welfare services for the protection and care of children who are homeless, dependent or neglected, or in danger of becoming delinquent, or who have a mental illness or mental retardation or other developmental disability, including, when necessary, care and maintenance in a foster care facility. Child welfare services are designed to serve a child in the child's home whenever possible. If not possible, and the child is placed outside the child's home, the placement should be in the least restrictive setting available and in close proximity to the child's home.

Sec. 29. Section 249A.4, unnumbered paragraph 1, and subsections 1, 2, and 9, Code Supplement 1991, are amended to read as follows:

The director shall be responsible for the effective and impartial administration of this chapter and shall, in accordance with the standards and priorities established by this chapter, by applicable federal law, by the regulations and directives issued pursuant to federal law, by applicable court orders, and by the state plan approved in accordance with federal law, make rules, establish policies, and prescribe procedures to implement this chapter. Without limiting the generality of the foregoing delegation of authority, the director is hereby specifically empowered and directed to:

1. Determine the greatest amount, duration, and scope of assistance which may be provided, and the broadest range of eligible individuals to whom assistance may effectively be provided, under this chapter within the limitations of available funds. In so doing, the director shall at least every six months evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing a like program, and compare ~~such~~ the probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period, ~~and expand or curtail the program accordingly; provided that reimbursement for medical and health services shall be made in accordance with subsection 9~~. After each evaluation of the scope of the program, the director shall report to the general assembly through the legislative council or in another manner as the general assembly may by resolution direct.

~~2. Have authority to determine, when available funds permit expansion of the program provided under this chapter beyond the minimum scope required by subsection 1 of this section, whether priority shall be given to providing additional medical assistance to the individuals~~

~~and families described in section 249A.3, subsection 1, or to providing medical assistance to some or all of the individuals and families described in section 249A.3, subsection 2, unless the general assembly has by law made such determination.~~

9. ~~Determine~~ Adopt rules pursuant to chapter 17A in determining the method and level of reimbursement for all medical and health services referred to in section 249A.2, subsection 1 or 7, after considering all of the following:

a. The promotion of efficient and cost-effective delivery of medical and health services.

b. Compliance with federal law and regulations.

c. The level of state and federal appropriations for medical assistance.

d. Reimbursement at a level as near as possible to actual costs and charges after priority is given to the considerations in paragraphs "a", "b", and "c".

Sec. 30. Section 249A.4, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 14. A medical assistance copayment shall only be applied to those services and products specified in administrative rules of the department in effect on February 1, 1991, which under federal medical assistance requirements, are provided at the option of the state.

Sec. 31. CHILD WELFARE PLANNING REQUIREMENTS.

1. The division of adult, children, and family services of the department of human services shall hold public hearings across the state to obtain comments, recommendations, and suggestions concerning all of the following child welfare public policy proposals:

a. The effects of removing foster care placement options currently available for persons who are 18 years of age or older and are eligible for children's services.

b. The effects of requiring court approval for voluntary foster care placements prior to the child's removal from the child's home.

c. Identification of the child and family services which are and are not appropriate for state funding.

d. Identification of the appropriate eligibility requirements for children's services under authority of the division.

2. The division shall also develop a proposed state plan for child welfare services in conjunction with the child welfare task force created in Senate File 2355,* if enacted by the Seventy-fourth General Assembly, 1992 Session. The proposed plan shall address all of the following elements:

a. Definitions of child welfare services, standards, and eligibility criteria, including priorities for providing services if funding is insufficient to serve all who are eligible.

b. Identifying core child welfare services, available statewide in making reasonable efforts, as defined in section 232.102, to prevent or end the placement of a child outside the child's home.

c. Providing authority for regional or local service delivery units to provide certain additional services, as specified by the department, based upon service plans developed by those units.

d. Identifying unmet service needs based upon information submitted by regional service delivery units.

The division shall submit a report concerning the public hearings and providing the proposed state plan, to the governor and the general assembly on or before January 4, 1993.

Sec. 32. IMPLEMENTATION OF REGIONAL TARGETS. In implementing the provisions of section 10 of this Act for the 1992-1993 fiscal year, the department of human services, the judicial department, and the juvenile court shall take every action necessary to establish, on or before August 15, 1992, the initial regional plans required by that section.

Sec. 33. EMERGENCY 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 10, 12, 17, 20, and 25 of this Act and the rules shall become effective

*Chapter 1241 herein

immediately upon filing, unless a later date is specified in the rules. Any rules adopted in accordance with the provisions of this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 34. APPLICABILITY. The amendment to section 217.12, subsection 4, in section 1 of this Act applies to demonstration program grants awarded on or after July 1, 1992. In addition, the requirements of section 217.12, subsection 4, Code 1991, which are stricken in this Act, shall no longer be applied to demonstration program grants on or after July 1, 1992.

Sec. 35. EFFECTIVE DATE. Section 30 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 3, 1992

CHAPTER 1230

STATE AID TO SCHOOL CORPORATIONS

S.F. 2320

AN ACT relating to state aid to school corporations and providing effective date and applicability provisions.

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

Section 1. Section 257.6, subsection 1, unnumbered paragraph 3, Code 1991, is amended to read as follows:

A school district shall certify its actual enrollment to the department of education by October 1 of each year, and the department shall promptly forward the information to the department of management. ~~The department of management shall determine whether a district is entitled to an advance for increasing enrollment on the basis of its actual enrollment.~~

Sec. 2. Section 257.6, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. BUDGET ENROLLMENT. Budget enrollment for the budget year is the basic enrollment for the budget year.

**Sec. 3. Section 257.8, subsection 1, unnumbered paragraph 2, Code 1991, is amended to read as follows:*

On or before each ~~September~~ December *15 thereafter, the department of management shall compute a state percent of growth for the budget year next following the budget year. The state percents of growth shall be forwarded to the director of the department of education.**

**Sec. 4. Section 257.9, subsections 3 and 4, Code 1991, are amended to read as follows:*

3. SPECIAL EDUCATION SUPPORT SERVICES STATE COST PER PUPIL FOR ~~1991-1992~~ 1992-1993. *For the budget year beginning July 1,* ~~1991~~ 1992, *for the special education support services state cost per pupil, the department of management shall divide the total of the approved budgets of the area education agencies for special education support services for that year* as *approved by the state board of education* within the time frames specified *under section 273.3, subsection 12, by the total of the weighted enrollment for special education support services in the state for the budget year. The special education support services state cost per pupil for the budget year is the amount calculated by the department of management under this subsection.*

*Item veto; see message at end of the Act

*4. SPECIAL EDUCATION SUPPORT SERVICES STATE COST PER PUPIL FOR ~~1992-1993~~ 1993-1994 AND SUCCEEDING YEARS. For the budget year beginning July 1, ~~1992~~ 1993, and succeeding budget years, the special education support services state cost per pupil for the budget year is the special education support services state cost per pupil for the base year plus the special education support services allowable growth for the budget year.**

**Sec. 5. Section 257.10, subsections 3 and 4, Code 1991, are amended to read as follows:*

3. SPECIAL EDUCATION SUPPORT SERVICES DISTRICT COST PER PUPIL FOR ~~1991-1992~~ 1992-1993. For the budget year beginning July 1, ~~1991~~ 1992, for the special education support services district cost per pupil, the department of management shall divide the approved budget of each area education agency for special education support services for that year as approved by the state board of education, within the time frames specified under section 273.3, subsection 12, by the total of the weighted enrollment for special education support services in the area for that budget year.

The special education support services district cost per pupil for each school district in an area for the budget year is the amount calculated by the department of management under this subsection.

4. SPECIAL EDUCATION SUPPORT SERVICES DISTRICT COST PER PUPIL FOR ~~1992-1993~~ 1993-1994 AND SUCCEEDING YEARS. For the budget year beginning July 1, ~~1992~~ 1993, and succeeding budget years, the special education support services district cost per pupil for the budget year is the special education support services district cost per pupil for the base year plus the special education support services allowable growth for the budget year.

*Notwithstanding the special education support services district cost per pupil for the budget year beginning July 1, 1991, calculated under subsection 3, for area education agencies that have fewer than three and five-tenths public school pupils per square mile, the special education support services district cost per pupil for the budget year beginning July 1, 1991, is one hundred forty-seven dollars.**

Sec. 6. Section 257.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

For the budget years commencing July 1, 1991, ~~and~~ July 1, 1992, and July 1, 1993, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the department of management shall provide a budget adjustment for that district for that budget year that is equal to the difference.

**Sec. 7. Section 257.16, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:*

*All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on or about June 15 of the budget year ~~and 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. ~~However, the state aid paid to school districts under section 257.13 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year.~~**

Sec. 8. Section 257.20, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

In order to determine the amount of instructional support state aid and the amount of local funding for the instructional support program for a district, the department of management shall divide the total assessed valuation in the state by the total budget enrollment for the budget year in the state to determine a state assessed valuation per pupil and shall divide the assessed valuation in each district by the district's budget enrollment for the budget year to determine the district assessed valuation per pupil. The department of management shall

*Item veto; see message at end of the Act

multiply the ratio of the state's valuation per pupil to the district's valuation per pupil by twenty-five hundredths and subtract that result from one to determine the portion of the instructional support program budget that is local funding. The remaining portion of the budget shall be funded by instructional support state aid. However, for the budget year beginning July 1, 1992, only, the amount of state aid is three and one-quarter percent less than the amount computed under this paragraph for that budget year.

Sec. 9. Section 265.6, Code 1991, is amended to read as follows:

265.6 STATE AID APPLICABLE.

If the state board of regents has established a laboratory school, it shall receive state aid pursuant to chapters 257 and 281 for each pupil enrolled in the laboratory school in the same amount as the public school district in which the pupil resides would receive aid for that pupil and shall transmit the amount received to the institution of higher education at which the laboratory school has been established. If the board of a school district terminates a contract with the state board of regents for attendance of pupils in a laboratory school, the school district shall inform the department of management of the number of these pupils who are enrolled in the district on the third Friday of the following September. The department of management shall pay to the school district, from funds appropriated in section 257.16, an amount equal to the amount of state aid paid for each pupil in that school district for that school year in payments made as provided in section 257.16. ~~However, payments shall not be made for pupils for which an advance is received by the district under section 257.13.~~

Sec. 10. NEW SECTION. 282.27 CHILDREN LIVING IN PSYCHIATRIC HOSPITALS OR INSTITUTIONS — PAYMENT.

The public school district in which is located a psychiatric unit of a hospital licensed under chapter 135B or a psychiatric medical institution for children licensed under chapter 135H, which is not operated by the state, shall be responsible for the provision of educational services to children residing in the unit or institution. Children residing in the unit or institution shall be included in the basic enrollment of their districts of residence, as defined in section 282.31, subsection 4.

The board of directors of each district of residence shall pay to the school district in which is located such psychiatric unit or institution, for the provision of educational services to the child, a portion of the district of residence's district cost per pupil for each of such children based upon the proportion that the time each child is provided educational services while in such unit or institution is to the total time for which the child is provided educational services during a normal school year.

Sec. 11. Section 299A.8, Code Supplement 1991, is amended to read as follows:

299A.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~~ section 257.6 ~~and shall be counted as one pupil~~ in the proportion that the time for which the child is enrolled and receives instruction from practitioners employed by the public school district for the school year is to the time that a full-time pupil carrying a normal course schedule, at the same grade level, in the same school district, and for the same school year, is enrolled and receives instruction.

If a child is receiving competent private instruction through a home school assistance program which provides instruction or instructional supervision through a public school district

by a teacher who is employed by the district, the child shall be registered in the public school district for dual enrollment purposes, included in the public school's basic enrollment under section 257.6, and counted as one pupil.

Sec. 12. Section 257.13, Code 1991, is repealed.

Sec. 13. If as a result of the provisions in this Act the amount of state foundation aid appropriated to a school district is reduced below the amount the school district would have otherwise received, that school district shall not reduce the amount that it is required to pay the area education agency for costs of special education support services in order to compensate for the reduced state aid.

Sec. 14. Sections 1, 2, 7, 8, 9, 10, 11, and 12 of this Act, being deemed of immediate importance, take effect upon enactment 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, 1992.

Sec. 15. Section 6 of this Act takes effect July 1, 1992, 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, 1993.

Sec. 16. Section 3 of this Act takes effect July 1, 1992, for the purpose of computing state percent of growth for the budget year beginning July 1, 1994.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Sections 3, 4, and 5 in their entirety; Section 7 in its entirety; Section 13 in its entirety; and Section 16 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.

Sincerely,
TERRY E. BRANSTAD, *Governor*

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit Senate File 2320, an Act relating to state aid to school corporations and providing effective date and applicability provisions.

Senate File 2320 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 3 and Section 16, in their entirety. These provisions would change the date on which the Department of Management is required to compute a state percent of growth under Chapter 257, the school foundation program. Because the provisions of Senate File 2351 establish a new method for determining the state percent of growth, and are in conflict with Senate File 2320, these items cannot be approved.

I am unable to approve the items designated as Section 4, Section 5, and Section 13, in their entirety. These sections would recalculate the special education support services cost per pupil based on the revised weighted enrollment established by this Act. The special education support services cost per pupil for the 1993 fiscal year should not be changed, and I am unable to approve these items. Notwithstanding the disapproval of these provisions, the budget for area education agency special education support services will increase by more than $5 million in the 1993 fiscal year.

I am unable to approve the item designated as Section 7, in its entirety. Because the provisions of this section are inconsistent with the provisions of Senate File 2371, which has previously been approved, this item cannot be approved.

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 2320 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1231

JUVENILE AND CRIMINAL JUSTICE
H.F. 2452

AN ACT relating to juvenile and criminal justice, establishing a juvenile court judges commission, making appropriations, establishing and increasing penalties, granting the juvenile court jurisdiction over chronic runaways, expanding provisions for automatic waiver to adult court, establishing a youthful offender program, and altering provisions concerning the commission of burglary, providing implementation and effective date provisions, and providing for related matters.

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

**Section 1.* *COURT-ORDERED SERVICES PROVIDED TO JUVENILES. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made to the department for that fiscal year, 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:

..... $ *3,990,000*

*Item veto; see message at end of the Act

1. Notwithstanding section 232.141 or any other provision of law, the funds appropriated in this section shall be allocated to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination on the allocations on or before June 15, 1992.

2. Each judicial district shall continue the planning group for the court-ordered services for juveniles provided in that district which was established pursuant to 1991 Iowa Acts, chapter 267, section 119. A planning group shall continue to perform its duties as specified in that law. Reimbursement rates for providers of court-ordered evaluation and treatment services paid under section 232.141, subsection 4, shall be negotiated with providers by each judicial district's planning group.

Each district planning group shall submit an annual report in January 1993 to the state court administrator and the department of human services. The report shall cover the preceding fiscal year and shall include a preliminary report on the current fiscal year. The administrator shall compile these reports and submit the reports to the chairpersons and ranking members of the joint justice appropriations subcommittee and the legislative fiscal bureau.

3. The judicial department shall develop policies and procedures to ensure that the funds appropriated in this section are spent only after all other reasonable actions have been taken 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 and periodic screening, diagnosis, and treatment (EPSDT) program.

b. Recover payments from any third-party insurance carrier 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 paid to those providers.

4. The judicial department, in consultation with the department of human services 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 justice appropriations subcommittee and the legislative fiscal bureau.

5. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds to pay for all court-related services during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively request the state court administrator to transfer funds between the districts' allocations as prudent.

6. Notwithstanding any provision of law to the contrary, 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, subsection 4.

*7. Of the funds appropriated in this section, up to $200,000 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.**

Sec. 2. HOMELESS, ABUSED, AND RUNAWAY JUVENILES. Of the moneys appropriated under the federal National Affordable Housing Act of 1990 and received in the fiscal year beginning July 1, 1991, $200,000 shall be used in order to provide at least 10 new shelter care beds for juveniles who are homeless, abandoned, abused, have run away from home, or are

*Item veto; see message at end of the Act

otherwise unable to safely remain in their home and who are not provided services by the department of human services or the court at the time the shelter care begins. The grants shall be awarded in accordance with federal requirements in order to provide the beds in the areas of the state with the greatest proportion of juveniles who are at risk of being homeless, abandoned, abused, or otherwise unable to remain safely in their home.

*Sec. 3. *DRUG ABUSE RESISTANCE EDUCATION. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made for the following purpose for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For use by the department to provide law enforcement officials for project D.A.R.E. (drug abuse resistance education) within local communities targeted to fifth and sixth grade students:

..... $ 28,500*

*Sec. 4. *PILOT PROGRAMS FOR RUNAWAYS. There is appropriated from the general fund of the state to the department of human services 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 a pilot program for runaways in Woodbury county:

..... $ 20,000

2. For a pilot program for runaways in Polk county:

..... $ 30,000

*The pilot programs shall involve joint efforts by local courts, law enforcement agencies, shelter care facilities, and family-centered service providers which contract with the department of human services. The programs shall identify runaways and children at risk of running away from home and shall identify available and needed services. The programs shall use a family-oriented approach intended to assist families in dealing with the various issues related to runaways. The local courts shall cooperate with the programs and shall enter appropriate orders to facilitate the implementation of the programs and the provision of services by the programs to runaways and children at risk of running away.**

*Sec. 5. *CENTRALIZED JUVENILE INTAKE CENTER. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For the development of a centralized juvenile intake center in a county with a population of more than 300,000, as determined pursuant to the 1990 federal census:

..... $ 125,000

*The department of human services shall work with the judicial department, local law enforcement agencies, youth service agencies, and other persons as necessary in the development and operation of a centralized juvenile intake center in a county with a population of more than 300,000, as determined pursuant to the 1990 federal census. The centralized juvenile intake center shall serve as a central location for the placement, prior to adjudication, of juveniles involved in delinquency or child in need of assistance proceedings pursuant to chapter 232. The center shall be staffed by a juvenile court officer and a youth services aide. The center shall be used to provide a safe and secure setting for juveniles prior to adjudication, during the assessment of their cases.**

*Sec. 6. *SUMMER WORK AND LEARN ALTERNATIVE FOR INNER CITY YOUTH.*

1. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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For the award of a grant to a model program managed by the Sioux City community school district, to provide a summer work and learn alternative for inner city youth:

..... *$ 75,000*

2. The judicial department shall award a grant to a model program managed by the Sioux City community school district, to provide a summer work and learn alternative for inner city youth. The judicial department shall develop criteria for the operation of the model program. At a minimum, the model program shall do each of the following:

a. Utilize existing resources to the greatest extent possible.

b. Have the support and involvement of a broad array of existing community programs.

c. Have a duration of at least ten weeks.

d. Provide a work or community service component.

e. Provide a career development component, including intensive exploration of work options and related prerequisite skills.

f. Provide a teaching and learning component, including reading and language skills, mathematics skills, and basic keyboard and computer literacy.

g. Provide a social skills training component.

h. Provide an athletics and physical fitness component.

i. Provide a health assessment component, including referral to appropriate health care or service providers.

*j. Provide a total program evaluation component.**

Sec. 7. Section 123.46, subsection 4, Code 1991, is amended to read as follows:

4. Upon the expiration of two years following conviction for a violation of this section, a person may petition the court to exonerate the person of the conviction, and if the person has had no other criminal convictions, other than simple misdemeanor violations of chapter 321 during the two-year period, ~~the court shall order~~ the person shall be deemed exonerated of the offense ~~and the record expunged~~ as a matter of law. ~~Upon entry of an order exonerating the person~~ The court shall enter an order exonerating the person of the conviction, and ordering that the record of the conviction ~~shall~~ be expunged by the clerk of the district court.

Sec. 8. Section 123.47, Code 1991, is amended to read as follows:

123.47 PERSONS UNDER ~~LEGAL~~ THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under ~~legal~~ the age of eighteen, and a person or persons under ~~legal~~ the age of eighteen shall not individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under ~~legal~~ the age of eighteen within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under ~~legal~~ the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

Sec. 9. Section 123.47A, Code 1991, is amended to read as follows:

123.47A PERSONS AGE EIGHTEEN, NINETEEN, AND TWENTY — PENALTY.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen, nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge and consent of the person's parent or guardian, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who ~~violates~~ commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a second

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or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

2. For the purpose of determining if a violation charged is a second or subsequent offense, a conviction or plea of guilty to a violation of this section shall be counted as a previous offense.

Sec. 10. Section 232.2, subsection 4, paragraph f, Code Supplement 1991, is amended to read as follows:

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. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

**Sec. 11. Section 232.2, subsection 6, Code Supplement 1991, is amended by adding the following new paragraph:*

NEW PARAGRAPH. *o. Who is voluntarily absent without permission from the child's home or placement for a period of time exceeding one week, or who is voluntarily absent without permission from the child's home or placement for a period of time exceeding twenty-four hours on each of three or more separate occasions in a three-month period, and whose health, safety, and welfare are at risk.**

Sec. 12. Section 232.8, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The supreme court shall prescribe rules under section 602.4202 to resolve jurisdictional and venue issues when juveniles who are placed in another court's jurisdiction are alleged to have committed subsequent delinquent acts.

**Sec. 13. Section 232.8, Code Supplement 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *7. The juvenile court shall retain jurisdiction over persons who attain their eighteenth birthday, as necessary to effectuate the provisions of sections 232.50 and 232.52 through 232.54 pertaining to the youthful offender program, for a period of up to three years beyond the delinquent's eighteenth birthday.**

Sec. 14. Section 232.22, subsection 1, Code Supplement 1991, is amended to read as follows:

1. ~~No~~ A child shall not be placed in detention unless one of the following conditions is met:

a. The child is being held under warrant for another jurisdiction; ~~or~~.

b. The child is an escapee from a juvenile correctional or penal institution; ~~or~~.

c. There is probable cause to believe that the child has violated conditions of release imposed under section 232.44, subsection 5, paragraph "b", 232.52, or 232.54 and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; ~~or~~.

d. There is probable cause to believe the child has committed a delinquent act, and one of the following conditions is met:

(1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; ~~or~~.

(2) There is a serious risk that the child if released may commit an act which would inflict serious bodily harm on the child or on another; ~~or~~.

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(3) There is a serious risk that the child if released may commit serious damage to the property of others.

Sec. 15. Section 232.22, subsection 1, Code Supplement 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. There is probable cause to believe that the child has committed a delinquent act involving possession with intent to deliver any of the following controlled substances:

(1) A mixture or substance containing cocaine base, also known as crack cocaine, and if the act was committed by an adult, it would be a violation of section 204.401, subsection 1, paragraph "a", subparagraph (3), paragraph "b", subparagraph (3), or paragraph "c", subparagraph (3).

(2) A mixture or substance containing cocaine, its salts, optical and geometric isomers, and salts of isomers, and if the act was committed by an adult, it would be a violation of section 204.401, subsection 1, paragraph "a", subparagraph (2), subparagraph subdivision (b), paragraph "b", subparagraph (2), subparagraph subdivision (b), or paragraph "c", subparagraph (2), subparagraph subdivision (b).

(3) A mixture or substance containing methamphetamine, its salts, isomers, and salts of isomers, and if the act was committed by an adult, it would be a violation of section 204.401, subsection 1, paragraph "c", subparagraph (6).

Sec. 16. Section 232.35, subsection 3, Code 1991, is amended to read as follows:

3. If the intake officer determines that a complaint is not legally sufficient for the filing of a petition or that the filing of a petition would not be in the best interests of the child and the community, the officer shall notify the complainant of the officer's determination and the reasons for such determination, and shall advise the complainant that the complainant may submit the complaint to the county attorney for review. Upon receiving a request for review, the county attorney shall consider the facts presented by the complainant, consult with the intake officer and make the final determination as to whether a petition should be filed. In the absence of a request by the complainant for a review of the intake officer's determination that a petition should not be filed, the officer's determination shall be final, and the intake officer shall inform the county attorney of this decision concerning complaints involving allegations of acts which, if committed by an adult, would constitute an aggravated misdemeanor or a felony.

Sec. 17. Section 232.45A, subsections 2 and 3, Code Supplement 1991, are amended to read as follows:

2. Once a child sixteen years of age or older has been waived to and convicted of a forcible felony or a felony violation of section 204.401 or chapter 707 by the district court, all criminal proceedings against the child for any forcible felony or a felony violation of section 204.401 or chapter 707 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 or a felony violation of section 204.401 or chapter 707 who has previously been waived to and convicted of ~~a forcible felony~~ such an offense 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. 18. Section 232.50, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *5. If a child is sixteen years of age or older, at the dispositional hearing, the court shall determine if jurisdiction of the child should be extended beyond the age of eighteen. Extended jurisdiction determinations shall be consistent with the rules and provisions of the youthful offender program as set forth in sections 234.50 through 234.53. Subject to the other limitations contained in this subsection, the court may extend jurisdiction for participation in the youthful offender program upon finding each of the following:*

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a. The child is sixteen years of age or older and would qualify for placement at the state training school pursuant to section 232.52, subsection 2, paragraph "e".

b. The child falls within the other qualifications and limitations of the youthful offender program pursuant to section 234.53.

c. Participation in the youthful offender program is necessary for the rehabilitation of the child.

*Upon finding each of the factors listed in paragraphs "a" through "c", the court shall provide equal access to the youthful offender program.**

**Sec. 19. Section 232.52, subsection 2, paragraph d, Code Supplement 1991, is amended by adding the following new subparagraph:*

NEW SUBPARAGRAPH. *(4) The department of human services for purposes of placement at a youthful offender program facility established pursuant to section 234.53. In addition to making each of the findings specified in section 232.50, subsection 5, prior to transferring custody for placement in a youthful offender program facility, the court must find that the delinquent meets the qualifications for placement in such a facility pursuant to section 234.53, subsection 6.**

Sec. 20. Section 232.52, subsection 2, paragraph e, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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 a felony violation of section 204.401 or chapter 707, or the court finds any three of the following conditions exist:

Sec. 21. Section 232.52, subsection 6, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

**Sec. 22. Section 232.52, Code Supplement 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *10. If the court has determined that jurisdiction of the delinquent is to be extended beyond the age of eighteen pursuant to section 232.50, subsection 5, or section 232.54, subsection 7, for participation in the youthful offender program, any of the dispositions provided in this section may be ordered. All conditions and requirements affecting court orders, dispositions, or dispositional reviews in this section shall apply to an order or proceeding involving a person over whom jurisdiction has been extended for participation in the youthful offender program.**

**Sec. 23. Section 232.53, subsection 2, Code 1991, is amended to read as follows:*

2. ~~All~~ Except as otherwise specifically provided in subsection 5, all *dispositional orders entered prior to the child attaining the age of seventeen years and six months shall automatically terminate when the child becomes eighteen years of age. Dispositional orders entered subsequent to the child attaining the age of seventeen years and six months and prior to the child's eighteenth birthday shall automatically terminate one year after the date of disposition,* except as otherwise provided in extending jurisdiction for participation in the youthful offender program pursuant to section 232.50, subsection 5, or section 232.54, subsection 7. *In*

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*the case of an adult within the jurisdiction of the court under the provisions of section 232.8, subsection 1, the dispositional order shall automatically terminate one year after the last date upon which jurisdiction could attach.**

**Sec. 24. Section 232.53, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *5. Notwithstanding any other provision of this section or any other law to the contrary, a disposition over a person as to whom the court has extended its jurisdiction pursuant to section 232.50, subsection 5, or section 232.54, subsection 7, for participation in the youthful offender program, may remain in effect for a period of up to three years from the person's eighteenth birthday, unless the time period would be in excess of the maximum possible duration of the sentence which may be imposed on an adult for the commission of the act which the person has been found by the court to have committed.**

**Sec. 25. Section 232.54, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *7. Upon application of a juvenile court officer, the department, a person or agency to whom custody has been transferred, the child who is the subject of the order, or upon its own motion, the court may order the jurisdiction of the child to be extended beyond the person's eighteenth birthday in order for the person to participate in the youthful offender program, and may continue or modify the current dispositional order or enter a substituted dispositional order. The court shall not grant the application unless the court finds each of the criteria established in section 232.50, subsection 5. The continued or modified dispositional order or substituted dispositional order shall follow the qualifications, conditions, and limitations set forth in section 232.53, subsection 5, and sections 232.50 through 232.53. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court's own motion.**

**Sec. 26. Section 232.102, subsection 6, Code Supplement 1991, is amended to read as follows:*

6. The child shall not be placed in the state training school. Moreover, a child who is a child in need of assistance solely due to the fact that the child falls within the definition as set forth in section 232.2, subsection 6, paragraph "o", shall not be placed in the state training school or the Iowa juvenile home.*

Sec. 27. Section 232.116, subsection 1, paragraph d, subparagraph (2), Code 1991, is amended to read as follows:

(2) The ~~custody of the~~ child has been ~~transferred~~ removed from the physical custody of the child's parents ~~for placement pursuant to section 232.102 and the placement has lasted~~ for a period of at least six consecutive months.

Sec. 28. Section 232.116, subsection 1, paragraph e, subparagraph (3), Code 1991, is amended to read as follows:

(3) The ~~custody of the~~ child has been ~~transferred~~ removed from the physical custody of the child's parents ~~for placement pursuant to section 232.102~~ for at least twelve of the last eighteen months, or for the last twelve consecutive months and any trial period at home has been less than thirty days.

Sec. 29. Section 232.116, subsection 1, paragraph g, subparagraph (3), Code 1991, is amended to read as follows:

(3) The ~~custody of the~~ child has been ~~transferred~~ removed from the physical custody of the child's parents ~~for placement pursuant to section 232.102~~ for at least six months of the last twelve months, or for the last six consecutive months and any trial period at home has been less than thirty days.

**Sec. 30. Section 232.141, subsection 1, Code 1991, is amended to read as follows:*

1. Except as otherwise provided by law, the court shall inquire into the ability of the child or the child's parent to pay expenses incurred pursuant to subsection 2 and subsection 4 and, after giving the parent a reasonable opportunity to be heard, the court may order the parent

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to pay all or part of the costs of the child's care, examination, treatment, legal expenses, or other expenses. An order entered under this section does not obligate a parent paying child support under a custody decree, except that part of the monthly support payment may be used to satisfy the obligations imposed by the order entered pursuant to this section. If a parent fails to pay as ordered, without good reason, the court may proceed against the parent for contempt and may inform the county attorney who shall proceed against the parent to collect the unpaid amount. Any payment ordered by the court shall be a judgment against each of the child's parents and a lien as provided in section 624.23. If all or part of the amount that the parents are ordered to pay is subsequently paid by the county or state, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of the county's payments and in favor of the state to the extent of the state's payments. If the county attorney assists in the collection of funds, the judicial department shall refund to the county attorney thirty-five percent of all funds collected on the state's behalf, to defray the expenses of collection.*

**Sec. 31.* *Section 232.141, subsection 5, Code 1991, is amended to read as follows:*

5. If no other provision of law requires the county to reimburse costs incurred pursuant to subsection 4, the judicial *department shall reimburse the costs as follows:*

a. The judicial *department shall prescribe by* ~~administrative~~ *rule all services eligible for reimbursement pursuant to subsection 4 and shall establish an allowable rate of reimbursement for each service.*

b. The judicial *department shall receive billings for services provided and, after determining allowable costs, shall reimburse providers at a rate which is not greater than allowed by* ~~administrative~~ *rule. Reimbursement paid to a provider by the* judicial *department shall be considered reimbursement in full unless a county voluntarily agrees to pay any difference between the reimbursement amount and the actual cost. When there are specific program regulations prohibiting supplementation those regulations shall be applied to providers requesting supplemental payments from a county. Billings for services not listed* ~~in administrative~~ by *rule shall not be paid. However,* ~~if~~ *the court* ~~orders~~ may order *a service not currently listed* ~~in administrative~~ by *rule,* ~~the department shall review the order and,~~ *if* the court finds that *reimbursement for the service of the* judicial *department is not in conflict with other law or* ~~administrative~~ *rule, and meets the criteria of subsection 4,* in which case *the* judicial *department shall reimburse the provider.**

Sec. 32. Section 232.141, subsection 8, if enacted by 1992 Iowa Acts, House File 2480,** section 8, is amended to read as follows:

8. This subsection applies only to placements in a juvenile shelter care home which is publicly owned, operated as a county or multicounty shelter care home, or organized under a chapter 28E agreement. If ~~the department's reimbursement for~~ the allowable costs of a child's shelter care placement exceeds the amount the department is authorized to pay in accordance with law and administrative rule, the unpaid costs may be recovered from the child's county of legal settlement. The unpaid costs are payable pursuant to filing of verified claims against the county of legal settlement. A detailed statement of the facts upon which a ~~claims~~ claim is based shall accompany the claim. Any dispute between counties arising from filings of claims pursuant to this subsection shall be settled in the manner provided to determine legal settlement in section 230.12.

**Sec. 33.* *Section 232.142, Code Supplement 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *6. If a child has been adjudicated delinquent and is remaining in a county detention home awaiting placement, if the child remains in the detention home seventy-two hours after the first dispositional hearing after adjudication, the department shall reimburse the county for any period from that time forward in which the child remains in the detention home, at the rate established by the detention home for holding juveniles from another county.**

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Sec. 34. NEW SECTION. 233.6 USING A JUVENILE TO COMMIT CERTAIN OFFENSES.

1. As used in this section, unless the context otherwise requires, "profit" means a monetary gain, monetary advantage, or monetary benefit.

2. It is unlawful for a person to act with, enter into a common scheme or design with, conspire with, recruit or use a person under the age of eighteen, through threats, monetary payment, or other means, to commit an indictable offense for the profit of the person acting with, entering into the common scheme or design with, conspiring with, recruiting or using the juvenile. A person who violates this section commits a class "D" felony.

*Sec. 35. NEW SECTION. *234.50 YOUTHFUL OFFENDER ADVISORY COMMITTEE ESTABLISHED — RULES.*

1. The department of human services shall establish a youthful offender advisory committee. The advisory committee shall consist of nine members, with five voting members as follows:

a. A representative of the department of human services, appointed by the director.

b. A representative of the judicial department, appointed by the chief justice of the supreme court.

c. A representative of the division of criminal and juvenile justice planning of the department of human rights, appointed by the administrator of the division of criminal and juvenile justice planning.

d. A representative of the department of corrections, appointed by the director of the department of corrections.

e. A representative of youth service providers, appointed by the director of the department of human services from a list of names provided by youth service providers.

The nonvoting members of the advisory committee shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

2. Except as otherwise provided for the initial appointments, voting members shall be appointed for four-year terms and nonvoting members shall be appointed for two-year terms, commencing on May 1 in the year of appointment and expiring on April 30 in the year of expiration. A member shall serve no more than two consecutive terms, excluding the terms of the initial advisory committee.

3. Vacancies shall be filled in the same manner as original appointments. A vacancy shall be filled for the unexpired term.

4. The advisory committee shall elect a chairperson from among its own voting members.

5. Voting members of the advisory committee shall be paid their actual and necessary expenses incurred in the performance of their duties as provided in section 7E.6. Nonvoting members shall be paid their actual and necessary expenses from the funds appropriated under section 2.12.

6. The advisory committee shall meet at least every other month and may hold special meetings on the call of the chairperson or as requested by a quorum of the advisory committee. A majority of the voting members shall constitute a quorum.

*7. The department of human services shall adopt rules as necessary for the operation of the advisory committee in the performance of its duties.**

*Sec. 36. NEW SECTION. *234.51 ADMINISTRATIVE ACTIVITIES.*

*The administrative functions and staff services of the youthful offender advisory committee shall be performed by the department of human services. The advisory committee shall be located in the department of human services offices.**

*Sec. 37. NEW SECTION. *234.52 DUTIES OF ADVISORY COMMITTEE.*

The youthful offender advisory committee shall do all of the following:

1. Establish a youthful offender program as provided in this chapter.

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2. Annually report the results of its activities to the governor and the general assembly.

*3. Perform other duties as specified by law.**

**Sec. 38.* NEW SECTION. *234.53 YOUTHFUL OFFENDER PROGRAM.*

1. As used in this section, unless the context otherwise requires, "youthful offender" means a person who is sixteen years of age or older, who is subject to delinquency proceedings of the juvenile court pursuant to chapter 232, and who would qualify for placement at the state training school pursuant to section 232.52, subsection 2, paragraph "e".

2. The youthful offender advisory committee shall establish a youthful offender program. The youthful offender program shall be designed to meet the needs of eighty youthful offenders, with a limit of ten youthful offenders from each judicial district, on or before October 1, 1993.

3. The youthful offender program shall be designed to meet the needs of youthful offenders with intensive programming needs, including but not limited to youthful offenders having a dual diagnosis.

4. The advisory committee may establish youthful offender program facilities in more than one location, and may include public and private facilities. The department of human services shall assist the advisory committee by issuing requests for proposals and entering into contracts with other state agencies, political subdivisions, or others, including private individuals or entities, to establish youthful offender program facilities, as determined necessary by the advisory committee. In addition, if the advisory committee determines that a youthful offender program facility should be operated by the department of human services, and a facility is available to meet the needs of the youthful offender program as designed by the advisory committee, the department of human services shall operate a youthful offender program facility and include the youthful offender program facility in the department's budget proposals.

5. If the court orders a youth adjudicated as delinquent placed in a youthful offender program facility, the youth may be transferred originally to the diagnosis and evaluation center at the state training school at Eldora for the identification of appropriate treatment needs. Upon undergoing an initial diagnosis and evaluation screening at the state training school, the department of human services shall place the youthful offender in a youthful offender program facility or file a motion with the court to modify the dispositional order.

6. a. The court shall not order a person under the age of eighteen placed in a youthful offender program facility unless the child meets the qualification and limitations specified in this section, and the court finds each of the following:

(1) Placement in the youthful offender program facility is necessary for the rehabilitation of the child.

(2) Placement in the youthful offender program facility is in the best interests of the child and the community.

b. In making the determination as to whether a child should be placed in a youthful offender program facility pursuant to paragraph "a", the court shall examine the following factors:

(1) The nature of the delinquent act and the circumstances under which it was committed.

(2) The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.

(3) The programs, facilities, and personnel available in the youthful offender program facilities as opposed to other programs, facilities, and personnel available to the juvenile court for rehabilitation and treatment of the child.

c. The court shall not order a person eighteen years of age or older to a youthful offender program facility unless the person meets the qualifications and limitations specified in this section, other measures taken have been inadequate to rehabilitate the person, and the court determines that placement in the youthful offender program facility is necessary for the rehabilitation of the person.

*7. The advisory committee shall establish specific guidelines for the youthful offender program facilities to utilize in working with the court to provide follow-up services, transitional services, supervision, and after care for persons released from the facilities.**

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Sec. 39. Section 237.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The department, in consultation with the judicial department, the division of criminal and juvenile justice planning of the department of human rights, residential treatment providers, the foster care provider association, and other parties which may be affected, shall review the licensing rules pertaining to residential treatment facilities, and examine whether the rules allow the facilities to accept and provide effective treatment to juveniles with serious problems who might not otherwise be placed in those facilities.

Sec. 40. Section 237.15, subsection 1, paragraph i, Code Supplement 1991, is amended to read as follows:

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. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

**Sec. 41. Section 242.13, Code 1991, is amended to read as follows:*

242.13 BINDING OUT OR DISCHARGE.

The binding out or the discharge of an inmate as reformed, or having arrived at the age of eighteen years, shall be a complete release from all penalties incurred by the conviction for the offense upon which the child was committed to the school, except as otherwise required for participation in the youthful offender program established in section 234.53.*

Sec. 42. Section 261.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Develop and implement, in cooperation with the department of human services and the judicial department, a program to assist juveniles who are sixteen years of age or older and who have a case permanency plan under chapter 232 or 237 or are otherwise under the jurisdiction of chapter 232 in applying for federal and state aid available for higher education.

**Sec. 43. Section 282.29, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *If a child who is not identified as requiring special education services is placed for treatment in a facility located outside of this state, the department of revenue and finance shall pay the child's educational costs for the period of time the child is placed at that facility. The payment for the costs shall be based upon the average per pupil tuition and transportation costs for the school district in which the facility is located. The amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 during the remainder of the fiscal year to all school districts in the state.**

Sec. 44. Section 321.178, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

An approved driver education course as programmed by the department of education shall consist of at least thirty clock hours of classroom instruction, and six or more clock hours of laboratory instruction of which at least three clock hours shall consist of street or highway driving. An approved course shall include a minimum of ~~two~~ four hours of classroom instruction concerning substance abuse as part of its curriculum. After the student has completed three clock hours of street or highway driving and has demonstrated to the instructor an ability to properly operate a motor vehicle and upon written request of a parent or guardian, the instructor may waive the remaining required laboratory instruction.

Sec. 45. NEW SECTION. 321J.23 LEGISLATIVE FINDINGS.

The general assembly finds and declares as follows:

1. Drivers often do not realize the consequences of drinking alcohol or using other drugs, and driving a motor vehicle.

*Item veto; see message at end of the Act

2. Prompt intervention is needed to protect society, including drivers, from death or serious long-term injury.

3. The conviction of a driver for operating while intoxicated identifies that person as a risk to the health and safety of others, as well as to the intoxicated driver.

4. Close observation of the effects on others of alcohol and drug use by an intoxicated driver convicted of operating while intoxicated may have a marked effect on recidivism and should therefore be encouraged by the courts.

5. The reality education substance abuse prevention program provides guidelines for the operation of an intensive program to discourage recidivism.

Sec. 46. NEW SECTION. 321J.24 COURT-ORDERED VISITATION FOR OFFENDERS — IMMUNITY FROM LIABILITY.

1. As used in this section, unless the context otherwise requires:

a. "Appropriate victim" means a victim whose condition demonstrates the results of a motor vehicle accident involving intoxicated drivers without being excessively traumatic to the participant, as determined by the tour supervisor.

b. "Participant" means a person who is sixteen years of age or older but under the age of twenty-one, and who is ordered by the court to participate in the reality education substance abuse prevention program.

c. "Program" means the reality education substance abuse prevention program.

d. "Program coordinator" means a person appointed by the court to coordinate the person's participation in the program.

e. "Tour supervisor" means a person selected by a participant's program coordinator to supervise a tour.

2. A reality education substance abuse prevention program is established in those judicial districts where the chief judge of the judicial district authorizes participation in the program. Upon a conviction or adjudication for a violation of section 321J.2, or the entry of a deferred judgment concerning a violation of section 321J.2, the court or juvenile court, with the consent of the defendant or delinquent child, may order a defendant who is sixteen years of age or older but under the age of twenty-one or delinquent child who is sixteen years of age or older to participate in the reality education substance abuse prevention program as a term and condition of probation or disposition in addition to any other term or condition of probation or disposition required or authorized by law. The court or juvenile court shall require the defendant or delinquent child to abstain from consuming any controlled substance, alcoholic liquor, wine, or beer before reaching age twenty-one while participating in the program.

3. The court or juvenile court shall consult with the defendant or delinquent child and the defendant's or delinquent child's attorney, if any, and may consult with any other person, including but not limited to the defendant's or delinquent child's parents or other family members, to determine if the defendant or delinquent child is suitable for participation in the program, if the program will be educational and meaningful to the defendant or delinquent child, and if any physical, emotional, mental, or other reasons exist which indicate that the program would be inappropriate or would cause any injury to the defendant or delinquent child.

4. The court or juvenile court may appoint a program coordinator, to coordinate all tours and select appropriate tour supervisors for each tour. The program coordinator shall monitor compliance by contacting each tour supervisor following the completion of a tour.

5. The court or juvenile court may include a requirement for a supervised educational tour by the defendant or delinquent child to any or all of the following:

a. A hospital or other emergency medical care facility which regularly receives victims of motor vehicle accidents, to observe treatment of appropriate victims of motor vehicle accidents involving intoxicated drivers, under the supervision of a registered nurse, physician, paramedic, or emergency medical technician.

b. A facility for the treatment of chemical substance abuse as defined in section 125.2, under the supervision of appropriately licensed medical personnel.

c. If approved by the state or county medical examiner, a morgue or a similar facility to receive appropriate educational material and instruction concerning damage caused by the consumption of alcohol or other drugs, under the supervision of the county medical examiner or deputy medical examiner.

However, the court or juvenile court shall not order the defendant or delinquent child to participate in a supervised education tour of a hospital or other facility specified in this subsection, unless the hospital or facility agrees to participate in the program.

6. Prior to a tour, the program coordinator shall explain and discuss the experiences which may be encountered during the tour to the participant. If the program coordinator determines at any time before or during a tour that the tour may be traumatic or otherwise inappropriate for the participant, the program coordinator shall terminate the tour without prejudice to the participant.

7. The court or juvenile court may order a personal conference after the tours with the participant, the participant's attorney, if any, and any other persons if available and deemed necessary by the court or juvenile court, to discuss the experiences of the participant in the program and how those experiences may impact the participant's conduct. The court or juvenile court may order the participant to write a report or letter concerning the participant's experiences in the program.

8. Tour supervisors and facilities toured during the program are not liable for any civil damages resulting from injury to the participant, or civil damages caused by the participant during or from any activities related to a tour, except for willful or grossly negligent acts intended to, or reasonably expected to result in, such injury or damage.

9. The chief judge of the judicial district shall determine fees to be paid by participants in the program. The judicial department shall use the fees to pay all costs associated with the program. The court shall either require the participant to pay the fee in order to participate in the program, or may waive the fee or collect a lesser amount upon a showing of cause.

Sec. 47. Section 601K.133, subsection 1, Code 1991, is amended to read as follows:

1. Identify issues and analyze the operation and impact of present criminal and juvenile justice policy and make recommendations for policy changes, including recommendations pertaining to efforts to curtail criminal gang activity.

Sec. 48. Section 601K.135, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Beginning in 1992, the division shall include in the plans, updates, and reports required by this section an identification and evaluation of existing juvenile treatment programs based upon quantifiable goals established by the division, utilizing its existing computer capacity and access.

Sec. 49. NEW SECTION. 601K.138 MULTIAGENCY DATA BASE CONCERNING JUVENILES.

1. The division shall coordinate the development of a multiagency data base to track the progress of juveniles through various state and local agencies and programs. The division shall develop a plan which utilizes existing data bases, including the Iowa court information system, the federally mandated national adoption and foster care information system, and the other state and local data bases pertaining to juveniles, to the extent possible.

2. The department of human services, department of corrections, judicial department, department of public safety, department of education, local school districts, and other state agencies and political subdivisions shall cooperate with the division in the development of the plan.

3. The data base shall be designed to track the progress of juveniles in various programs, evaluate the experiences of juveniles, and evaluate the success of the services provided.

4. The division shall develop the plan within the context of existing federal privacy and confidentiality requirements. The plan shall build upon existing resources and facilities to the extent possible.

5. The plan shall include proposed guidelines for the sharing of information by case management teams, consisting of designated representatives of various state and local agencies and political subdivisions to coordinate the delivery of services to juveniles under the jurisdiction of the juvenile court. The guidelines shall be developed to structure and improve the information-sharing procedures of case management teams established pursuant to any applicable state or federal law or approved by the juvenile court with respect to a juvenile who is the recipient of the case management team services. The plan shall also contain proposals for changes in state laws or rules to facilitate the exchange of information among members of case management teams.

6. If the division has insufficient funds and resources to implement this section, the division shall determine what, if any, portion of this section may be implemented, and the remainder of this section shall not apply.

7. The division shall submit a report on the plan required by this section to the general assembly on or before January 15, 1994.

*Sec. 50. *Section 602.1301, subsection 1, Code Supplement 1991, is amended to read as follows:*

1. The supreme court shall prepare an annual operating budget for the department, which shall include the department's expenses pursuant to section 232.141, *and shall submit a budget request to the general assembly for the fiscal period for which the general assembly is appropriating funds.**

**Sec. 51. *Section 602.1301, subsection 2, paragraph a, Code Supplement 1991, is amended by adding the following new subparagraph:*

NEW SUBPARAGRAPH. *(10) Expenses for court-ordered services provided to juveniles pursuant to section 232.141.**

**Sec. 52. *Section 602.1301, subsection 2, paragraph b, Code Supplement 1991, is amended to read as follows:*

b. Before December 1, the supreme court shall submit to the director of management an estimate of the total expenditure requirements of the judicial department, including expenditures pursuant to section 232.141. *The director of management shall submit this estimate received from the supreme court to the governor for inclusion without change in the governor's proposed budget for the succeeding fiscal year. The estimate shall also be submitted to the chairpersons of the committees on appropriations.**

Sec. 53. Section 602.6405, subsection 1, Code Supplement 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. 54.* NEW SECTION. *602.7301 JUVENILE COURT JUDGES COMMISSION ESTABLISHED.*

1. A juvenile court judges commission is established within the judicial department.

2. The commission shall consist of five justices, district judges, and district associate judges and four juvenile court referees appointed by the governor from a list submitted by the chief justice of the supreme court. Of the original commission members, three shall be appointed

*Item veto; see message at end of the Act

for a term of three years, three for a term of two years, and three for a term of one year, as specified by the governor. Thereafter, members shall serve for a term of three years. Vacancies on the commission shall be filled for the unexpired term in the same manner as the original appointment. Annually, the commission shall select from its members a chairperson and a secretary. Five members shall constitute a quorum.

3. Members of the commission shall serve without compensation, but shall receive actual and necessary expenses, including travel, at the state rate.

*4. The commission shall meet on the call of the chairperson or a majority of the members. The commission shall meet at least on a quarterly basis.**

**Sec. 55.* NEW SECTION. *602.7302 DUTIES OF COMMISSION.*

The juvenile court judges commission shall do all of the following:

1. Advise juvenile court judges and referees in all matters pertaining to the proper care and maintenance of delinquent children.

2. Examine the administrative methods and procedures used in juvenile courts throughout the state, establish proposed standards, and make recommendations to the supreme court.

3. Examine the personnel practices and employment standards used concerning juvenile courts and probation services, and make recommendations to the supreme court.

*4. Collect, compile, and publish such statistical and other data as may be needed to accomplish reasonable and efficient administration of the juvenile courts, in cooperation with the division of criminal and juvenile justice planning of the department of human rights.**

Sec. 56. Section 657.2, subsection 6, Code 1991, is amended to read as follows:

6. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 204.101, subsection 6, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

Sec. 57. Section 713.3, Code 1991, is amended to read as follows:

713.3 BURGLARY IN THE FIRST DEGREE.

A person commits burglary in the first degree if, while perpetrating a burglary in or upon an occupied structure in which persons are present, the person has ~~in the person's~~ possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts bodily injury on any person. Burglary in the first degree is a class "B" felony.

Sec. 58. Section 713.4, Code 1991, is amended to read as follows:

713.4 ATTEMPTED BURGLARY IN THE FIRST DEGREE.

A person commits attempted burglary in the first degree if, while perpetrating an attempted burglary in or upon an occupied structure in which persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts ~~physical~~ bodily injury on any person. Attempted burglary in the first degree is a class "C" felony.

Sec. 59. Section 713.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

713.5 BURGLARY IN THE SECOND DEGREE.

A person commits burglary in the second degree in either of the following circumstances:

1. While perpetrating a burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

2. While perpetrating a burglary in or upon an occupied structure in which persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

Burglary in the second degree is a class "C" felony.

*Item veto; see message at end of the Act

Sec. 60. Section 713.6, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

713.6 ATTEMPTED BURGLARY IN THE SECOND DEGREE.

A person commits attempted burglary in the second degree in either of the following circumstances:

1. While perpetrating an attempted burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

2. While perpetrating an attempted burglary in or upon an occupied structure in which persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

Attempted burglary in the second degree is a class "D" felony.

Sec. 61. NEW SECTION. 713.6A BURGLARY IN THE THIRD DEGREE.

All burglary which is not burglary in the first degree or burglary in the second degree is burglary in the third degree. Burglary in the third degree is a class "D" felony.

Sec. 62. NEW SECTION. 713.6B ATTEMPTED BURGLARY IN THE THIRD DEGREE.

All attempted burglary which is not attempted burglary in the first degree or attempted burglary in the second degree is attempted burglary in the third degree. Attempted burglary in the third degree is an aggravated misdemeanor.

Sec. 63. Section 713.7, Code 1991, is amended to read as follows:

713.7 POSSESSION OF BURGLAR'S TOOLS.

Any person who possesses any key, tool, instrument, device or any explosive, with the intent to use it in the perpetration of a burglary, ~~shall be guilty of possessing burglar's tools. Possessing burglar's tools is a class "C" felony~~ commits an aggravated misdemeanor.

Sec. 64. Section 805.8, subsection 10, Code 1991, is amended to read as follows:

10. ALCOHOLIC BEVERAGE VIOLATIONS. For violations of section 123.47A, which constitute first offenses as provided in that section, the scheduled fine is fifteen dollars.

Sec. 65. Section 910A.14, subsections 1 and 2, Code 1991, are amended to read as follows:

1. A court may, upon its own motion or upon motion of any party, order that the testimony of a ~~child~~ minor, as defined in section ~~702.5~~ 599.1, be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court. Only the judge, parties, counsel, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the ~~child~~ minor may be present in the room with the ~~child~~ minor during the ~~child's~~ minor's testimony. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a ~~child~~ minor, as defined in section ~~702.5~~ 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the ~~child~~ minor is unavailable as provided in Iowa rules of evidence 804(a), order the videotaping of the ~~child's~~ minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 12(2)(b), and shall be admissible as evidence in the trial of the cause. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, mental retardation, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

Sec. 66. Section 910A.15, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness's

interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem shall be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. If a guardian ad litem has previously been appointed for the child in a proceeding under chapter 232 or a proceeding in which the juvenile court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem under this section. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the guardian ad litem shall file reports to the court as required by the court. If a prosecuting witness is fourteen, fifteen, sixteen, or seventeen years of age, and would be entitled to the appointment of a guardian ad litem if the prosecuting witness were a child, the court may appoint a guardian ad litem if the requirements for guardian ad litems in this section are met, and the guardian ad litem agrees to participate without compensation.

**Sec. 67. INITIAL YOUTHFUL OFFENDER ADVISORY COMMITTEE — IMPLEMENTATION — EFFECTIVE DATE.*

1. In order to effectuate the purposes of this Act and to implement the provisions of this Act pertaining to the youthful offender advisory committee by July 1, 1992, the department of human services shall coordinate the establishment of the initial youthful offender advisory committee. The initial youthful offender advisory committee shall be appointed in the manner specified in the section of this Act establishing a new section 234.50, subsection 1, and the appointing entities shall cooperate with the department of human services to establish the initial youthful offender advisory committee by July 1, 1992.

2. The terms of the initial members of the advisory committee shall commence on July 1, 1992, and expire as follows:

a. For the representative of the department of human services, on April 30, 1993.

b. For the representative of the judicial department, on April 30, 1994.

c. For the representative of the division of criminal and juvenile justice planning, on April 30, 1995.

d. For the representative of the department of corrections and the representative of youth service providers, on April 30, 1996.

e. For the nonvoting legislative members, on April 30, 1993.

3. The department of human services shall provide administrative services as are necessary to implement this section. The department shall coordinate the first meetings of the initial advisory committee.

*4. This section, being deemed of immediate importance, shall take effect upon enactment.**

Sec. 68. JUVENILE JUSTICE STUDY. The legislative council is requested to negotiate a contract with the Annie E. Casey Foundation to conduct a comprehensive study concerning the delivery of services to juveniles involved in delinquency proceedings. The study shall examine the types of placements for juveniles adjudicated delinquent, taking into consideration the effectiveness of the placements in meeting the needs of juveniles and the cost-effectiveness of the programs. The study shall be completed and a report containing recommendations shall be submitted to the general assembly no later than March 1, 1993.

Sec. 69. REPEAL. 1992 Iowa Acts, Senate File 2355, section 16, if enacted by the 1992 Session of the Seventy-fourth General Assembly, is repealed.

**Sec. 70. IMPLEMENTATION AND EFFECTIVE DATE CONCERNING YOUTHFUL OFFENDER PROVISIONS.*

1. The sections of this Act which amend section 232.8 by adding a new subsection 7, and amend sections 232.50, 232.52, 232.53, and 232.54, by providing procedures for the juvenile court to order persons to participate in the youthful offender program, take effect July 1, 1993.

*Item veto; see message at end of the Act

*2. Although the provisions cited in subsection 1 take effect July 1, 1993, the court shall not utilize these sections unless the youthful offender program is established as provided in section 234.53, subsection 2.**

Sec. 71. EFFECTIVE DATE. The second sentence of subsection 1 of section 1 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 1 in its entirety; Sections 3, 4, 5, and 6 in their entirety; Section 11 in its entirety; Section 13 in its entirety; Sections 18 and 19 in their entirety; Sections 22, 23, 24, 25, and 26 in their entirety; Sections 30 and 31 in their entirety; Section 33 in its entirety; Sections 35, 36, 37, and 38 in their entirety; Section 41 in its entirety; Section 43 in its entirety; Sections 50, 51, and 52 in their entirety; Sections 54 and 55 in their entirety; Section 67 in its entirety; and Sections 69, 70, and 71 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 House File 2452, an Act relating to juvenile and criminal justice, establishing a juvenile court judges commission, making appropriations, establishing and increasing penalties, granting the juvenile court jurisdiction over chronic runaways, expanding provisions for automatic waiver to adult court, establishing a youthful offender program, and altering provisions concerning the commission of burglary, providing implementation and effective date provisions, and providing for related matters.

House File 2452 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, 31, 50, 51, 52, 69 and 71, in their entirety. This language moves Court Ordered Services for Juveniles from the Department of Human Services to the Judicial Department. Because the Judicial Department does not have sufficient staff to provide these services, I am unable to approve these items.

I am unable to approve the items designated as Sections 3 through 6, in their entirety. These sections establish a series of new programs to address aspects of runaways and juvenile justice. Given the financial condition of the State and because the programs established are new, I am unable to approve these items.

I am unable to approve the items designated as Section 11 and Section 26, in their entirety. These sections would expand the definition of Child in Need of Assistance to include a child who is voluntarily absent from the child's home or placement. Because funds have not been appropriated for this purpose, these items cannot be approved.

I am unable to approve the items designated as Sections 13, 18, 19, 22 through 25, 35 through 38, 41, 67 and 70, in their entirety. These sections would establish a youthful offender program. It is estimated that the cost could be as much as $4,000,000 annually. Because moneys have not been appropriated for this program, I am unable to approve this item.

I am unable to approve the item designated as Section 30, in its entirety. This section provides that county attorneys would receive 35 percent of funds collected on the state's behalf from parents for payment of court ordered services. A county attorney should receive a refund for the collection of delinquent payments only and no such restriction is provided in this section.

*Item veto; see message at end of the Act

I am unable to approve the item designated as Section 33, in its entirety. This section provides that the state pay for the costs of detaining juveniles for more than 72 hours. Because no funds have been appropriated to pay for the cost of these services, which are estimated to be nearly $900,000, this item cannot be approved.

I am unable to approve the item designated as Section 43, in its entirety. This section provides that the educational costs of foster care children placed in out-of-state group homes be paid from moneys appropriated to the School Foundation Program. Because funds are currently available from moneys appropriated to Court Ordered Services for Juveniles, I am unable to approve this item.

I am unable to approve the items designated as Sections 54 and 55, in their entirety. These sections provide for a new Juvenile Court Judges Commission. Since existing groups are available to provide these services, I am unable to approve these items.

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 2452 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1232

DEPARTMENTAL SUPPLEMENTAL APPROPRIATIONS AND REDUCTIONS AND OTHER PROVISIONS

S.F. 2116

AN ACT relating to the state budget by supplementing certain appropriations and reducing certain appropriations made for the fiscal year beginning July 1, 1991, making changes in the state aid to school corporations, imposing the sales, services, and use tax on solid waste collection and disposal services, consulting services, and additional services, and changing the registration fees for multipurpose vehicles, and providing effective and applicability dates.

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

DIVISION I
ADDITIONAL REDUCTIONS

Section 100. ADDITIONAL REDUCTIONS OF FISCAL YEAR 1991-1992 APPROPRIATIONS.

1. After applying the reduction pursuant to executive order number 42, moneys appropriated from the general fund of the state for the fiscal year beginning July 1, 1991, by the Seventy-fourth General Assembly, 1991 Session, and standing limited and unlimited appropriations from the general fund of the state for the fiscal year beginning July 1, 1991, are reduced by $2,600,000. However, moneys appropriated from the general fund of the state for the fiscal year beginning July 1, 1991, shall not be reduced if the appropriation is any of the following:

a. Made to the department of human services for programs as delineated in subsection 4, to the department of corrections as specified in subsection 5, to the office of the state public defender as specified in subsection 6, for property tax replacement or reimbursement as specified in subsection 7, and to school corporations as specified in subsection 8.

b. Made pursuant to section 2.12.

c. Made to the judicial branch of the government.

2. The $2,600,000 reduction in appropriations in subsection 1 shall be carried out uniformly and proportionately in the manner specified in section 8.31, except as provided in subsections

*Item veto; see message at end of the Act

4 through 8, based upon the appropriated amounts after applying the reduction pursuant to executive order number 42, other reductions in this Act, and other executive branch reductions. Upon implementing the reduction specified in subsection 1, the department of management shall submit a report to the chairpersons and ranking members of the appropriations committees of each house and to the legislative fiscal bureau detailing how the reduction in subsection 1 was implemented.

3. Moneys which become available as a result of the reduction under subsection 1 shall revert to the general fund of the state on the effective date of this section.

4. The appropriation reduction in subsection 1 shall not be applied to reduce the appropriation allotments made in 1991 Iowa Acts, chapter 267, division I and in section 101 of this Act for any of the following department of human services programs: aid to dependent children under chapter 239, including the payment standard, emergency assistance, medical assistance under chapter 249A, including the medically needy program, other optional services and eligibility groups, enhanced services, and medical contracts, enhanced services and enhanced services county payment, state supplementary assistance, child day care assistance, transitional assistance, JOBS program, state juvenile institutions, foster care, home-based services, community-based programs, block grant supplementation, court-ordered services provided to juveniles, Iowa veterans home, state hospital-schools, state mental health institutes, family support subsidy program, special needs grants, and field operations.

5. Appropriations made to the department of corrections in 1991 Iowa Acts, chapter 267, section 404, subsection 1, for correctional facilities, in 1991 Iowa Acts, chapter 267, section 405, subsections 5 and 6 and in section 102 of this Act for annual payments relating to prison expansion, and in 1991 Iowa Acts, chapter 267, section 406, subsection 1, paragraphs "a" through "i" for the first through the eighth judicial district departments of correctional services shall not be reduced under subsection 1.

6. Appropriations made to the office of the state public defender in 1991 Iowa Acts, chapter 268, section 407, subsection 1, paragraph "b", for indigent court-appointed attorney fees shall not be reduced under subsection 1.

7. Appropriations made in section 405A.8 for personal property tax replacement, section 425.1, for homestead tax credit, section 425.39, for extraordinary property tax credit and reimbursement, and section 426.1 for agricultural land tax credit shall not be reduced under subsection 1.

8. Appropriations made to school corporations in chapter 257 for state aid to school districts and chapter 286A for state aid to area schools shall not be reduced under subsection 1.

*9. *In implementing the appropriation reduction required in subsection 1, the departments and agencies of state government shall not eliminate employee positions unless each of the following means of achieving the reduction have already been implemented in the order specified and are insufficient to achieve the required reduction: deferral or elimination of travel, equipment purchases or nonessential expenses, and furlough of workers earning more than $40,000 annually. If the preceding means have been implemented and are insufficient to achieve the required reduction so that elimination of employee positions is the only means remaining available, then the elimination of positions shall first apply to middle management staff consistent with the recommendations of the governor's committee on government spending reform.*

SUPPLEMENTALS
Department of Human Services

Sec. 101. SUPPLEMENTAL APPROPRIATIONS. 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, to supplement the appropriations made in 1991 Iowa Acts, chapter 267, division I, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Aid to families with dependent children, in section 101:

..... $ 4,306,161

*Item veto; see message at end of the Act

2. Emergency assistance to families with dependent children to match federal funding for homeless prevention programs in section 102:
..... $ 375,000
3. Medical assistance, in section 103:
..... $ 20,605,610
4. Medical contracts, in section 104:
..... $ 295,104
5. State supplementary assistance, in section 107:
..... $ 1,117,613
6. Child day care assistance, in section 109:
..... $ 230,883
7. Transitional child care assistance, in section 110:
..... $ 10,508
8. Foster care, in section 114:
..... $ 11,525,652
9. Home-based services, in section 116:
..... $ 287,332
10. Community-based programs, in section 117:
..... $ 767,036
11. a. State mental health institute at Cherokee, in section 121, subsection 1:
..... $ 158,485
b. State mental health institute at Independence, in section 121, subsection 3:
..... $ 758,139

Department of Corrections

Sec. 102. 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, to supplement the appropriations made in 1991 Iowa Acts, chapter 267, section 405, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:
1. For annual payment relating to prison expansion, in subsection 5:
..... $ 20,340
2. For annual payment relating to prison expansion, in subsection 6:
..... $ 102,156

Interstate Compact on Agricultural Grain Marketing

**Sec. 103. 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, to supplement the appropriation made in 1991 Iowa Acts, chapter 268, section 206, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*
For carrying out the duties of the commission under the interstate compact as provided in chapter 183:
..... *$ 1,950**

Department of Inspections and Appeals

Sec. 104. 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, to supplement the appropriation made in 1991 Iowa Acts, chapter 268, section 414, the following amount, or so much thereof as is necessary, to be used for the purposes designated:
For salaries, support, maintenance, and miscellaneous purposes:
..... $ 100,000

Sec. 105. 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, to supplement the appropriation made in 1991 Iowa Acts, chapter 268, section 425, 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

For salaries, support, maintenance, miscellaneous purposes, and for an increase of 2 full-time equivalent positions:

..... $ 50,000

Department of General Services

Sec. 106. There is appropriated from the use tax revenues credited to the road use tax fund under section 423.24, subsection 1, paragraph "c", to the department of general 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 removal of the court avenue bridge:

..... $ 375,000

Department of Justice

*Sec. 107. *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 amount, or so much thereof as is necessary, for the purpose designated:*

For expenses relating to the enforcement of odometer fraud laws:

..... $ *130,000**

Sec. 108. Notwithstanding section 8.33, unobligated and unencumbered moneys remaining on June 30, 1992, from the appropriations made for the fiscal year beginning July 1, 1991, in section 106 shall not revert but shall be available for expenditure for which appropriated during the fiscal year beginning July 1, 1992, and any unobligated and unencumbered moneys remaining on June 30, 1993, from such appropriations shall revert on August 31, 1993.

Sec. 109. NONREVERSION. Notwithstanding section 8.33, unobligated and unencumbered moneys remaining on June 30, 1992, from the appropriation to the prevention of disabilities policy council for the fiscal year beginning July 1, 1991, in 1991 Iowa Acts, chapter 169, section 8, shall not revert to the general fund of the state but shall remain available for the purpose for which appropriated in the succeeding fiscal year.

Sec. 110. Notwithstanding section 8.39, it is the intent of the general assembly that if funds are unavailable to implement the purposes of the supplemental appropriations for the 1991-1992 fiscal year made in this Act, the executive branch of government may make transfers of unexpended general fund appropriation balances to the general fund of the state during the 1991-1992 fiscal year. **At least two weeks before such transfers are made, the executive branch shall file a report with the appropriate joint appropriations subcommittee chairpersons, the chairpersons of appropriations committees, the executive council, and the legislative fiscal bureau. This report shall state the amount of each transfer, identify the agency affected, the effect on that agency, and the reasons for the transfer.**

Sec. 111. EFFECT OF APPROPRIATION REDUCTIONS. The moneys appropriated to supplement the appropriations for the fiscal year beginning July 1, 1991, and ending June 30, 1992, made in this division are not subject to the allotment reduction pursuant to executive order number 42. However, these supplemental appropriations shall be subject to reduction under section 100 of this Act to the extent not otherwise exempt under that section.

DIVISION II

REDUCTIONS

Department of Agriculture and Land Stewardship

Sec. 201. The appropriation 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, in 1991 Iowa Acts, chapter 268, section 201, is reduced, as a result of the governor's item veto in section 201, by the following amount for the purpose designated:

Soil conservation division, in subsection 6:

..... $ 250,000

*Item veto; see message at end of the Act

Iowa Communications Network

Sec. 202. Notwithstanding the nonreversion provision in section 18.137, the unobligated and unencumbered moneys remaining in the Iowa communications network fund of the amount appropriated, as a result of the governor's item veto of 1991 Iowa Acts, chapter 267, section 507, subsection 17, under section 18.137 to the fund for the fiscal year beginning July 1, 1991, and ending June 30, 1992, shall revert to the general fund of the state on the effective date of this Act.

Sec. 203. EFFECT OF APPROPRIATION REDUCTIONS. The reductions in appropriations for the fiscal year beginning July 1, 1991, and ending June 30, 1992, made in this division are in addition to the allotment reduction pursuant to executive order number 42.

DIVISION III
STATE AID TO EDUCATION

Sec. 301. Section 11.6, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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 all school funds, the certified annual financial report, and the certified enrollment as provided in section ~~257.11~~ 257.6. 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. 302. Section 257.13, Code 1991, is amended by adding after unnumbered paragraph 1, the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the amount computed under the first paragraph, for the budget year beginning July 1, 1991, each school district shall receive an amount equal to the product of the applicable percentage times ninety-nine and one-half percent of the amount computed under the first paragraph based upon the following schedule:

Percent Increase in Enrollment	Applicable Percentage
1. Less than .5%	0%
2. .5%, but not more than 1%	25%
3. 1%, but not more than 3%	50%
4. More than 3%	75%

Sec. 303. Section 257.16, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on June 15 of the budget year and the installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state resources. However, an amount of state school foundation aid equal to the general allocation of the school district as determined under section 405A.2 and the amount of the tax credit for livestock pursuant to section 442.2, subsection 2, as it appeared in the 1987 Code, shall be paid to the school district on July 15 of the subsequent fiscal year, and the appropriation for

this amount shall be made for the fiscal year during which the payment is made. However, the state aid paid to school districts under section 257.13 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year.

Sec. 304. Notwithstanding the repeal of chapter 442 as of July 1, 1991, the provision of section 442.26 that requires an amount of school aid equal to the general allocation to a school district under section 405A.2 and the amount of tax credit for livestock to be paid to school districts on July 15 of the subsequent fiscal year remains effective for the school budget year beginning July 1, 1990, and such amounts shall be paid to the school districts on July 15, 1991.

Sec. 305. APPLICABILITY. Sections 301 and 303 of this division apply retroactively to school budget years beginning on or after July 1, 1991. Section 302 of this division applies retroactively to the school budget year beginning July 1, 1991, only and is repealed July 1, 1992. Section 304 of this division applies retroactively to the school budget year beginning July 1, 1990.

DIVISION IV
TAX AND OTHER CODE CHANGES

Sec. 401. Section 321.109, subsection 1, Code 1991, is amended to read as follows:

1. The annual fee for all motor vehicles including multipurpose vehicles and vehicles designated by manufacturers as station wagons, except motor trucks, motor homes, ~~multipurpose vehicles,~~ ambulances, hearses, motorcycles, and motor bicycles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ten dollars, issue a certificate of title in the name and address of the nonresident purchaser delivering the same to the person entitled to the title as provided in this chapter.

Sec. 402. Section 321.124, subsection 3, Code 1991, is amended to read as follows:

3. The annual registration fee for motor homes ~~and multipurpose vehicles~~ is as follows:

a. For class "A" motor homes with a list price of eighty thousand dollars or more as certified to the department by the manufacturer, four hundred dollars for registration each year through five model years and three hundred dollars for each succeeding registration.

b. For class "A" motor homes with a list price of forty thousand dollars or more but less than eighty thousand dollars as certified to the department by the manufacturer, two hundred dollars for registration each year through five model years and one hundred fifty dollars for each succeeding registration.

c. For class "A" motor homes with a list price of twenty thousand dollars or more but less than forty thousand dollars as certified to the department by the manufacturer, one hundred forty dollars for the first five registrations and one hundred five dollars for each succeeding registration.

d. For class "A" motor homes with a list price of less than twenty thousand dollars as certified to the department by the manufacturer, one hundred twenty dollars for registration each year through five model years and eighty-five dollars for each succeeding registration.

e. For a class "A" motor home which is a passenger-carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters, ninety dollars for registration each year through ten model years and sixty-five dollars for each succeeding registration. In computing the number of registrations, the registrations shall be cumulative beginning with the registration of the class "A" motor home as a motor truck prior to its conversion, modification, or alteration to provide temporary living quarters.

f. For class "B" motor homes, ninety dollars for registration each year through five model years and sixty-five dollars for each succeeding registration.

g. For class "C" motor homes, one hundred ten dollars for registration each year through five model years and eighty dollars for each succeeding registration.

~~h. For multipurpose vehicles, seventy-five dollars for registration each year through five model years and fifty-five dollars for each succeeding registration.~~

Sec. 403. Section 422.42, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 17. "Nonresidential commercial operations" does not include apartment complexes, mobile home parks, or other rental operations where the primary purpose is for human habitation.

Sec. 404. Section 422.43, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 13. a. A tax of four percent is imposed upon the gross receipts from the sales, furnishing, or service of solid waste collection and disposal service.

For purposes of this subsection, "solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, nonresidential commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; foundry sand used for daily cover at a sanitary landfill; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material defined by the federal Atomic Energy Act of 1954.

A recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least eighty-five percent is exempt from the tax imposed by this subsection if the waste exempted is collected and disposed of separately from other solid waste.

b. A person who transports mixed municipal solid waste generated by that person or another person without compensation shall pay the tax imposed by this subsection at the collection or disposal facility based on the disposal charge or tipping fee. However, the costs of a service or the portion of a service to collect and manage recyclable materials separated from mixed municipal solid waste by the waste generator is exempt from the tax imposed by this subsection. For purposes of this paragraph, "mixed municipal solid waste" means garbage, refuse, and other solid waste from commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Sec. 405. Section 422.43, subsection 11, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: ~~Alteration~~ 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; consultant services; dance schools and dance studios; dating services; 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; limousine service, including driver; 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; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; taxidermy services; 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. 406. Section 422.43, subsection 11, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, "consultant services" means services provided, except as otherwise stated in this paragraph, by a person who purports to give expert or professional advice on any subject including, but not limited to, advice on audiovisual, business, computer and data processing, insurance, management, marketing, security, and weather and meteorology. "Consultant services" does not mean services provided by a person licensed, registered, or certified by boards listed in section 258A.1, or licensed under chapter 80A, 152A, 154C, 522, or 602, article 10, if the services provided come within the purview of such person's license, registration, or certification.

Sec. 407. Section 422.45, subsection 2, Code Supplement 1991, is amended to read as follows:

2. The gross receipts from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, ~~and~~ except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less.

Sec. 408. Section 422.45, subsection 5, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

The gross receipts from services rendered, furnished, or performed and of all sales of goods, wares, or merchandise used for public purposes to 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, 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, heat, or pay television service to the general public; except the sales, furnishing

or providing of sewage services to a county or municipality on behalf of nonresidential commercial operations; and except the sales, furnishing, or service of solid waste collection and disposal service to a county or municipality on behalf of industrial, nonresidential commercial, mining, and agricultural operations located within the county or municipality.

Sec. 409. Section 422.45, subsection 20, Code Supplement 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, does not apply to the sales, furnishing, or service of solid waste collection and disposal service to industrial, nonresidential commercial, mining, and agricultural operations; does not apply to the sales, furnishing, or service of sewage service for nonresidential commercial operations; does not apply to fees paid to cities and counties for the privilege of participating in any athletic sports.

Sec. 410. 1991 Iowa Acts, chapter 260, section 1103, unnumbered paragraph 2, is amended to read as follows:

The transfers under this section shall be made during the period beginning April 16, 1991, and ending June 30, 1991. However, state general fund cash balances shall be available from the general fund of the state for cash flow purposes to enable the timely payment of obligations incurred for purposes for which moneys in the funds designated in subsections 1 through 4 are to be used for the fiscal years ending June 30, 1992, and June 30, 1993.

Sec. 411. 1991 Iowa Acts, chapter 266, section 19, is amended to read as follows:

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

However, state general fund cash balances shall be available from the general fund of the state for cash flow purposes to enable the timely payment of obligations incurred for purposes of the health insurance reserve fund for the fiscal years ending June 30, 1992, and June 30, 1993.

Sec. 412. EFFECTIVE DATE. Sections 401 through 409 of this division take effect April 1, 1992.

DIVISION V
DEPARTMENT OF PUBLIC SAFETY

Sec. 501. DIVISION OF HIGHWAY SAFETY, UNIFORMED FORCE, AND RADIO COMMUNICATIONS. The department of public safety, department of personnel, and the department of management shall make every reasonable effort to fill the entire complement of positions authorized for the division of highway safety, uniformed force, and radio communications under the appropriation made to the division as constituted on July 1, 1991, from the road use tax fund in 1991 Iowa Acts, chapter 268, section 504, subsection 1, as soon after the effective date of this Act as practicable.

Sec. 502. RADIO COMMUNICATIONS. There is appropriated from the road use tax fund to the division of highway safety, uniformed force, and radio communications of the department of public safety 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 purposes relating to radio communications, including but not limited to reimbursement of the general fund of the state for expenditures for radio communications made before the effective date of this Act pursuant to 1991 Iowa Acts, chapter 268, section 503, subsection 2, and for not more than the following full-time equivalent positions:

..... $ 3,039,150
..... FTEs 79.00

Reimbursement under the appropriation from the road use tax fund to the general fund of the state shall be made for expenditures for radio communications made before the effective date of this Act pursuant to 1991 Iowa Acts, chapter 268, section 503, subsection 2. For the fiscal year beginning July 1, 1991, charges pursuant to section 421.17, subsection 33, or any comparable statute, by the department of revenue and finance, department of personnel, or other state agencies, for indirect costs, including but not limited to accounting, workers' compensation, and unemployment compensation, shall not be charged to this appropriation.

Sec. 503. Section 80.36, Code 1991, is amended to read as follows:

80.36 MAXIMUM AGE.

The maximum age for a person to be employed as a peace officer in the divisions of highway safety, ~~and~~ uniformed force and radio communications, criminal investigation and bureau of identification, and drug law enforcement, ~~and beer and liquor law enforcement~~ is sixty-five years of age.

Sec. 504. Section 97A.1, subsection 6, Code 1991, is amended to read as follows:

6. "Membership service" shall mean service as a peace officer in the division of highway safety, ~~and~~ uniformed ~~forces or~~ force, and radio communications, the division of criminal investigation and bureau of identification, or division of drug law enforcement in the department of public safety and arson investigators rendered since last becoming a member, or, where membership is regained as provided in this chapter, all of such service.

Sec. 505. Section 97A.3, subsection 1, Code 1991, is amended to read as follows:

1. All members of the division of highway safety, ~~and~~ uniformed force, and radio communications and the division of criminal investigation and bureau of identification in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa when this chapter becomes effective, and all persons thereafter employed as members of such divisions in the department of public safety or division of drug law enforcement and arson investigators, ~~or qualified members of the division of beer and liquor law enforcement in said department~~ except the members of the clerical force, shall be members of this system. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

Sec. 506. Section 97A.4, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

Any member of the system who has been employed continuously prior to the passage of this chapter in the division of highway safety, ~~and~~ uniformed force, and radio communications or the division of criminal investigation and bureau of identification in the department of public safety, or as a member of the Iowa highway safety patrol, or as a peace officer or a member of the uniformed force in any department or division whose functions were transferred to, merged, or consolidated in the department of public safety at the time such department was created, shall receive credit for such service in determining retirement and disability benefits provided for in this chapter. Arson investigators who have contributed to this system prior to July 1, 1978 shall receive credit for such service in determining retirement and disability benefits.

Sec. 507. Section 97A.6, subsection 7, paragraph c, Code Supplement 1991, is amended to read as follows:

c. The commissioner of public safety may, subject to approval of the medical board, assign any former member of the division of highway safety, ~~and~~ uniformed force, and radio communications or the division of criminal investigation and bureau of identification or an arson investigator who is retired and drawing a pension for disability under the provisions of this chapter, to the performance of light duties in such division.

Sec. 508. 1991 Iowa Acts, chapter 268, section 503, subsection 2, is amended by striking the subsection.

*Item veto; see message at end of the Act

DIVISION VI
DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 601. 1991 Iowa Acts, chapter 267, section 301, subsection 1, paragraph b, unnumbered paragraph 3, is amended to read as follows:

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. Notwithstanding section 8.33, moneys obligated or committed to grantees under contract that remain unexpended at the end of the fiscal year, shall not revert but shall be available for expenditure for purposes of the contract during succeeding fiscal years.

Sec. 602. 1991 Iowa Acts, chapter 267, section 301, subsection 2, paragraph c, is amended to read as follows:

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

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1992, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1992, for the same purposes.

Sec. 603. 1991 Iowa Acts, chapter 267, section 301, subsection 6, paragraph d, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys obligated or committed to grantees under contract that remain unexpended at the end of the fiscal year, shall not revert but shall be available for expenditure for purposes of the contract during succeeding fiscal years.

Sec. 604. 1991 Iowa Acts, chapter 269, section 17, subsection 1, is amended to read as follows:

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 6, 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.

Sec. 605. Section 15.287, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the restrictions on the use of the revolving fund in this section, the director may use unallocated repayments to the revolving fund to pay for administration of programs under the Cranston-Gonzalez National Affordable Housing Act of 1990, Pub. L. No. 101-625.

DIVISION VII
EFFECTIVE DATE

Sec. 701. Except for sections 401 through 409, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 10, 1992, except the items which I hereby disapprove and which are designated as Section 100, subsection 1, paragraph b in its entirety; Section 100, subsection 9 in its entirety; Section 103 in its entirety; Section 107 in its entirety; that portion of Section 110 which is herein bracketed in ink and initialed by me; and Section 508 in its 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 2116, an Act relating to the state budget by supplementing certain appropriations and reducing certain appropriations made for the fiscal year beginning July 1, 1991, making changes in the state aid to school corporations, imposing the sales, services, and use tax on solid waste collection and disposal services, consulting services, and additional services, and changing the registration fees for multipurpose vehicles, and providing effective and applicability dates.

Among other things, this bill provides supplemental funding for the human services entitlement programs. It is only because of the actions I took early in the fiscal year to implement a reduction in force that funds exist to pay for these needs. Despite the shortcomings in this bill, I am approving it because I cannot allow the human service needs of Iowans to go unmet.

I am disappointed in the General Assembly's unwillingness to face the reality of the state's fiscal situation. By spending the state budget down to a zero ending balance, which the General Assembly does in this bill, the state becomes vulnerable to the smallest deviation from projections on either the revenue or expenditure side of the budget. Given a $3.2 billion budget, a zero ending balance is imprudent.

I am also disappointed that the General Assembly has chosen to reduce spending through an across-the-board reduction. An across-the-borad reduction is the least desirable way to cut budgets and should be applied only when no other option is available, as was the situation last July when I ordered the 3.25 percent reduction in all state agency budgets. The General Assembly has had an opportunity since reconvening in January to make decisions to selectively reduce agency budgets and has chosen not to do so.

Finally, this bill exacerbates the problems confronting the General Assembly in the fiscal year 1993 budget. Given the inability of the General Assembly in this bill to resist the pressures from special interests and deal with the fiscal year 1992 budget, I am concerned about whether it can make the much tougher decisions that will be necessary for fiscal year 1993. My proposal for revenue from the cigarette tax would have provided a better alternative for both years.

Senate File 2116 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 100, subsection 1, paragraph b, in its entirety. This provision would exempt the legislative branch from the across-the-board reduction provided in the bill. The legislative branch should share in the difficult task of balancing the state budget, and therefore, should not be exempt from the budget reductions.

I am unable to approve the item designated as Section 100, subsection 9, in its entirety. This subsection specifies the means to implement the across-the-board reduction. Decisions such as these are the prerogative of the executive branch which is responsible for implementation.

I am unable to approve the item designated as Section 103, in its entirety. This section would restore the amount of the 3.25 percent reduction to the Interstate Grain Marketing Commission. The appropriation for this entity should not be treated any differently than the thousands of other appropriations in the state budget.

I am unable to approve the item designated as Section 107, in its entirety. This section makes a $130,000 appropriation for the odometer fraud program. Given the current fiscal condition of the state, additional funding for this program cannot be approved.

I am unable to approve the designated portion of Section 110. This provision requires a two-week notice prior to the transfer of the reduction in force savings. The provision would unnecessarily delay the implementation of the across-the-board reduction, which applies to the appropriation base only after all other legislative and executive branch reductions have been effectuated. The Department of Management will make a timely report of the transfers to the appropriations committee and subcommittee chairs, and to the Legislative Fiscal Bureau.

I am unable to approve the item designated as Section 508, in its entirety. This provision strikes the general fund appropriation for radio communications, with the intent that it be replaced with an appropriation from the Road Use Tax Fund. However, it is necessary to retain the appropriation as a vehicle for receiving the reimbursement, therefore, an item veto of this section is necessary.

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 2116 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1233

APPROPRIATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION

S.F. 2361

AN ACT relating to energy conservation including making appropriations of petroleum overcharge funds.

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, for disbursement under section 93.11 to the following named agencies 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. 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 balances in the Warner/Imperial fund and in the office of hearings and appeals second-stage settlement fund and then from the Exxon fund for a total appropriation not to exceed:

..... $ 3,000,000

2. To the department of natural resources for the following purposes:

a. Reimbursement for costs incurred by the department of natural resources for carrying out the general provisions section of the groundwater protection Act pursuant to section 455E.8, from the Stripper Well fund:

..... $ 770,000

b. For the state energy conservation program, and the energy extension service for purposes of maintaining their fiscal year 1989 funding levels, from the Exxon fund:

..... $ 238,200

c. For development costs of the local government energy bank program, from the Exxon fund:

..... $ 200,000

Sec. 2. There is appropriated an amount up to 5 percent, but not to exceed $300,000, of the allowable petroleum overcharge money appropriated for the fiscal year beginning July 1, 1992, to be used for administration of the petroleum overcharge programs.

Sec. 3. Section 364.23, Code Supplement 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 and not including stadium or ball park lighting, 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. In lieu of the requirements established for replacement lighting under this section, stadium or ball park lighting shall be replaced, when worn-out, with the most energy-efficient lighting available at the time of replacement which may include metal halide, high-pressure sodium, or other light sources which may be developed.

Sec. 4. 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; 1990 Iowa Acts, chapter 1265, section 3; and 1991 Iowa Acts, chapter 270, 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, ~~1992~~ 1993, 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. 5. CONTINUATION OF ENERGY CONSERVATION PROGRAMS — FUNDING RECOMMENDATIONS.

The commission on community action agencies in cooperation with the energy fund disbursement council shall submit a report to the general assembly by January 15, 1993, which provides recommendations, following depletion of the funds provided through disbursement of the energy conservation trust, for the continued funding of the energy conservation programs for low-income persons.

Approved April 29, 1992

CHAPTER 1234

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 2366

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 an effective date.

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, 1992, and ending September 30, 1993, the following amount:

..... $ 8,212,000

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 4.25 percent shall be used by the department for administrative expenses.

Of the funds appropriated in this subsection, an amount not exceeding $29,680 shall be used for 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. Ten percent of the funds appropriated in subsection 1 shall be used to provide alcohol and drug abuse services to women.

4. After deducting the funds allocated in subsections 1, 2, and 3, 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 $1,436,856 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%

Priority shall be given to maintaining existing services, reducing the treatment waiting lists, providing aftercare services, and providing early intervention in the treatment of substance-abusing pregnant women.

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, 1992, and ending September 30, 1993, the following amount:

..... $ 6,793,917

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 $57,184 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.

The departments of public health, human services, and education and the university of Iowa's mobile and regional child health specialty clinics shall continue to pursue to the maximum extent feasible the coordination and integration of services to women and children in selected pilot areas.

3. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, $284,548 shall be set aside for the statewide perinatal care program.

Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child health 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, 1992, 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, 1992, and ending September 30, 1993, the following amount:

..... $ 1,511,916

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 $5,522 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, including nutrition programs, 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, 1992, and ending September 30, 1993, the following amount:

..... $ 4,750,446

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 5 percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse prevention 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, 1992, and ending September 30, 1993, the following amount:

..... $ 3,946,078

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, 1992, and ending September 30, 1993, the following amount:

..... $ 25,100,000

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. The department of economic development 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 $1,204,000 for the federal fiscal year beginning October 1, 1992, 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 $602,000 for the federal fiscal year beginning October 1, 1992, of funds appropriated in subsection 1 and a matching contribution from the state equal to $602,000 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 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 state fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount:

..... $ 4,967,755

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. Twenty percent of the funds appropriated in subsection 1, not to exceed $993,550, 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, for programs of training to enhance the ability of teachers and school counselors to identify, particularly in the early grades, students with reading and reading-related problems which place those students at risk for illiteracy in their adult years, 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. Eighty percent of the funds appropriated in subsection 1 shall be allocated by the department to local educational agencies in this state, as local educational agency is defined in Pub. L. No. 100-297. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments:

a. Eighty percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. Twenty 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, 1992, and ending September 30, 1993, the following amount:

..... $ 27,446,162

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 $2,744,615, 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 $274,462 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. 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, 1993, at least 15 percent of the funds appropriated by 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.

4. An eligible household must be willing to allow residential weatherization or other related home repairs in order to receive home energy assistance. If the eligible household resides in rental property, the unwillingness of the landlord to allow residential weatherization or other related home repairs shall not prevent the household from receiving home energy assistance.

5. Of the funds appropriated under subsection 1, $4,500,000 shall be used to fund the affordable heating program.

6. Not more than $1,000,000 of the funds appropriated under subsection 1 shall be used for assessment and resolution of energy problems.

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, 1992, and ending September 30, 1993, the following amount:

..... $ 31,089,115

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 $1,793,842 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, 1992, for the following programs within the department of human services:

a. Field operations:

..... $ 12,280,200

b. Home-based services:

..... $ 143,010

c. Foster care:

..... $ 4,257,392

d. Child care assistance:
..... $ 1,327,505
e. Local administrative costs and other local services:
..... $ 11,142,810
f. Volunteers:
..... $ 124,356

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, 1992, and ending September 30, 1993, 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, 1992, and ending September 30, 1993, the following amount:

..... $ 7,191,272

Funds appropriated by this subsection 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 the federal law making the funds available and in conformance with chapter 17A.

Sec. 14. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. 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. 15. 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, 6, 7, 9, 10, 11, 12, and 13 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 amount 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 amount appropriated in section 5 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 16. 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, 1992, 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 federal fiscal year beginning October 1, 1991, as modified by the 1992 Session of the Seventy-fourth General Assembly for the state fiscal year beginning July 1, 1992,

compared to the total federal funds received in the federal fiscal year beginning October 1, 1991, 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, 1991, but had anticipated applying for funds during the federal fiscal year beginning October 1, 1992, 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 federal fiscal year beginning October 1, 1991, 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 federal fiscal year beginning October 1, 1991, 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 state fiscal year beginning July 1, 1991. 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 federal fiscal year beginning October 1, 1991, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

Sec. 17. 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, 1992, and ending June 30, 1993, 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. 18. 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, 1992, and ending June 30, 1993, 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. 19. 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, 1992, and ending June 30, 1993, 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. 20. 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, 1992, and ending June 30, 1993, 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. 21. 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, 1992, and ending June 30, 1993, 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. 22. 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, 1992, and ending June 30, 1993, 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. 23. COLLEGE STUDENT 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, 1992, and ending June 30, 1993, are appropriated to the college student 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. 24. 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, 1992, and ending June 30, 1993, 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. 25. 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, 1992, and ending June 30, 1993, 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. 26. 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, 1992, and ending June 30, 1993, 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. 27. 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, 1992, and ending June 30, 1993, 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. 28. 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, 1992, and ending June 30, 1993, 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. 29. 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, 1992, and ending June 30, 1993, 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. 30. 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, 1992, and ending June 30, 1993, 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. 31. OFFICE OF THE GOVERNOR AND 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, 1992, and ending June 30, 1993, are appropriated to the office of the governor and 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. 32. 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, 1992, and ending June 30, 1993, 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. 33. 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, 1992, and ending June 30, 1993, 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. 34. 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, 1992, and ending June 30, 1993, 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. 35. 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, 1992, and ending June 30, 1993, 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. 36. 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, 1992, and ending June 30, 1993, 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. 37. 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, 1992, and ending June 30, 1993, 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. 38. 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, 1992, and ending June 30, 1993, 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. 39. 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, 1992, and ending June 30, 1993, 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. 40. 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, 1992, and ending June 30, 1993, 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. 41. 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, 1992, and ending June 30, 1993, 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. 42. 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, 1992, and ending June 30, 1993, 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. 43. 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, 1992, and ending June 30, 1993, 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. 44. 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, 1992, and ending June 30, 1993, 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. 45. 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, 1992, and ending June 30, 1993, 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. 46. 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, 1992, and ending June 30, 1993, 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. 47. 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, 1992, and ending June 30, 1993, 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. 48. 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, 1992, and ending June 30, 1993, 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 the asset sharing fund, grant number 16000:
..... $ 150,000
2. For the fire marshal, grant number 14000:
..... $ 12,000
3. For the highway patrol, grant number 11000:
..... $ 5,000
4. For the highway patrol, grant number 20600:
..... $ 484,946
5. For highway safety, grant number 20600:
..... $ 1,870,000
6. For marijuana control, grant number 16580:
..... $ 40,000

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 public

safety prior to March 15 of the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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. 49. 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, 1992, and ending June 30, 1993, 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 administration and support, grant number 10557:
..... $ 192,000
2. For administration and support, grant number 13136:
..... $ 32,500
3. For administration and support, grant number 13161:
..... $ 62,000
4. For administration and support, grant number 13217:
..... $ 17,000
5. For administration and support, grant number 13226:
..... $ 243,183
6. For administration and support, grant number 13283:
..... $ 78,500
7. For administration and support, grant number 13310:
..... $ 15,000
8. For administration and support, grant number 13987:
..... $ 12,000
9. For administration and support, grant number 13992:
..... $ 33,133
10. For administration and support, grant number 13994:
..... $ 58,586
11. For administration and support, grant number 66032:
..... $ 47,000
12. For administration and support, grant number 66701:
..... $ 97,500
13. For administration and support, grant number 87001:
..... $ 11,745
14. For administration and support, grant number 93118:
..... $ 95,000
15. For administration and support, grant number 93268:
..... $ 32,800
16. For administration and support, grant number 93977:
..... $ 57,000
17. For administration and support, grant number 93991:
..... $ 93,925
18. For family and community health, grant number 10557:
..... $ 25,125,492
19. For family and community health, grant number 13199:
..... $ 75,000
20. For family and community health, grant number 13217:
..... $ 446,235
21. For family and community health, grant number 13283:
..... $ 59,992

22. For family and community health, grant number 13310:
..... $ 287,370
23. For family and community health, grant number 13994:
..... $ 6,086,152
24. For family and community health, grant number 93991:
..... $ 544,874
25. For health policy and planning, grant number 13130:
..... $ 106,475
26. For health policy and planning, grant number 13994:
..... $ 53,585
27. For health protection, grant number 13103:
..... $ 15,183
28. For health protection, grant number 13136:
..... $ 111,659
29. For health protection, grant number 13146:
..... $ 31,128
30. For health protection, grant number 13161:
..... $ 25,000
31. For health protection, grant number 13283:
..... $ 503,496
32. For health protection, grant number 13991:
..... $ 50,000
33. For health protection, grant number 66032:
..... $ 147,382
34. For health protection, grant number 66701:
..... $ 159,024
35. For health protection, grant number 66702:
..... $ 154,694
36. For health protection, grant number 90001:
..... $ 211,034
37. For health protection, grant number 93118:
..... $ 917,610
38. For health protection, grant number 93268:
..... $ 189,478
39. For health protection, grant number 93917:
..... $ 110,588
40. For health protection, grant number 93977:
..... $ 311,447
41. For health protection, grant number 93991:
..... $ 146,660
42. For local health, grant number 13987:
..... $ 42,038
43. For local health, grant number 93913:
..... $ 40,289
44. For local health, grant number 93991:
..... $ 245,145
45. For substance abuse, grant number 13279:
..... $ 75,683
46. For substance abuse, grant number 13992:
..... $ 248,058
47. For substance abuse, grant number 84186:
..... $ 27,539

48. For substance abuse program grants, grant number 13175:
..... $ 364,100
49. For substance abuse program grants, grant number 13902:
..... $ 223,002
50. For substance abuse program grants, grant number 13992:
..... $ 8,125,029
51. For substance abuse program grants, grant number 84186:
..... $ 440,625

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, 1992, and ending June 30, 1993, 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. 50. 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, 1992, and ending June 30, 1993, 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 aid to dependent children, grant number 93020:
..... $ 100,319,939
2. For the alcohol and drug abuse block grant, grant number 13992:
..... $ 2,745,199
3. For the child abuse project, grant number 13669:
..... $ 499,387
4. For the child abuse project, grant number 13672:
..... $ 48,000
5. For child and family services, grant number 13645:
..... $ 2,900,000
6. For foster care, grant number 13658:
..... $ 5,514,139
7. For home-based services, grant number 13659:
..... $ 1,450,358
8. For foster care, grant number 13667:
..... $ 4,684,324
9. For child care services, grant number 13667:
..... $ 1,418,406
10. For child care services, grant number 93020:
..... $ 11,044,793
11. For child support enforcement research, grant number 93024:
..... $ 778,434
12. For child support recoveries, grant number 93023:
..... $ 9,887,582
13. For the commodity supplemental food program, grant number 10565:
..... $ 349,000
14. For developmental disabilities, grant number 13630:
..... $ 541,120
15. For emergency assistance, grant number 93020:
..... $ 483,750
16. For enhanced MH/MR/DD services, grant number 13814:
..... $ 5,000

17. For enhanced MH/MR/DD services, grant number 93778:
..... $ 7,897,520
18. For field operations, grant number 10551:
..... $ 5,446,745
19. For field operations, grant number 13658:
..... $ 2,908,051
20. For field operations, grant number 13667:
..... $ 12,630,088
21. For field operations, grant number 93020:
..... $ 4,743,707
22. For field operations, grant number 93026:
..... $ 239,736
23. For field operations, grant number 93778:
..... $ 6,819,450
24. For general administration, grant number 10551:
..... $ 3,245,357
25. For general administration, grant number 13630:
..... $ 191,988
26. For general administration, grant number 13645:
..... $ 150,000
27. For general administration, grant number 13658:
..... $ 596,405
28. For general administration, grant number 13667:
..... $ 1,844,952
29. For general administration, grant number 13673:
..... $ 40,586
30. For general administration, grant number 93020:
..... $ 2,002,523
31. For general administration, grant number 93021:
..... $ 374,977
32. For general administration, grant number 93023:
..... $ 1,313,656
33. For general administration, grant number 93026:
..... $ 173,808
34. For general administration, grant number 93778:
..... $ 4,059,619
35. For Glenwood state hospital-school, grant number 72001:
..... $ 220,572
36. For Glenwood state hospital-school, grant number 72002:
..... $ 11,522
37. For Glenwood state hospital-school, grant number 72008:
..... $ 653
38. For independent living, grant number 13658:
..... $ 386,264
39. For the Iowa refugee service center, grant number 13814:
..... $ 250,000
40. For the Iowa refugee service center, grant number 93026:
..... $ 2,846,155
41. For local administrative costs, grant number 10551:
..... $ 884,751
42. For local administrative costs, grant number 13658:
..... $ 452,532

43. For local administrative costs, grant number 13667:
..... $ 1,170,281
44. For local administrative costs, grant number 93020:
..... $ 732,402
45. For local administrative costs, grant number 93026:
..... $ 39,498
46. For local administrative costs, grant number 93778:
..... $ 1,290,576
47. For medical assistance, grant number 93026:
..... $ 18,000
48. For medical assistance, grant number 93778:
..... $ 567,360,917
49. For medical contracts, grant number 93778:
..... $ 8,763,046
50. For mental health training, grant number 13244:
..... $ 211,755
51. For prevention services, grant number 13667:
..... $ 147,084
52. For promise jobs, grant number 93020:
..... $ 1,533,017
53. For promise jobs, grant number 93021:
..... $ 5,743,555
54. For refugee resettlement, grant number 13787:
..... $ 122,155
55. For the sexually transmitted diseases control program, grant number 93777:
..... $ 3,134,900
56. For temporary and emergency food assistance, grant number 10550:
..... $ 444,500
57. For Title VIII medicare/medicaid, grant number 13773:
..... $ 250,000
58. For volunteers, grant number 13667:
..... $ 127,900
59. For X-PERT, grant number 93020:
..... $ 401,898
60. For block grant supplementation, grant number 13667:
..... $ 10,004,948

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, 1992, and ending June 30, 1993, 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. 51. 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, 1992, and ending June 30, 1993, 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 home investment partnership program, grant number 14228:
..... $ 8,000,000

2. For the job training partnership Act, grant number 17250:
..... $ 27,915,535
3. For the procurement office, grant number 12600:
..... $ 83,000
4. For the state occupational information coordinating council, grant number 17000:
..... $ 350,000
5. For the emergency shelter grants program, grant number 14228:
..... $ 650,000
6. For the small business administration tree planting program, grant number 59009:
..... $ 161,700
7. For economic development administration section 302, grant number 11305:
..... $ 100,000

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 economic development prior to March 15 of the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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. 52. STATE DEPARTMENT OF TRANSPORTATION. 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, 1992, and ending June 30, 1993, to the state department of transportation, 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 implementing the federal Intermodal Surface Transportation Efficiency Act of 1991 related to transportation planning and construction for state, cities, and counties, grant number 20205:
..... $ 190,000,000
2. For public transit assistance (section 8, technical assistance), grant number 20505:
..... $ 250,000
3. For public transit assistance (section 9, small urban under 200,000 population), grant number 20507:
..... $ 2,700,000
4. For public transit assistance (section 18, rural transit), grant number 20509:
..... $ 2,000,000
5. For public transit assistance (section 16(b)2, elderly and handicapped), grant number 20513:
..... $ 750,000
6. For the motor carrier safety assistance program, grant number 20218:
..... $ 675,000

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 state department of transportation prior to March 15 of the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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. 53. DEPARTMENT OF EDUCATION. 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, 1992, and ending June 30, 1993, to the department of education, 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 adult education, grant number 84002:
..... $ 2,293,233

2. For AIDS education, grant number 13118:
..... $ 214,433

3. For asbestos abatement, grant number 66702:
..... $ 65,000

4. For bilingual education, grant number 84003:
..... $ 75,000

5. For the Byrd scholarship program, grant number 84185:
..... $ 109,225

6. For the child care food program, grant number 10558:
..... $ 4,100,000

7. For civil rights, grant number 84004:
..... $ 321,750

8. For drug free schools and communities, grant number 84188:
..... $ 4,023,452

9. For education consolidation and improvement, grant number 84009:
..... $ 699,839

10. For education consolidation and improvement, grant number 84010:
..... $ 43,714,490

11. For education consolidation and improvement, grant number 84011:
..... $ 220,000

12. For education consolidation and improvement, grant number 84012:
..... $ 420,328

13. For education consolidation and improvement, grant number 84013:
..... $ 308,814

14. For education consolidation and improvement, grant number 84218:
..... $ 105,459

15. For education consolidation and improvement, grant number 84216:
..... $ 450,630

16. For education of the handicapped — incentive, grant number 84173:
..... $ 3,630,633

17. For education of the handicapped — infants and toddlers, grant number 84181:
..... $ 655,480

18. For educational consolidation and improvement, grant number 84151:
..... $ 4,967,755

19. For the federal Education for Economic Success Act, Title II, grant number 84164:
..... $ 1,428,008

20. For emergency immigrant education, grant number 84162:
..... $ 31,000

21. For handicapped education, grant number 84025:
..... $ 79,000

22. For handicapped education, grant number 84027:
..... $ 19,316,187

23. For handicapped personnel preparation, grant number 84029:
..... $ 80,000
24. For homeless children and adults, grant number 84192:
..... $ 128,922
25. For homeless children and adults, grant number 84196:
..... $ 50,000
26. For the independent living project, grant number 84169:
..... $ 160,000
27. For Indochinese child refugees, grant number 84146:
..... $ 150,000
28. For leadership in education, grant number 84178:
..... $ 68,254
29. For mine health and safety, grant number 17600:
..... $ 80,000
30. For the national diffusion network, grant number 84073:
..... $ 105,934
31. For the school breakfast program, grant number 10553:
..... $ 1,300,000
32. For school food service, grant number 10559:
..... $ 300,000
33. For school food service, grant number 10560:
..... $ 750,000
34. For the school lunch program, grant number 10555:
..... $ 41,000,000
35. For the special milk program for children, grant number 10556:
..... $ 200,000
36. For supportive employment, grant number 84187:
..... $ 262,888
37. For veterans education, grant number 64111:
..... $ 200,000
38. For vocational education, grant number 84048:
..... $ 8,498,070
39. For vocational education, grant number 84049:
..... $ 266,441
40. For vocational education, grant number 84053:
..... $ 152,733
41. For vocational rehabilitation, grant number 84126:
..... $ 12,608,426
42. For vocational rehabilitation, grant number 84129:
..... $ 64,787
43. For vocational rehabilitation — disability determination services, grant number 13802:
..... $ 6,792,949
44. For vocational rehabilitation — state supplementary assistance, grant number 13625:
..... $ 529,054

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 education prior to March 15 of the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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. 54. 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, 1991, and ending June 30, 1992, and the anticipated receipt of federal and other nonstate grants, receipts, and funds for the fiscal year beginning July 1, 1992, and ending June 30, 1993. The notification shall be made no later than November 15, 1992, 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. 55. Section 16 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1992

CHAPTER 1235

APPROPRIATION FOR CLAIM AGAINST THE STATE

H.F. 2488

AN ACT making an appropriation from the general fund of the state to a certain person in settlement of a claim against the state of Iowa.

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

Section 1. There is appropriated from the general fund of the state to the following person the amount set opposite the person's name in full settlement of a claim, filed by the person in the amount of $16,872.07 for overpayment of the real estate transfer tax, which the person has against the state of Iowa:

Claimant's Name	Claim No.	Nature of Claim	Amount
Eastman Kodak Company Cedar Rapids, Iowa	G91-0146	Real estate transfer tax	$8,436.00

Sec. 2. The general assembly disapproves of all other claims submitted and considered by the joint appropriations subcommittee on claims as of April 22, 1992.

Approved May 14, 1992

CHAPTER 1236

APPROPRIATION REDUCTIONS, SUPPLEMENTALS, AND SALARY ADJUSTMENTS FOR 1991-1992 FISCAL YEAR

S.F. 2367

AN ACT relating to and making appropriations for the fiscal year ending June 30, 1992, to various departments and agencies of state government and providing an effective date.

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

DIVISION I
REDUCTIONS
DEPARTMENT OF ECONOMIC DEVELOPMENT

Section 101. The appropriations 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, in 1991 Iowa Acts, chapter 267, section 301, are reduced by the following amounts for the purposes designated:

1. Business development division:
a. Community economic betterment program:
..... $ 220,000
b. Microenterprise development revolving fund:
..... $ 55,000
2. Work force development division:
Job retraining program:
..... $ 5,000

Sec. 102. BUSINESS DEVELOPMENT FINANCE CORPORATION ASSISTANCE FUND. Notwithstanding the provisions of section 28.148, of the funds appropriated to the business development finance corporation assistance fund for the fiscal year beginning July 1, 1990, for purposes of the capital access program, $575,000, or so much thereof as is remaining and is unencumbered and unobligated, shall revert and be deposited in the general fund of the state.

Sec. 103. RURAL COMMUNITY 2000 REVOLVING FUND. Notwithstanding any provisions in section 15.287 or other provisions of law, up to $1,266,000 of moneys in the rural community 2000 revolving fund, including repayments allocated under section 28.120, subsection 7, which are unencumbered or unobligated on June 30, 1992, shall be transferred and credited to the general fund of the state. Transfers under this section shall be made during the period beginning April 15, 1992, and ending June 30, 1992.

Sec. 104. SMALL BUSINESS NEW JOBS TRAINING FUND. Notwithstanding section 280C.6, the unobligated and unencumbered balance in the community college job training fund, except for the amount appropriated in 1991 Iowa Acts, chapter 267, section 308, for the fiscal year ending June 30, 1992, shall be transferred and credited to the general fund of the state.

STATE DEPARTMENT OF TRANSPORTATION

Sec. 105. The appropriations 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, in 1991 Iowa Acts, chapter 268, section 508, are reduced by the following amounts for the purposes designated:

For providing assistance for the restoration, conservation, improvement, and construction of railroad mainlines, branchlines, 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:
..... $ 585,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 106. Notwithstanding any provision in section 99E.34, 455A.18, or other provisions of law, up to $200,000 of the unobligated and unencumbered moneys on June 30, 1992, allocated to the conservation education board, up to $20,000 of the unobligated and unencumbered moneys on June 30, 1992, allocated to the historical resource grant and loan fund, and up to $68,000 of the unobligated and unencumbered moneys on June 30, 1992, allocated to the living roadway trust fund from moneys 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 and credited to the general fund of the state. Such transfers may be made prior to June 30, 1992. 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. 107. Notwithstanding the standing appropriation in section 19.10 to the executive council to pay court costs of state agencies, the amount appropriated from the general fund of the state under section 19.10 for the fiscal year beginning July 1, 1991, for payment of court costs shall not exceed $192,826.

EFFECT OF APPROPRIATION REDUCTIONS

Sec. 108. The reductions in appropriations for the fiscal year beginning July 1, 1991, and ending June 30, 1992, made in this division are in addition to the allotment reductions of 3.25 percent and .62 percent pursuant to executive orders number 42 and number 43, respectively.

DIVISION II
SUPPLEMENTALS
DEPARTMENT OF HUMAN SERVICES

Sec. 201. 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, to supplement the appropriations made in 1991 Iowa Acts, chapter 267, division I, and in 1992 Iowa Acts, Senate File 2116,** section 101, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Aid to families with dependent children:
..... $ 284,768
2. Medical assistance:
..... $ 7,595,735
3. Medical contracts:
..... $ 26,940
4. State supplementary assistance:
..... $ 122,283
5. Child day care assistance:
..... $ 45,477
6. Transitional child care assistance:
..... $ 2,070
7. Foster care:
..... $ 302,453

If the moneys appropriated in subsection 2, for medical assistance or subsection 7, for foster care, are insufficient to fund the state obligations for those purposes in the fiscal year for which the moneys are appropriated, the governor may utilize use tax revenues collected in the fiscal year beginning July 1, 1991, pursuant to section 423.7 to pay the insufficient amount. If the governor elects to take this action, there is appropriated from the use tax revenues collected pursuant to section 423.7, prior to deposit in accordance with section 423.24, to the department of human services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the amount necessary to fund the insufficient amount of the state obligations for medical assistance or foster care.

*Item veto; see message at end of the Act
**Chapter 1232 herein

DEPARTMENT OF CORRECTIONS

Sec. 202. 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, to supplement the appropriations made in 1991 Iowa Acts, chapter 267, divisions IV and V, and in 1992 Iowa Acts, Senate File 2116,* section 102, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Fort Madison correctional facility:
..... $ 135,342

2. Anamosa correctional facility:
..... $ 100,153

3. Oakdale correctional facility:
..... $ 85,175

4. Newton correctional facility:
..... $ 25,724

5. Mt. Pleasant correctional facility:
..... $ 71,958

6. Rockwell City correctional facility:
..... $ 24,732

7. Clarinda correctional facility:
..... $ 32,977

8. Mitchellville correctional facility:
..... $ 29,514

9. Reimbursement of counties for temporary confinement of work release and parole violators:
..... $ 1,546

10. Federal prison reimbursement and miscellaneous contracts:
..... $ 2,227

11. For annual payment relating to prison expansion:
..... $ 4,006

12. For annual payment relating to prison expansion:
..... $ 20,122

13. First judicial district department of correctional services:
..... $ 34,896

14. Second judicial district department of correctional services:
..... $ 24,724

15. Third judicial district department of correctional services:
..... $ 15,322

16. Fourth judicial district department of correctional services:
..... $ 12,426

17. Fifth judicial district department of correctional services:
..... $ 44,414

18. Sixth judicial district department of correctional services:
..... $ 34,688

*Chapter 1232 herein

19. Seventh judicial district department of correctional services:
..... $ 24,234

20. Eighth judicial district department of correctional services:
..... $ 19,658

21. Assistance and support of each judicial district department of correctional services:
..... $ 565

22. Cost 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:
..... $ 433

DEPARTMENT OF INSPECTIONS AND APPEALS

Sec. 203. 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, to supplement the appropriations made in 1991 Iowa Acts, chapter 268, section 407, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes, in subsection 1, paragraph "a":
..... $ 39,488

2. For indigent court-appointed attorney fees for adults and juveniles in subsection 1, paragraph "b":
..... $ 2,758,286

STATE BOARD OF REGENTS

Sec. 204. 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, to supplement the appropriations made in 1991 Iowa Acts, chapter 267, section 210, subsections 5 and 6, the following amount, or so much thereof as is necessary, for the purposes designated:

For the state school for the deaf and the Iowa Braille and sight-saving school:
..... $ 11,199

Sec. 205. EFFECT OF APPROPRIATION REDUCTIONS. The moneys appropriated to supplement the appropriations for the fiscal year beginning July 1, 1991, and ending June 30, 1992, made in this division are not subject to the allotment reductions of 3.25 percent and .62 percent pursuant to executive orders number 42 and number 43, respectively.

DIVISION III
SALARIES 1991-1992 FISCAL YEAR

Sec. 301. 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 for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, $3,100,000, 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. If an agreement is negotiated pursuant to chapter 20 for employees of the judicial branch of government bargaining unit, notwithstanding section 8.43, the salary and benefit expenditures shall be paid from funds otherwise appropriated to the judicial branch.

Sec. 302.

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:

..... $ 231,736

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:

..... $ 598,062

3. Except as otherwise provided in this division, 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 division.

Sec. 303. 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 division.

Sec. 304. All funds appropriated to the salary adjustment fund shall be used to fund salary and fringe benefit expenditures for employees covered by the agreements specified in section 301, commencing April 24, 1992, and ending with the pay period ending June 18, 1992, except for employees under the state board of regents merit system which commences April 24, 1992, or the pay period commencing nearest that date, and ends June 30, 1992, or the pay period ending nearest to but before that date.

Sec. 305. EFFECT OF APPROPRIATION REDUCTIONS. The moneys appropriated to supplement the appropriations for the fiscal year beginning July 1, 1991, and ending June 30, 1992, made in this division are not subject to the allotment reductions of 3.25 percent and .62 percent pursuant to executive orders number 42 and number 43, respectively.

Sec. 306. Funds appropriated from the general fund of the state in this division relate only to salaries supported from general fund appropriations of the state.

Sec. 307. All federal grants to and the federal receipts of the agencies affected by this division which are received and may be expended for purposes of this division are appropriated for those purposes and as set forth in the federal grants or receipts.

DIVISION IV

Sec. 401. Section 602.9107A, subsection 3, as enacted by 1992 Iowa Acts, House File 2450,* section 72, if enacted by the 1992 Session of the Seventy-fourth General Assembly, is amended to read as follows:

*Chapter 1201 herein

3. The decreased annuity provided in this section shall be in lieu of the annuities ~~and refunds~~ provided for in sections 602.9107, ~~602.9108,~~ ~~602.9115,~~ 602.9204, 602.9208, and 602.9209.

Sec. 402. Section 602.9115A, unnumbered paragraph 1, Code 1991, is amended to read as follows:

In lieu of the annuities and refunds provided for judges and judges' survivors under sections 602.9107, 602.9107A, 602.9108, 602.9115, 602.9204, 602.9208, and 602.9209, judges may elect to receive an optional retirement annuity during the judge's lifetime and have the optional retirement annuity, or a designated fraction of the optional retirement annuity, continued and paid to the judge's survivor after the judge's death and during the lifetime of the survivor.

Sec. 403. Section 602.9115A, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The optional retirement annuity shall be the actuarial equivalent of the amounts of the annuities payable to judges and survivors under sections 602.9107, 602.9107A, 602.9115, 602.9204, 602.9208, and 602.9209. The actuarial equivalent shall be based on the mortality and interest assumptions set out in section 602.9107, subsection 3.

DIVISION V

Sec. 501. EFFECTIVE DATE. Divisions I, II, III, and this division of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 15, 1992, except the items which I hereby disapprove and which are designated as Section 107 in its entirety and Section 201, unnumbered and unlettered paragraph 2 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 2367, an Act relating to and making appropriations for the fiscal year ending June 30, 1992, to various departments and agencies of state government and providing an effective date.

Senate File 2367 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 107, in its entirety. This provision would cap the funding available to the Executive Council to pay for court costs of state agencies at $192,826 for fiscal year 1992. To date, $250,375.86 has been approved and/or expended by the Executive Council to pay for the services provided by outside counsel in this fiscal year. Additional claims totaling in excess of $200,000 are expected to be submitted this year, including requests from the attorney general's office. Given that the proposed cap has already been exceeded and additional demands for payment are expected, this provision cannot be approved.

I am unable to approve the item designated as the second unnumbered and unlettered paragraph of Section 201, in its entirety. This provision would authorize an unlimited expenditure of use tax revenues for purposes unrelated to the construction and maintenance of the state's highways. Subsequent to the passage of this bill, the legislature approved Senate File 2347 which includes language repealing this provision.

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 2367 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1237

APPROPRIATIONS — HEALTH AND HUMAN RIGHTS

H.F. 2457

AN ACT relating to and making appropriations to the department for the blind, the Iowa state civil rights commission, the department of elder affairs, the Iowa department of public health, and the department of human rights.

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

Section 1. DEPARTMENT FOR THE BLIND. There is appropriated from the general fund of the state to the department for the blind 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 purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,344,555
.....	FTEs	99.50

Sec. 2. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission 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 purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,015,791
.....	FTEs	31.00

Sec. 3. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	370,554
.....	FTEs	29.00

2. For the administration of area agencies on aging:

.....	$	151,654

3. For elderly services programs:

.....	$	1,412,241

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 in this subsection may be used to supplement federal funds under federal regulations. Funds appropriated in 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.

4. For the retired Iowans community employment program:

..... $ 119,969

5. For the Alzheimer's disease support program:

..... $ 68,933

6. For retired senior volunteer program projects:

..... $ 67,094

7. For the long-term care residents' advocate and the care review committees at the local area agency on aging level:

..... $ 80,000

To receive funds appropriated in this subsection, a local area agency on aging shall match the funds with funds from other sources on a $4 to $1 basis.

Sec. 4. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health 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. a. ADMINISTRATION AND SUPPORT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,495,217
..... FTEs 55.50

Of the funds appropriated in this subsection, $730,051 shall be used for the chronic renal disease program. The types of assistance available 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 this allocation. If projected expenditures will exceed the allocation, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the allocations.

b. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 578,357
..... FTEs 11.50

c. LOCAL HEALTH

(1) For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,196,686
..... FTEs 14.00

(2) Of the funds appropriated in this paragraph, $76,181 is allocated for the office of rural health.

(3) Of the funds appropriated in this paragraph, $96,750 is allocated 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.

(4) Of the funds appropriated in this paragraph, $1,023,503 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 EMS funds available under this subsection only if the reimbursement is not available through any employer or third-party payor.

d. HEALTH POLICY AND PLANNING

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 425,294
..... FTEs 10.75

e. HEALTH DATA CLEARINGHOUSE. For the health data clearinghouse of the health data commission:

..... $ 290,250

The funds appropriated under this paragraph shall be used for the collection, verification, updating, and storage of data, including long-term care data, received pursuant to chapters 145 and 255A, and for the production of mandated reports. The health data commission shall establish a fee schedule, in consultation with its consultant, for the costs of providing data to organizations which request the data. The fee established shall be based upon the marginal cost and a portion of the fixed cost of providing the data.

Notwithstanding section 145.3, subsection 5, the health data commission may contract to purchase a tape from the Iowa hospital association containing data from all in-patient admissions to Iowa hospitals. The health data commission shall specify the data to be contained on the tape to ensure the utility of the tape for the production of health data commission reports.

2. HEALTH PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,336,230
..... FTEs 76.50

b. Of the funds appropriated in this subsection, $72,750 shall be used for chlamydia testing.

c. Of the funds appropriated in this subsection, $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.

d. Of the funds appropriated in this subsection, $74,497 shall be used for the lead abatement program.

e. The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated under this subsection.

f. The department shall maintain a brain and spinal cord injuries registry.

3. SUBSTANCE ABUSE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 392,614
..... FTEs 19.00

b. For program grants:

..... $ 8,196,659

c. For the provision of aftercare services for persons completing substance abuse treatment:

..... $ 193,500

4. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,120,870
..... FTEs 81.00

(1) Of the funds appropriated in this lettered paragraph at least $563,694 shall be allocated for the birth defects and genetics counseling program and of these funds, $273,773 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 in this lettered 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:

..... $ 392,931

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:

..... $ 115,613

(c) Statewide perinatal program:

..... $ 61,693

(3) 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.

(4) Of the funds allocated to the mobile and regional child health specialty clinics in subparagraph (2), subparagraph subdivision (a), $97,937 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.

(5) The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds for each program.

(6) Of the funds appropriated in this lettered paragraph, $1,279,422 shall be used for maternal and child health services.

(7) 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.

(8) The department shall track the appropriation made in this paragraph in accordance with the program performance-based budgeting method.

(9) The department shall work with the department of elder affairs to realize the "Healthy Iowans 2000" goal of providing nutrition screening to 90 percent of the elderly persons participating in well-elderly screening clinics, congregate meal programs, and homemaker-home health aide programs, and shall submit a progress report to the general assembly by January 1, 1993, regarding the number of personnel trained and the number of persons served.

(10) The department shall continue efforts to realize the "Healthy Iowans 2000" goal of the involvement of 50 counties in the Iowa community nutrition coalition by January 1, 1993, and shall submit a progress report to the general assembly by January 1, 1993.

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":

..... $ 9,675

c. For grants to local boards of health for the public health nursing program:

..... $ 2,511,871

(1) Funds appropriated in this lettered 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 lettered 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.

(2) 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.

(3) In order to receive allocations under this lettered 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.

(4) 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 lettered 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.

(5) The department shall maintain rules governing the expenditure of funds appropriated by this lettered 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.

(6) 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:
..... $ 8,586,716

Funds appropriated in this lettered 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 in this lettered paragraph may be used to provide chore services. The funds shall not be used for any other purposes. In providing services to elderly persons, the service provider shall coordinate efforts with the integrated case management for frail elderly program of the department of elder affairs. As used in this lettered 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 in this lettered paragraph shall be allocated for use in the counties of the state. Fifteen percent of the amount shall be divided so that an equal amount is available for use in each county in the state. The following percentages of the remaining amount shall be allocated to each county according to that county's proportion of residents with the following demographic characteristics: 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 in this lettered 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 nonprofit nurses' association, an independent nonprofit agency, the department of human services, or a suitable local governmental body to use the allocated funds to provide homemaker-home health aide services and chore services providing that the subcontract requires any service provided away from the home to be documented in a report available for review by the department, and that each homemaker-home health aide subcontracting agency shall maintain the direct service workers' time assigned to direct client service at 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 in this lettered 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 lettered 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 in this lettered 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:

..... $ 585,337

Appropriations made in this lettered 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:

..... $ 411,187

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 lettered paragraph shall be reimbursed according to Title XIX reimbursement rates.

g. For primary and preventive health care for children:

..... $ 75,000

Funds appropriated in this lettered 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:

The organization shall provide a match in advance of each state dollar provided of four dollars for the fiscal year beginning July 1, 1992.

(1) 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.

(2) The organization's governing board includes in its membership representatives from the executive and legislative branches of state government.

(3) Grant funds are available as needed to provide services and shall not be used for administrative costs of the department or the grantee.

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	220,565
.....	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:

.....	$	907,984
.....	FTEs	18.00

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	768,357
.....	FTEs	16.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	584,281
.....	FTEs	11.75

9. Professional licensure pursuant to subsection 1, paragraph "b", and the professional practice 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.

Sec. 5. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the general fund of the state to the department of human rights 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. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	212,022
.....	FTEs	7.60

2. COMMUNITY ACTION AGENCIES DIVISION

For the expenses of the community action agencies commission:

.....	$	3,526

3. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	260,934
.....	FTEs	8.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be disbursed 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.

4. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 127,016
..... FTEs 3.00

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 86,966
..... FTEs 2.00

6. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 333,166
..... FTEs 4.00

Of the funds appropriated in this subsection, no less than $125,775 shall be spent for the displaced homemaker program.

Of the funds appropriated in this subsection, no less than $42,570 shall be spent for domestic violence and sexual assault related grants.

7. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 76,027
..... FTEs 2.00

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 325,760
..... FTEs 9.75

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.

Sec. 6. Section 135.22, subsection 1, Code 1991, is amended to read as follows:

1. As used in this section, section 135.22A, and section 225C.23, ~~and section 601K.80,~~ "brain injury" means clinically evident brain damage or spinal cord injury resulting directly or indirectly from trauma, infection, anoxia, or vascular lesions not primarily related to degenerative or aging processes, which temporarily or permanently impairs a person's physical or cognitive functions.

Sec. 7. NEW SECTION. 135.22A ADVISORY COUNCIL ON HEAD INJURIES.

1. For purposes of this section, unless the context otherwise requires:

a. "Head injury" means "brain injury" as defined in section 135.22.

b. "Council" means the advisory council on head injuries.

2. The advisory council on head injuries is established. The following persons or their designees shall serve as ex officio, nonvoting members of the council:

a. The director of public health.

b. The director of human services and any division administrators of the department of human services so assigned by the director.

c. The director of the department of education.

d. The chief of the special education bureau of the department of education.

e. The administrator of the division of vocational rehabilitation of the department of education.

f. The director of the department for the blind.

g. The commissioner of insurance.

3. The council shall be composed of a minimum of nine members appointed by the governor in addition to the ex officio members, and the governor may appoint additional members. Insofar as practicable, the council shall include persons with head injuries, family members of persons with head injuries, representatives of industry, labor, business, and agriculture, representatives of federal, state, and local government, and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations. Members shall be appointed representing every geographic and employment area of the state and shall include members of both sexes.

4. Members of the council appointed by the governor shall be appointed for terms of two years. Vacancies on the council shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed.

5. The voting members of the council shall appoint a chairperson and a vice chairperson and other officers as the council deems necessary. The officers shall serve until their successors are appointed and qualified. Members of the council shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. The council shall adopt rules pursuant to chapter 17A.

6. The council shall do all of the following:

a. Promote meetings and programs for the discussion of methods to reduce the debilitating effects of head injuries, and disseminate information in cooperation with any other department, agency, or entity on the prevention, evaluation, care, treatment, and rehabilitation of persons affected by head injuries.

b. Study and review current prevention, evaluation, care, treatment, and rehabilitation technologies and recommend appropriate preparation, training, retraining, and distribution of manpower and resources in the provision of services to persons with head injuries through private and public residential facilities, day programs, and other specialized services.

c. Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs, and other specialized services for persons with head injuries in this state.

d. Make recommendations to the governor for developing and administering a state plan to provide services for persons with head injuries.

e. Meet at least quarterly.

f. Report on or before February 15 of each year to the governor and the general assembly on council activities, and submit recommendations believed necessary to promote the welfare of persons with head injuries.

7. The council is assigned to the department for administrative purposes. The director shall be responsible for budgeting, program coordination, and related management functions.

8. The council may receive gifts, grants, or donations made for any of the purposes of its programs and disburse and administer them in accordance with their terms and under the direction of the director.

Sec. 8. Section 135I.2, Code 1991, is amended to read as follows:

135I.2 APPLICABILITY.

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities

intended for single family use. To avoid duplication and promote coordination of inspection activities, the department may enter into agreements pursuant to chapter 28E with a local board of health ~~or multiple boards of health representing contiguous areas~~ to provide for inspection and enforcement in accordance with this chapter.

Sec. 9. Section 135I.4, subsection 6, Code 1991, is amended to read as follows:

6. Enter into agreements with a local board of health ~~or local boards of health in a contiguous area~~ to implement the inspection and enforcement provisions of this chapter. The agreements shall provide that the fees established by the local board ~~or boards~~ of health for inspection and enforcement shall be retained by the local board ~~or boards~~. ~~A local board of health or boards of health in a contiguous area may enter into such an agreement with the department.~~ However, inspection fees shall not be charged by the department for facilities which are inspected by third-party authorities. Third-party authorities shall be approved by the department. The department shall monitor and certify the inspection and enforcement programs of local boards of health and approved third-party authorities.

Sec. 10. Section 135I.6, Code 1991, is amended to read as follows:

135I.6 ENFORCEMENT.

If the department or a local board ~~or boards~~ of health acting pursuant to agreement with the department determines that a provision of this chapter or a rule adopted pursuant to this chapter has been or is being violated, the department or the local board ~~or boards~~ of health may order that a facility or item of equipment not be used until the necessary corrective action has been taken. The department or the local board of health may request the county attorney to bring appropriate legal proceedings to enforce this chapter, including an action to enjoin violations. The attorney general may also institute appropriate legal proceedings at the request of the department. This remedy is in addition to any other legal remedy available to the department or a local board ~~or boards~~ of health.

Sec. 11. NEW SECTION. 136E.7 SUSPENSION AND REVOCATION OF LICENSES.

The department may suspend, revoke, or impose probationary conditions upon a license issued pursuant to rules adopted in accordance with section 136E.3.

Sec. 12. NEW SECTION. 514B.4A DIRECT PROVISION OF HEALTH CARE SERVICES.

1. An application for a certificate of authority to provide health care services, directly, shall be forwarded by the commissioner to the director of public health for review, comment, and recommendation, with respect to the health care services to be provided directly, to assure that the applicant has demonstrated the willingness and potential ability to provide the health care services through adequate personnel and facilities.

2. Rules proposed by the commissioner for adoption for the direct provision of health care services by a health maintenance organization, shall be forwarded by the commissioner to the director of public health for review, comment, and recommendation, prior to submission to the administrative rules coordinator pursuant to section 17A.4.

3. The director of public health shall respond to the commissioner, with respect to an application or proposed rule, with any comments or recommendations within thirty days of the forwarding of the application or proposed rules to the director of public health.

Sec. 13. Section 601K.92A, subsection 2, Code 1991, is amended to read as follows:

2. Commission members shall serve three-year terms which shall begin and end pursuant to section 69.19. Vacancies on the commission shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed. Members of the commission shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. Members as specified under subsection 1, paragraph "c", however, shall receive per diem compensation as provided in section 7E.6 and actual expenses. The membership of the commission shall also comply with the political party affiliation and gender balance requirements of sections 69.16 and 69.16A.

Sec. 14. INTERIM STUDY – LICENSING AND EXAMINING BOARDS. The legislative council is requested to establish an interim study committee to review and make recommendations for the reorganization of professional licensure and the professional examining boards under the purview of the Iowa department of public health. The study shall include but not be limited to an evaluation of and recommendation regarding the establishment of a health profession review commission to address scope of practice issues.

Sec. 15. Section 601K.80, Code 1991, is repealed.

Sec. 16. FEDERAL AND NONSTATE FUNDS. 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, 1992, and ending June 30, 1993, are appropriated to the receiving department for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Approved June 3, 1992

CHAPTER 1238

APPROPRIATIONS – TRANSPORTATION AND SAFETY
S.F. 2345

AN ACT relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation and enforcement, and including allocation and use of moneys from the use tax, road use tax fund, and primary road fund, creating a litigation expense fund and making appropriations, providing for properly related matters, and providing an effective date.

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

IOWA LAW ENFORCEMENT ACADEMY

Section 1. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, 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:

..... $ 839,317
..... FTEs 24.20

For use by the prosecuting attorneys training coordinator in implementing a course of instruction relating to public offenses perpetrated due to a victim's protected class status, as provided in section 80B.11, subsection 3, if and as amended by the Seventy-fourth General Assembly, 1992 Session:

..... $ 10,000

DEPARTMENT OF PUBLIC DEFENSE

Sec. 2. There is appropriated from the general fund of the state to the department of public defense 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. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,298,201
..... FTEs 208.59

2. DISASTER SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 265,960
..... FTEs 10.00

3. VETERANS AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 143,619
..... FTEs 4.16

4. WAR ORPHANS

For the war orphans educational aid fund established pursuant to chapter 35:

..... $ 9,854

DEPARTMENT OF PUBLIC SAFETY

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, 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 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:

..... $ 2,190,629
..... FTEs 43.00

a. The department shall continue to pursue its five-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.

b. Funds are provided in this subsection so that 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.

c. The department shall conduct a study to determine the most appropriate handgun and holster to be used by peace officers in the divisions of capitol security and highway safety, uniformed force, and radio communications. The department shall report the results of the study to the chairpersons and ranking members of the transportation and safety appropriations subcommittee and the legislative fiscal bureau by January 1, 1993.

2. For the division of criminal investigation and bureau of identification 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:

..... $ 6,700,894
..... FTEs 150.00

a. It is the intent of the general assembly that the division of criminal investigation shall employ no more than 15 new riverboat police officers.

*b. *It is the intent of the general assembly that any new classification of riverboat law enforcement officers shall be included within the Iowa public employees' retirement system as members of a protection occupation under section 97B.49, subsection 16, paragraph "d".**

3. For the division of narcotics enforcement:

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:

..... $ 2,059,713
..... FTEs 42.00

*Item veto; see message at end of the Act

b. Undercover purchases:

..... $ 251,792

4. 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:

..... $ 1,323,512

..... FTEs 30.00

5. For the capitol security division, and for not more than the following full-time equivalent positions:

..... $ 1,025,564

..... FTEs 29.00

6. For use by the department to provide law enforcement officials for project D.A.R.E. (drug abuse resistance education) within local communities:

..... $ 28,584

Sec. 4. There is appropriated from the road use tax fund to the division of highway safety, uniformed force, and radio communications of the department of public safety 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 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:

..... $ 28,445,736

..... FTEs 529.50

a. 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.

b. It is the intent of the general assembly that the department of public safety, department of personnel, and the department of management take every action necessary to fill the entire complement of positions authorized for the division of highway safety, uniformed force and radio communications, in this appropriation as soon after the effective date of this Act as possible.

c. The Iowa law enforcement academy may annually select at least five automobiles of the department of public safety, division of highway safety, uniformed force and radio communications, which are being turned in to the state vehicle dispatcher to be disposed of by public auction and the Iowa law enforcement academy may 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, uniformed force and radio communications.

d. 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, 1993, 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:

..... $ 150,000

3. For payments to the department of personnel for expenses incurred in administering workers' compensation on behalf of the division of highway safety, uniformed force, and radio communications:

..... $ 403,475

4. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the division of highway safety, uniformed force and radio communications:

..... $ 88,390

Sec. 5. There is appropriated from use tax receipts collected under chapter 423 prior to deposit in the road use tax fund, to the department of public safety for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

1. For the costs associated with the automated fingerprint information system local remote terminals:

..... $ 247,471

2. For the continued purchase of the automated fingerprint information system (AFIS):

..... $ 509,378

3. 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:

..... $ 277,662
..... FTEs 5.00

STATE DEPARTMENT OF TRANSPORTATION

Sec. 6. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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

2. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. (1) Administrative services:

..... $ 3,862,250
..... FTEs 45.00

The legislative fiscal bureau with the assistance of the state department of transportation shall develop an effective legislative oversight report to be distributed to the transportation and safety joint appropriations subcommittee. This report shall include, but is not to be limited to, expenditure information for all appropriated funds relating to budget, accounting and payroll, and cash flow statements and cash balances for all funds, and all contract expenditures and obligations.

(2) For a handicapped accessibility study:

..... $ 8,400

b. General counsel:

..... $ 177,240
..... FTEs 1.00

c. Planning and research:

..... $ 344,875
..... FTEs 8.00

d. Aeronautics and public transit:

..... $ 246,120
..... FTEs 5.00

e. (1) Motor vehicles:

..... $ 18,968,624
..... FTEs 529.00

It is the intent of the general assembly that the motor vehicle division of the department shall conduct all salvage theft examinations and component part reviews required under section 321.52.

(2) For replacement of obsolete equipment:

..... $ 47,000

f. Rail and water:

..... $ 603,400

..... FTEs 13.00

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:

..... $ 35,000

4. Unemployment compensation:

..... $ 12,250

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

6. For payment to the general fund for indirect cost recoveries:

..... $ 120,000

Sec. 7. There is appropriated from the primary road fund to the state department of transportation 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. (1) Administrative services:

..... $ 23,725,250

..... FTEs 278.50

(2) For a handicapped accessibility study:

..... $ 51,600

b. General counsel:

..... $ 1,088,760

..... FTEs 7.00

It is the intent of the general assembly that should a lawsuit result from the redesignation of interstate 80 or if the attorney general deems such a suit necessary, that moneys appropriated under paragraph "b" of this subsection may be used by the attorney general to protect the state's interests in the matter and that such action by the attorney general shall be in cooperation with the I-80 defense task force in Davenport. However, this paragraph does not limit other uses for moneys appropriated under paragraph "b" of this subsection.

c. Planning and research:

..... $ 6,552,625

..... FTEs 151.00

d. Aeronautics and public transit:

..... $ 246,120

..... 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. (1) Highways:

..... $ 140,128,500

..... FTEs 2,861.00

(2) For software module:

..... $ 30,000

f. Motor vehicles:

..... $ 767,076

..... FTEs 21.00

g. Rail and water:

..... $ 258,600

..... FTEs 6.00

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:

..... $ 3,079,000

The appropriation in this subsection is provided on the basis that no more than $2,741,091 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 91 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:

..... $ 665,000

4. Unemployment compensation:

..... $ 232,750

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

7. For payment to the general fund for indirect cost recoveries:

..... $ 880,000

8. For replacement or modification of field facilities in Ames, Mt. Ayr, Soldier, and Le Mars:

..... $ 2,525,000

The provisions of section 8.33 do not apply to the funds appropriated by subsection 8, which shall remain available for expenditure for the purposes designated until June 30, 1996. Unencumbered or unobligated funds remaining on June 30, 1996, from funds appropriated in this subsection, for the fiscal year beginning July 1, 1992, shall revert to the fund from which appropriated on August 30, 1996.

9. For the expansion of a field facility at Maquoketa:

..... $ 375,000

The provisions of section 8.33 do not apply to the funds appropriated by this subsection, which shall remain available for expenditure for the purposes designated until June 30, 1994. Unencumbered or unobligated funds remaining on June 30, 1994, from funds appropriated in this subsection for the fiscal year beginning July 1, 1992, shall revert to the fund from which appropriated on September 30, 1994.

Sec. 8. The state department of transportation anticipates receipts totaling $726,550,000 in the road use tax fund for the period beginning July 1, 1992, and ending June 30, 1993.

It is estimated that standing, formula-based, and direct appropriations made by the general assembly for this fiscal year will include the following:

1. Primary road fund, $11,500,000.
2. Farm-to-market road fund, $1,500,000.
3. Secondary road fund, $7,600,000.
4. Revitalize Iowa's sound economy fund, $26,300,000.
5. Function classification board expenses, $5,000.
6. Park and institutional road fund, $4,720,000.
7. Reimbursements to the state department of transportation for assistance to local jurisdictions, $500,000.
8. Living roadway trust fund, $250,000.
9. Highway grade crossing safety fund, $700,000.
10. Highway railroad grade crossing surface repair fund, $900,000.
11. Secondary bridge fund, $2,000,000.
12. City bridge fund, $500,000.

13. License plate, titling, and registration supplies, $2,000,000.
14. Traffic safety improvement projects, $3,630,000.
15. Personal delivery of driver license suspension notices, $225,000.
16. Appropriation to the department of inspections and appeals.
17. Public transit assistance fund, $6,230,000.
18. Recreational trails development, $1,000,000.
19. Odometer fraud fund, $200,000.
20. Motorcycle education fund, $90,000.
21. Upgrade vehicle registration and titling equipment in county treasurers' offices, $650,000.
22. Appropriations to the state department of transportation for operations.
23. Appropriation for the highway patrol.
24. Appropriation to the department of management for support staff.
25. Appropriation for the production cost of driver's license costs.
26. Appropriation for the purchase of radar units for the highway patrol.

Of the estimated remaining funds, 47.5 percent ($285,950,000) shall be distributed to the primary road fund, 24.5 percent ($147,490,000) shall be distributed to the secondary road fund, 8 percent ($48,160,000) shall be distributed to the farm-to-market road fund, and 20 percent ($120,400,000) shall be distributed to the city street fund.

The state department of transportation anticipates federal funds totaling $220,202,000 for the period beginning October 1, 1991, and ending September 30, 1992. Of this amount approximately $191,165,000 is for highway maintenance and construction, $17,292,000 is for public transit, $10,427,000 is for airport improvement, and $1,318,000 is for local rail assistance.

Sec. 9. There is appropriated from the general fund of the state to the state department of transportation 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. a. 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:

..... $ 2,110,553

b. For airport engineering studies and improvement projects as provided in chapter 328:

..... $ 3,200,000

2. For aeronautics and public transit, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 386,760
..... FTEs 8.00

Sec. 10. 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, chapter 260, division XII, sections 1222, 1224, 1228, 1229, and 1249, shall only be used for the purposes for which the moneys were to be collected prior to the enactment of 1991 Iowa Acts, chapter 260, division XII, sections 1222, 1224, 1228, 1229, and 1249:

1. Railroad assistance fund established under section 327H.18.
2. Special railroad facility fund established under section 307B.23.
3. State aviation fund established under section 328.36.
4. Public transit assistance fund established under section 601J.6.

Sec. 11. There is appropriated from moneys, other than federal moneys, deposited in the victim compensation fund established under section 912.14 to the department of justice 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 use by the prosecuting attorneys training coordinator in implementing a course of instruction relating to public offenses perpetrated due to a victim's protected class status, as provided in section 80B.11, subsection 3, if and as amended by the Seventy-fourth General Assembly, 1992 Session:

..... $ 10,000

Sec. 12. The state department of transportation shall place a moratorium on the placement of tourist-oriented directional signs within the territorial limits of the Amana colonies and the Amana colonies land use district shall not initiate any action regarding the removal of any existing tourist-oriented directional sign until such time as a comprehensive signing program has been established within the area. The moratorium shall go into effect as of the effective date of this Act.

Sec. 13. STATE OPPOSITION EXPRESSED. To the extent that Iowa motor vehicle license suspension and revocation law is contrary to or inconsistent with 23 U.S.C. § 104(a)(3)(A) both houses of the general assembly do hereby resolve and the governor does hereby certify their combined opposition to the enactment and enforcement in the state of Iowa of the law described in 23 U.S.C. § 104(a)(3)(A).

**Sec. 14. Section 2.45, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *5. The transportation policy review committee which shall be composed of eight members consisting of the chairpersons or their designated committee members and the ranking minority party members or their designated committee members of the house and senate transportation standing committees and the house and senate joint transportation and safety appropriations subcommittees. The transportation policy review committee shall meet at least two times, but not more than four times per year, in conjunction with the state transportation commission, and shall exchange information and discuss state policy concerns affecting transportation related issues.**

Sec. 15. Section 29A.27, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Officers and enlisted persons while in active state service shall receive the same pay, per diem, and allowances as are paid for the same rank or grade for service in the armed forces of the United States. However, a person shall not be paid at a base rate of pay of less than ~~fifty~~ seventy-five dollars per calendar day of active state service.

Sec. 16. Section 29A.57, subsection 3, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Grant a temporary or permanent easement with or without monetary consideration for utility or public highway purposes if granting the easement will not adversely affect use of the real estate for military purposes.

Sec. 17. Section 70.1, subsection 1, Code 1991, is amended to read as follows:

1. In every public department and upon all public works in the state, and of the counties, cities, and school corporations ~~thereof~~ of the state, honorably discharged persons from the military or naval forces of the United States in any war in which the United States has been engaged, including the Korean Conflict at any time between June 25, 1950 and January 31, 1955, both dates inclusive, ~~and~~ the Vietnam Conflict beginning August 5, 1964, and ending on May 7, 1975, both dates inclusive, and the Persian Gulf Conflict beginning August 2, 1990, and ending on the date specified by the president or the congress of the United States as the date of permanent cessation of hostilities, both dates inclusive, who are citizens and residents of this state are entitled to preference in appointment and employment over other applicants of no greater qualifications. However, if the congress of the United States enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict to determine the eligibility of a veteran for military benefits as a veteran of the Persian Gulf Conflict, the date enacted by the congress of the United States shall be substituted for August 2, 1990. The preference in appointment and employment for employees of cities under a municipal civil service is the same as provided in section 400.10. For the purposes of this section service in World War II means service in the armed forces of the United States between December 7, 1941, and December 31, 1946, both dates inclusive.

Sec. 18. Section 80.9, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

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NEW PARAGRAPH. h. To maintain a vehicle theft unit in the Iowa highway safety patrol to investigate and assist in the examination and identification of stolen, altered, or forfeited vehicles.

*Sec. 19. *Section 80B.5, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *The director shall be appointed by the Iowa law enforcement academy council.**

Sec. 20. Section 80B.11, subsection 5, Code Supplement 1991, is amended to read as follows:

5. Minimum standards of mental fitness which shall govern the initial recruitment, selection and appointment of law enforcement officers. The rules shall include, but are not limited to, providing a battery of psychological tests to determine cognitive skills, personality characteristics and suitability of an applicant for a law enforcement career. However, this battery of tests need only be given to applicants being considered in the final selection process for a law enforcement position. Notwithstanding any provision of chapter 400, an applicant shall not be hired if the employer determines from the tests that the applicant does not possess sufficient cognitive skills, personality characteristics, or suitability for a law enforcement career. The director of the academy shall, ~~beginning July 1, 1986,~~ provide for the cognitive and psychological examinations and their administration ~~at no cost~~ to the law enforcement agencies or applicants, and shall identify and procure persons who can be hired to interpret the examinations.

Sec. 21. Section 80B.11B, subsection 1, Code 1991, is amended to read as follows:

1. ~~Notwithstanding section 80B.11, subsection 5, not more than one-half of the~~ The full cost of providing cognitive and psychological examinations of law enforcement officer candidates may be charged ~~for taking the examinations~~ by the Iowa law enforcement academy.

Sec. 22. NEW SECTION. 80B.16 AUDIOVISUAL FEES ESTABLISHED.

The academy may charge state departments, independent agencies, or other governmental offices a fee not to exceed the actual costs, including the cost of equipment, production, and duplication, for audiovisual services provided by the academy. Fees shall be deposited in a separate fund in the state treasury to be known as the audiovisual equipment fund. Funds generated from the audiovisual fees are appropriated and shall be used at the direction of the academy only to maintain and upgrade academy audiovisual equipment. Notwithstanding section 8.33, unencumbered or unobligated moneys in the separate fund at the end of a fiscal year shall not revert to the general fund of the state.

*Sec. 23. *Section 309.10, unnumbered paragraph 2, Code Supplement 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 sum of the following for the fiscal year ending June 30, 1993, eighty percent of the sum of the following for the fiscal year ending June 30, 1994, eighty-five percent of the sum of the following for the fiscal year ending June 30, 1995, and ninety percent of the sum of the following for each fiscal year beginning on or after July 1, 1995:*

*Sec. 24. *Section 312.2, subsection 8, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:*

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 sum of the following for the fiscal year ending June 30, 1993, eighty percent of the sum of the following for the fiscal year ending June 30, 1994, eighty-five percent of the sum of the

*Item veto; see message at end of the Act

following for the fiscal year ending June 30, 1995, and ninety percent of the sum of the following for each fiscal year beginning on or after July 1, 1995:*

Sec. 25. Section 312.2, subsection 15, Code Supplement 1991, is amended to read as follows:

15. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the public transit assistance fund, created under section 601J.6, from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "c", an amount equal to one-twentieth of the revenue ~~credited to the road use tax fund under section 423.24, subsection 1, paragraph "c"~~ derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7.

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 "c"~~ derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, 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. 26. Section 312.2, subsection 22, Code Supplement 1991, is amended by striking the subsection.

Sec. 27. Section 312.3, subsection 1, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. Apportion among the counties in the ratio that the needs of the secondary roads of each county bear to the total needs of the secondary roads of the state for each fiscal year based upon the total needs of secondary roads of the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department, seventy percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties, and apportion among the counties in the ratio that the area of each county bears to the total area of the state, thirty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties.

Sec. 28. Section 312.5, subsection 5, Code Supplement 1991, is amended by striking the subsection.

Sec. 29. Section 313.4, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Such fund is appropriated and shall be used by the department to provide energy and for the operation and maintenance of those primary road freeway lighting systems within the corporate boundaries of cities including energy and maintenance costs associated with interchange conflict lighting on existing and future freeway and expressway segments constructed to interstate standards.

Sec. 30. Section 315.4, subsection 1, Code 1991, is amended to read as follows:

1. Twenty thirty-firsts for deposit in the primary road fund for the use of the department on primary road projects exclusively for highways which are identified under section 307A.2 as being part of the network of commercial and industrial highways.

Sec. 31. Section 321.89, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. "Police authority" means the Iowa highway safety patrol, ~~or~~ any law enforcement agency of a county or city or any special security officer employed by the state board of regents under section 262.13.

Sec. 32. Section 321.152, subsection 1, Code Supplement 1991, is amended to read as follows:

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1. Four ~~and one-quarter~~ percent of the total collection for each annual or semiannual vehicle registration and each duplicate registration card or plate issued.

Sec. 33. Section 321.153, Code 1991, is amended to read as follows:

321.153 TREASURER'S REPORT TO DEPARTMENT.

The county treasurer ~~shall~~ on the tenth day of each month shall certify under county seal to the department, on forms furnished by it, a full and complete statement of all fees and penalties received by the county treasurer during the preceding calendar month and shall remit all moneys not retained for deposit under section 321.152 to the treasurer of state.

Sec. 34. Section 321.211, unnumbered paragraph 2, Code 1991, is amended to read as follows:

There is appropriated each year from the road use tax fund to the department of transportation ~~one hundred sixty~~ two hundred twenty-five thousand dollars or as much thereof as is necessary to be used to pay the cost of notice and personal delivery of service, as necessary to meet the notice requirement of this section. The department shall adopt rules governing the payment of the cost of personal delivery of service. The reinstatement fees collected under section 321.191 shall be deposited in the road use tax fund in the manner provided in section 321.145, as reimbursement for the costs of notice under this section.

Sec. 35. Section 321.463, unnumbered paragraph 6, Code 1991, is amended to read as follows:

In addition, the weight on any one axle, including a tandem axle, of a vehicle which is transporting raw materials ~~which are removed from a road under construction~~ from a designated borrow site to a construction project or transporting raw materials from a construction project, may exceed the legal maximum weight otherwise allowed under this chapter by ten percent if the gross weight on any particular group of axles on the vehicle does not exceed the gross weight allowed under this chapter for that group of axles. However, if the vehicle exceeds the ten percent tolerance allowed for any one axle or tandem axle under this paragraph the fine to be assessed for the axle or tandem axle shall be computed on the difference between the actual weight and the ten percent tolerance weight allowed for the axle or tandem axle under this paragraph. This paragraph applies only to vehicles operating along a route of travel approved by the department.

Sec. 36. Section 400.10, unnumbered paragraph 1, Code 1991, is amended to read as follows:

In all examinations and appointments under this chapter, other than promotions and appointments of chief of the police department and chief of the fire department, honorably discharged veterans from the military or naval forces of the United States in any war in which the United States has been engaged, including the Korean Conflict at any time between June 25, 1950 and January 31, 1955, both dates inclusive, ~~and~~ the Vietnam Conflict beginning August 5, 1964, and ending May 7, 1975, both dates inclusive, and the Persian Gulf Conflict beginning August 2, 1990, and ending on the date specified by the president or the congress of the United States as the date of permanent cessation of hostilities, both dates inclusive, and who are citizens and residents of this state, shall have five points added to the veteran's grade or score attained in qualifying examinations for appointment to positions and five additional points added to the grade or score if the veteran has a service-connected disability or is receiving compensation, disability benefits or pension under laws administered by the veterans administration. However, if the congress of the United States enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict to determine the eligibility of a veteran for military benefits as a veteran of the Persian Gulf Conflict, the date enacted by the congress of the United States shall be substituted for August 2, 1990. An honorably discharged veteran who has been awarded the Purple Heart for disabilities incurred in action shall be considered to have a service-connected disability. However, the points shall be given only upon passing the exam and shall not be the determining factor in passing.

Sec. 37. NEW SECTION. 441.73 LITIGATION EXPENSE FUND.

1. A litigation expense fund is created in the state treasury. The litigation expense fund shall be used for the payment of litigation expenses incurred by the state to defend property valuations established by the director of revenue and finance pursuant to section 428.24 and chapters 430A, 433, 434, 436, 437, and 438.

2. If the director of revenue and finance determines that foreseeable litigation expenses will exceed the amount available from appropriations made to the department of revenue and finance, the director of revenue and finance may apply to the executive council for use of funds on deposit in the litigation defense fund. The initial application for approval shall include an estimate of potential litigation expenses, allocated to each of the next four succeeding calendar quarters and substantiated by a breakdown of all anticipated costs for legal counsel, expert witnesses, and other applicable litigation expenses.

3. The executive council may approve expenditures from the litigation expense fund on a quarterly basis. Prior to each quarter, the director of revenue and finance shall report to the executive council and give a full accounting of actual litigation expenses to date as well as estimated litigation expenses for the remaining calendar quarters of the fiscal year. The executive council may adjust quarterly expenditures from the litigation expense fund based on this information.

4. The executive council shall transfer for the fiscal year beginning July 1, 1992, and each fiscal year thereafter, from funds established in sections 405A.8, 425.1, and 426.1, an amount necessary to pay litigation expenses. However, the amount of funds transferred to the litigation expense fund for the fiscal year beginning July 1, 1992, shall not exceed three hundred fifty thousand dollars and the amount of the fund for the succeeding fiscal years shall not exceed seven hundred thousand dollars. The executive council shall determine annually the proportionate amounts to be transferred from the three separate funds. At any time when no litigation is pending or in progress the balance in the litigation defense fund shall not exceed one hundred thousand dollars. Any excess moneys shall be transferred in a proportionate amount back to the funds from which they were originally transferred.

Sec. 38. 1988 Iowa Acts, chapter 1278, section 17, subsection 2, unnumbered paragraph 3, is amended to read as follows:

The provisions of section 8.33 do not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, ~~1992~~ 1994, from funds appropriated for the fiscal year beginning July 1, 1988, shall revert to the fund from which appropriated on September 30, ~~1992~~ 1994.

Sec. 39. 1990 Iowa Acts, chapter 1267, section 9, subsection 2, is amended to read as follows:

2. To be used to implement section 306D.3:

..... $ 500,000

Notwithstanding section 8.33, the funds appropriated in this subsection shall remain available for obligation until June 30, ~~1992~~ 1993, and once obligated shall remain available until expended. Public or private entities willing to donate land for scenic highway projects shall be given preference in project selection if the land is accepted by the department.

Sec. 40. 1991 Iowa Acts, chapter 268, section 507, unnumbered paragraph 2, is amended to read as follows:

The provisions of section 8.33 do not apply to the funds appropriated by ~~subsection~~ subsections 8 and 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~~ subsections 8 and 9, for the fiscal year beginning July 1, 1991, shall revert to the fund from which appropriated on August 30, 1995.

Sec. 41. That section of 1992 Iowa Acts, Senate File 2354, which amends 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, is repealed.

Sec. 42. LITIGATION EXPENSE FUND RECOMMENDATIONS. The legislative fiscal committee shall request the attorney general's office to make recommendations as to the potential for recoupment of costs expended from the litigation expense fund under section 37 of this Act. The legislative fiscal bureau and the legislative service bureau shall work in cooperation with the attorney general's office. The recommendations shall be presented to the legislative council and the members of the transportation and safety appropriations subcommittee on or before January 15, 1993.

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Sec. 43. Section 307.39, Code 1991, is repealed.

Sec. 44. Chapter 307D, Code 1991, is repealed.

Sec. 45. Sections 12, 38 and 40 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 46. Sections 27 and 28 of this Act take effect on July 1, 1993.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 3, subsection 2, paragraph b in its entirety; Sections 13 and 14 in their entirety; Section 19 in its entirety; Sections 23 and 24 in their entirety; and Section 41 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 2345, an Act relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation and enforcement, and including allocation and use of moneys from the use tax, road use tax fund, and primary road fund, creating a litigation expense fund and making appropriations, providing for properly related matters, and providing an effective date.

Senate File 2345 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 3, subsection 2, paragraph b, in its entirety. This provision expresses the intent of the General Assembly to include any new classification of Riverboat Law Enforcement Officers as a "protection occupation" within the Iowa Public Employees Retirement System. If it is appropriate to include the classification of Riverboat Law Enforcement Officer as a protection occupation, the General Assembly should enact legislation to amend Section 97B.49, subsection 16, paragraph d, of the Code.

I am unable to approve the item designated as Section 13, in its entirety. This provision states that the General Assembly and Governor are opposed to the federal regulation requiring a hard suspension of a drivers license for drug related convictions. I support a hard suspension for drug related convictions and, in fact, have submitted proposed legislation to bring Iowa into conformity. Iowa needs to be a leader in the effort to control illegal drug use. This provision goes in the wrong direction.

I am unable to approve the item designated as Section 14, in its entirety. This section would require the creation of a new legislative committee to review state transportation policy issues with members of the State Transportation Commission. The legislative process offers adequate opportunity for members of both the standing and joint appropriation committees on transportation to discuss transportation policy issues. The creation of a new legislative committee for this purpose is duplicative and unnecessary.

I am unable to approve the item designated as Section 19, in its entirety. This section provides that the Iowa Law Enforcement Academy Council would appoint the Director of the Iowa Law Enforcement Academy. The appointment of the director should be consistent with the appointment of other agency directors. The appointment should be made by the Governor with confirmation by the Senate.

I am unable to approve the items designated as Sections 23 and 24, in their entirety. These provisions would require county governments to increase expenditures from county budgets for farm-to-market and secondary roads. Because county governments should not be required to increase property taxes for these purposes, these items cannot be approved.

I am unable to approve the item designated as Section 41, in its entirety. This provision would repeal the extension of the sunset on workers' compensation insurance rate regulation to July 1, 1994, as provided in Senate File 2354. By disapproving this provision, the regulations will sunset July 1, 1994.

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 2345 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1239

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES
S.F. 2347

AN ACT relating to budgetary and administrative matters by providing for appropriations and revenue, and providing for statutory changes, including matters involving agriculture and natural resources, and providing effective dates.

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

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. 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, 1992, and ending June 30, 1993, 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, the support of the state 4-H foundation, support of the statistics bureau, and miscellaneous purposes:

..... $ 1,000,544

Of the funds appropriated in this 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.

Of the funds appropriated in this 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.

b. For the operations of the dairy trade practices bureau:

..... $ 69,612

Of the funds appropriated in this paragraph "b", not more than $46,945 shall be used to support the operations of the dairy trade practices bureau for the fiscal year beginning July 1, 1992, and ending June 30, 1993. Notwithstanding section 8.39, moneys appropriated under this paragraph shall not be transferred by the department to support a purpose other than the operations of the bureau. Notwithstanding section 8.33, unobligated or unencumbered moneys remaining on June 30, 1993, shall not revert, but shall be available for expenditure for the bureau for the next fiscal year and any of these moneys remaining on June 30, 1994, shall revert to the general fund of the state.

c. For the operations of the agricultural marketing bureau:

..... $ 776,805

Of the funds appropriated in this paragraph "c", $325,000 and 8.00 FTEs shall be used to support horticulture.

d. For the purpose of performing commercial feed audits:

..... $ 56,157

e. For the purpose of performing fertilizer audits:

..... $ 56,157

f. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 56.20

2. 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:

..... $ 190,822

..... FTEs 1.00

3. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,587,025

..... FTEs 135.00

b. To cover the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... $ 648,571

4. LABORATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, including the administration of the gypsy moth program:

..... $ 670,538

Of the amount appropriated under this paragraph "a", $50,000 shall be used to administer a program relating to the detection, surveillance, and eradication of the gypsy moth. The department shall allocate and use the appropriation made under this paragraph before moneys other than those appropriated under this paragraph are used to support the program.

b. For the operations of the commercial feed programs:

..... $ 705,436

c. For the operations of the pesticide programs:

..... $ 1,189,105

d. For the operations of the fertilizer programs:

..... $ 622,674

e. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 79.25

5. 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:

..... $ 4,973,030

..... FTEs 173.52

Of the funds appropriated in this paragraph "a", $330,000 shall be used to reimburse commissioners of soil and water conservation districts for administrative expenses. Moneys used for the payment of meeting dues by counties shall be matched on a dollar-for-dollar basis by the soil conservation division.

b. To provide financial incentives for soil conservation practices under chapter 467A:

..... $ 5,947,480

c. The following requirements apply to the moneys appropriated by paragraph "b":

(1) Not more than 5 percent of the moneys appropriated in paragraph "b" may be allocated for cost sharing to abate complaints filed under section 467A.47.

(2) Of the moneys appropriated in paragraph "b", 5 percent shall be allocated for financial incentives to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment. The financial incentives shall be awarded to watersheds which are of the highest importance based on soil loss as established by the natural resource commission pursuant to section 107.33A. The financial incentives shall not exceed seventy-five percent of the estimated cost of establishing the practices as determined by the commissioners or seventy-five percent of the actual cost of establishing the practices, whichever is less.

(3) The commissioners of a soil and water conservation district may allocate financial incentives to encourage summer construction of permanent soil and water conservation practices. The practices shall be constructed on or after June 1 but not later than August 15. The commissioners may also provide for the payment of moneys on a prorated basis to compensate persons for the production loss on an area disturbed by construction, according to rules which shall be adopted by the division. The commissioners shall not allocate cost-share moneys to support summer construction during a fiscal year in which applications for cost-share moneys required to establish permanent soil and water conservation practices, other than established by summer construction, equal the total amount available to support the nonsummer construction practices. The financial incentives shall not exceed sixty percent of the estimated cost of establishing the practice as determined by the commissioners, or sixty percent of the actual cost of establishing the practice, whichever is less.

(4) The commissioners of a soil and water conservation district may allocate financial incentives under a special agreement with owners of land in the district who shall adopt a watershed conservation plan as provided by rules which shall be adopted by the division. The watershed conservation plan shall be in conjunction with the owners' respective farm unit soil conservation plans. The funding agreement must provide for the funding of a project which includes five or more contiguous farm units which have at least five hundred acres of agricultural land and which constitutes at least seventy-five percent of the agricultural land located within a watershed or subwatershed. The financial incentives shall not exceed sixty percent of the estimated cost of the project as determined by the commissioners or sixty percent of the actual cost, whichever is less.

(5) Except as otherwise provided in subparagraphs (1) through (4), the moneys appropriated in paragraph "b" shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than fifty percent of the approved cost for a voluntary permanent soil conservation practice. Priority for funding shall be given to family-operated farms.

(6) Not more than 30 percent of a district's allocation of moneys as financial incentives may be provided for the purpose of establishing management practices to control soil erosion on land that is row cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping. The division shall by rule establish limits on the amount of incentives which shall be authorized for payment to landowners upon establishment of the practice.

(7) The soil conservation committee may allocate moneys to conduct research and demonstration projects to promote conservation tillage and nonpoint sources pollution control practices.

(8) The financial incentive payments may be used in combination with department of natural resources funds.

d. The provisions of section 8.33 shall not apply to the funds appropriated under paragraph "b". Unencumbered or unobligated funds remaining on June 30, 1996, from funds appropriated under paragraph "b" for the fiscal year beginning July 1, 1992, shall revert to the general fund on August 31, 1996.

**Sec. 2. 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, 1992, and ending June 30, 1993, 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

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":

..... $ *192,426**

Sec. 3. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 795,560

Sec. 4. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... $ 174,342

INTERSTATE COMPACT ON AGRICULTURAL GRAIN MARKETING

Sec. 5. There is appropriated from the general fund of the state to the interstate agricultural grain marketing commission 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 carrying out duties of the commission as provided in Article IV of the interstate compact on agricultural grain marketing as provided in chapter 183:

..... $ 61,606

DEPARTMENT OF NATURAL RESOURCES

Sec. 6. There is appropriated from the general fund of the state to the department of natural resources 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. ADMINISTRATIVE AND SUPPORT SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,058,055
..... FTEs 135.00

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,176,266
..... FTEs 210.57

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,390,537
..... FTEs 55.71

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,455,711
..... FTEs 55.02

*Item veto; see message at end of the Act

5. ENVIRONMENTAL PROTECTION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,101,771

..... FTEs 174.00

6. FISH AND WILDLIFE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 338.78

7. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 18.75

*8. *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:*

..... *$ 129,279*

..... *FTEs 10.00**

Sec. 7. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... $ 18,386,561

The department shall not expend more moneys from the fish and game protection fund than provided in this section, unless the expenditure derives from contributions made by a private entity, or a grant or moneys received from the federal government, and is approved by the natural resource commission. The department of natural resources shall promptly notify the legislative fiscal bureau of the commission's approval, and the chairpersons and ranking members of the agriculture and natural resources appropriations subcommittee.

Sec. 8. 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, 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 purposes of funding expenditures traditionally funded from marine fuel tax revenues, but not considered as capitals or operations:

..... $ 198,890

2. For purposes of maintaining and developing boating facilities and access to public waters by the parks and preserves division:

..... $ 432,959

*3. *For deposit in the state fish and game protection fund for maintenance of boating access on lands managed by the fish and wildlife division:*

..... *$ 144,320**

4. For purposes of funding capitals traditionally funded from marine fuel tax receipts for the purposes specified in section 324.79:

..... $ 1,540,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30, 1993, from moneys appropriated for purposes of funding capitals traditionally funded from marine fuel tax receipts as provided in this subsection 4 for the fiscal year beginning July 1, 1992, shall revert on September 30, 1994.

Sec. 9. There is transferred on July 1, 1992, from the fees deposited under section 321G.7 to the fish and game protection fund and appropriated to the department of natural resources 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:

*Item veto; see message at end of the Act

For the purpose of enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

..... $ 100,000

Sec. 10. There is transferred on July 1, 1992, from the fees deposited under section 106.52 to the fish and game protection fund and appropriated to the department of natural resources 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 purposes of administration and enforcement of navigation laws and water safety:

..... $ 950,000

MISCELLANEOUS

*Sec. 11. *PREDATOR DAMAGE CONTROL. From moneys appropriated for the fiscal year beginning July 1, 1992, and ending June 30, 1993, to the agricultural experiment station at Iowa state university of science and technology there is transferred to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount to be used for purposes of supporting a predator damage management program:*

..... *$ 50,000*

*The program shall provide for controlling predators, including coyotes which interfere with agricultural production including livestock production. A primary purpose of the program shall be to reduce damages or injury to property involved in farming as defined in section 172C.1. The program shall emphasize the prevention of damage through management techniques which preserve the life and habitat of predators. An animal or an animal's habitat shall not be destroyed only because the animal belongs to a particular species. The department shall cooperate with the department of natural resources. The program shall be conducted in accordance with federal and state law, notwithstanding laws relating to open seasons.**

Sec. 12. REAP.

1. Notwithstanding the amount of the standing appropriation from the general fund of the state under section 455A.18, subsection 3, 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, 1992, to the Iowa resources enhancement and protection fund the sum of $9,944,500, of which all moneys shall be allocated as provided in subsection 2 and section 455A.19.

**2. Of the amount appropriated under subsection 1, there is allocated the following amounts to be used for the purposes designated:*

a. To the department of natural resources to support the purposes specified pursuant to section 455D.15, subsection 3, paragraph "g":

..... *$ 500,000*

b. To the soil conservation division of the department of agriculture and land stewardship to provide state soil and water conservation cost-sharing moneys pursuant to chapter 467A:

..... *$ 400,000**

**Sec. 13. STREAM STABILIZATION. There is appropriated from the general fund of the state to the division of soil conservation of the department of agriculture and land stewardship 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 purposes of participating with local entities including local governments, and with entities receiving federal funding, in developing and installing projects that stabilize degrading stream channels in areas of the state determined by the division to require assistance:

..... *$ 99,445**

**Sec. 14. LAKE PROJECT. There is appropriated from the general fund of the state to the department of natural resources 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:*

*Item veto; see message at end of the Act

For the purpose of supporting lake preservation efforts at Black Hawk Lake:
..... *$ 397,780*

The moneys appropriated under this section shall be allocated by the department to continue lake preservation, including dredging operations, at Black Hawk Lake, located at Lake View, Iowa. Remaining moneys previously designated for Black Hawk Lake under the federal clean lakes program shall be allocated on a matching basis with moneys appropriated under this section for purposes of preserving Black Hawk Lake. The allocation of moneys shall be contingent upon land used as a spoil site for the lake being provided without financial obligation to the state and the active participation of a local entity in preparing the spoil site.

*This section shall become effective upon enactment.**

Sec. 15. 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 this Act for the departments.

Sec. 16. 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 192.111.
5. The commercial feed fund created in section 198.9.
6. The marine fuel tax fund created in section 324.79.
7. The energy research and development fund provided in section 93.11.

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 three-month period as designated by the legislative fiscal bureau.

Sec. 17. 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. 18. 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. 19. During the fiscal year for which funds are appropriated by sections 6 and 7 of this Act, the department of natural resources shall not require the installation or use of equipment to control the emission of dust or other particulate matter on or by facilities for storage of grain which are located within the ambient air quality attainment areas for suspended particulates.

*Item veto; see message at end of the Act

Sec. 20. ZERO-BASE BUDGET PROPOSAL. The parks and preserves division of the department of natural resources shall submit a zero-base budget proposal for the fiscal year beginning July 1, 1993, and ending June 30, 1994, to the joint appropriations subcommittee on agriculture and natural resources by January 15, 1993.

Sec. 21. CODE EDITOR. The Code editor shall change the name of the waste management authority within the department of natural resources to the waste management assistance division wherever it appears in the Code.

Sec. 22. 1992 Iowa Acts, Senate File 2367,* section 201, unnumbered paragraph 2, is amended by striking the paragraph.

This section, being deemed of immediate importance, takes effect upon enactment.

Sec. 23. Section 93.11, subsection 1, paragraph f, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

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. 24.* NEW SECTION. *111.17A PAYMENT IN LIEU OF PROPERTY TAXES. The director of the department of natural resources shall submit a budget request to pay the annual property taxes on property held by the department. The budget request shall be submitted to the general assembly as part of the annual budget proposal provided in section 455A.4. The amount of the payment shall be based on property acquired on or after July 1, 1992, which would otherwise be subject to the levy of property taxes. The assessed value of property held by the department shall be that determined under section 427.1, subsection 31, and the director may protest the assessed value in the manner provided by law for any property owner to protest an assessment. For the purposes of chapter 257, the assessed value of any property which was acquired by the department on or after July 1, 1992, shall be included in the valuation base of the school district and the payments made pursuant to this section shall be considered as property tax revenues and not as miscellaneous income. The county treasurer shall certify the amount of taxes due to the department. The taxes shall be paid annually from the departmental fund or account from which the property acquisition was funded. If the departmental fund or account has no moneys, no longer exists, or if the acquisition of property was made without an expenditure of funds by the department, the taxes shall be paid from funds in the manner provided by the general assembly. If the total amount of taxes due, as certified to the department, exceeds the amount available for expenditure under this section, the property taxes due shall be reduced proportionately so that the total amount due equals the amount available for expenditure.

Sec. 25. NEW SECTION. 159.6A CONTRIBUTIONS.

The department may accept contributions, including gifts and grants, in order to carry out and administer the provisions of this chapter. The department shall maintain an itemized accounting of the contributions. At the end of each fiscal year, the department shall prepare a list recognizing private contributors.

Sec. 26. Section 159.20, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

~~An agricultural marketing division is created within the department.~~ The ~~division~~ department shall perform duties designed to lead to more advantageous marketing of Iowa agricultural commodities. The ~~division~~ department may do any of the following:

Sec. 27. Section 159.20, subsections 5 and 9, Code Supplement 1991, are amended to read as follows:

*Chapter 1236 herein

**Item veto; see message at end of the Act

5. Accumulate and diffuse information concerning the marketing of agricultural commodities in cooperation with persons, agencies, or the federal government. The ~~division~~ department shall establish an agricultural commodity informational data base.

9. Cooperate with the Iowa department of economic development to avoid duplication of efforts between the ~~division~~ department and the agricultural marketing program operated by the Iowa department of economic development.

Sec. 28. Section 159.20, unnumbered paragraph 2, Code Supplement 1991, is amended by striking the paragraph.

Sec. 29. Section 159.22, Code Supplement 1991, is amended to read as follows:

159.22 GRANTS AND GIFTS OF FUNDS.

The ~~division may with the approval of the~~ secretary may accept grants and allotments of funds from the federal government and enter into co-operative agreements with the United States department of agriculture for projects to effectuate a purpose described in this subchapter. ~~The division may accept grants, gifts or allotments of funds from any person for the purpose of carrying out the provisions of this subchapter. If funds are accepted from a person, the director shall prepare an itemized accounting to the department at the end of each fiscal year.~~

Sec. 30. Section 159.23, Code 1991, is amended to read as follows:

159.23 SPECIAL FUND.

All fees collected as a result of the inspection and grading provisions set out herein shall be paid into the state treasury, there to be set aside in a separate fund which is hereby appropriated for the use of the ~~division~~ department except as indicated. Withdrawals therefrom shall be by warrant of the director of revenue and finance upon requisition by the ~~administrator of the division approved by the~~ secretary of agriculture. Such fund shall be continued from year to year, provided, however, that if there be any balance remaining at the end of the biennium which, in the opinion of the governor, director of management and secretary of agriculture, is greater than necessary for the proper administration of the inspection and grading program referred to herein, the treasurer of state is hereby authorized on the recommendation and with the approval of the governor, director of management and secretary of agriculture, to transfer to the general fund of the state that portion of such account as they shall deem advisable.

Sec. 31. Section 159.24, Code 1991, is amended to read as follows:

159.24 GRADES OR CLASSIFICATIONS OF FARM PRODUCTS.

A certificate of the grade, or other classification, of any farm products issued under ~~this division of~~ this chapter shall be accepted in any court of this state as prima facie evidence of the true grade or classification of such farm products as the same existed at the time of their classification.

Sec. 32. Section 159.37, subsection 1, Code 1991, is amended to read as follows:

1. The department shall establish ~~within the international trade bureau of the marketing division~~ a special quality grains electronic bulletin board system. The system shall be available to any and all buyers and sellers of special quality grains for the purpose of posting the availability of special quality grains, or a demand for special quality grains.

Sec. 33. Section 159A.3, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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~~ secretary. 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:

Sec. 34. Section 199.3, subsection 4, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The last date on which the variety of seed will normally germinate according to standards established by rules adopted by the department.

Sec. 35. Section 199.11, Code 1991, is amended to read as follows:

199.11 AUTHORITY OF ~~SECRETARY OF AGRICULTURE~~ THE DEPARTMENT.

1. For the purpose of carrying out the provisions of this chapter, the ~~state secretary of agriculture who may act through authorized agents is hereby authorized and directed~~ department shall do all of the following:

a. ~~To sample~~ Sample, inspect, ~~make analysis of~~ analyze, and test agricultural ~~seeds~~ seed other than lawn seed, if the agricultural seed is transported, sold, offered, or exposed for sale within this state for sowing ~~purposes,~~. The department shall perform these duties at ~~such~~ a time and place and to ~~such~~ an extent ~~as the secretary may deem~~ necessary to determine whether ~~said~~ the agricultural ~~seeds are~~ seed is in compliance with ~~the provisions of~~ this chapter~~, and to notify~~. The department shall promptly notify the person who transported, sold, offered, or exposed the seed for sale, of ~~any~~ a violation.

b. ~~To prescribe and, after public hearing following due public notice, to adopt~~ Adopt rules ~~and regulations~~ governing ~~the~~ methods of sampling, inspecting, ~~analysis, tests~~ analyzing, testing, and ~~examination of~~ examining agricultural seed~~, and the~~ other than lawn seed. The rules shall include tolerances to be followed in the administration of this chapter, which shall be in general accord with officially prescribed practice in interstate commerce under the federal seed Act and ~~such~~ other rules ~~and~~ or regulations ~~as may be~~ necessary ~~to secure~~ for the efficient enforcement of this chapter.

2. ~~Further, for~~ For the purpose of carrying out the provisions of this chapter, the ~~state secretary of agriculture, individually or through authorized agents, is authorized and directed~~ department may:

a. ~~To enter~~ Enter upon ~~any~~ public or private premises during regular business hours in order to have access to ~~seeds~~ commercial seed other than lawn seed, subject to this chapter and ~~the~~ departmental rules ~~and regulations thereunder~~.

b. ~~To issue~~ Issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of agricultural seed other than lawn seed which the ~~state secretary of agriculture or the secretary's authorized agents believe~~ department believes is in violation of ~~any of the provisions of~~ this chapter ~~which~~ or departmental rules. The order shall prohibit further sale of ~~such~~ the seed until ~~such officer~~ the department has evidence ~~that the law has been complied with; provided, that~~ of compliance. However, the owner or custodian of ~~such~~ the seed shall be permitted to remove ~~said~~ the seed from a salesroom open to the public~~; provided further, that in respect to seeds which have been denied sale as provided in this subsection, judicial~~. Judicial review of the order may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. ~~Notwithstanding the terms of said Act~~ However, notwithstanding chapter 17A, petitions for judicial review may be filed in the district court~~; and provided further, that the provisions of this~~. This subsection ~~shall~~ does not ~~be construed as limiting~~ limit the right of the ~~enforcement officer~~ department to proceed as authorized by other sections of this chapter.

c. ~~To establish~~ Establish and maintain or make provision for seed testing facilities essential to the enforcement of this chapter~~, to~~. The department may employ qualified persons, and ~~to~~ incur ~~such~~ expenses ~~as may be~~ necessary to comply with these provisions.

d. ~~To co-operate~~ Cooperate with the United States department of agriculture in seed law enforcement.

Sec. 36. Section 214.3, subsection 1, Code 1991, is amended to read as follows:

1. The license for inspection of a commercial weighing and measuring device shall expire on December 31 of each year, and for a motor vehicle fuel pump on June 30 of each year. The amount of the fee due for each license shall be as provided in subsection 3, except that the fee for a motor vehicle fuel pump shall be ~~three~~ four dollars and fifty cents if paid within one month from the date the license is due.

Sec. 37. Section 214.3, subsection 3, paragraphs a through e, Code 1991, are amended to read as follows:

a. Class S-IIIL.

(1) Railroad track scales, ~~seventy-one~~ one hundred six dollars and fifty cents.

(2) Other scales.

(a) 500 to 1,000 pounds capacity, ~~eleven~~ sixteen dollars and fifty cents.

(b) 1,001 to 30,000 pounds capacity, ~~twenty-one~~ thirty-one dollars and fifty cents.

(c) 30,001 to 50,000 pounds capacity, ~~forty-one~~ sixty-one dollars and fifty cents.

(d) 50,001 pounds capacity or more, ~~fifty-six~~ eighty-four dollars.

(3) A minimum fee of ~~thirty-one~~ forty-six dollars and fifty cents shall be charged for each vehicle or livestock scale.

b. Class S-II and S-III, ~~six~~ nine dollars.

(1) Bench scale, ~~six~~ nine dollars.

(2) Counter scale, ~~six~~ nine dollars.

(3) Portable platform scale, ~~six~~ nine dollars.

(4) Livestock monorail scale, ~~six~~ nine dollars.

(5) Single animal scale, ~~six~~ nine dollars.

(6) Grain test scale, ~~six~~ nine dollars.

(7) Precious metal and gems scale, ~~six~~ nine dollars.

(8) Postal scale, ~~six~~ nine dollars.

c. (1) Grain moisture meters, ~~sixteen~~ twenty-four dollars.

(2) Additional meters at the same location, ~~eleven~~ sixteen dollars and fifty cents.

d. Class M-I. One hundred-gallon prover.

(1) Bulk meters, ~~six~~ nine dollars.

(2) Bulk liquid petroleum gas meters, ~~thirty-five~~ fifty-two dollars and fifty cents.

(3) Bulk refined fuel meters, ~~six~~ nine dollars.

(4) Mass flow meters, ~~six~~ nine dollars.

e. Class M-II. Five-gallon prover.

(1) Slow flow meters, ~~six~~ nine dollars.

(2) Retail motor vehicle fuel pump, ~~six~~ nine dollars.

Sec. 38. Section 215.2, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Class S, scales, ~~fifty~~ seventy-five dollars per hour.

2. Class M, meters, ~~thirty-five~~ fifty-two dollars and fifty cents per hour.

Sec. 39. Section 215.17, Code 1991, is amended to read as follows:

215.17 TEST WEIGHTS TO BE USED.

~~Any~~ A person~~, firm or corporation~~ engaged in scale repair work for hire shall use only test weights sealed by the department in determining the effectiveness of repair work and ~~said~~ the test weights shall be sealed as to their accuracy once each year. ~~Provided, however, that it shall be unlawful for such~~ However, a person ~~to~~ shall not claim to be an official scale inspector ~~or to~~ and shall not use ~~said~~ the test weights except to determine the accuracy of scale repair work done by the person and the person shall not be entitled to ~~no~~ a fee for their use. A fee shall be charged and collected at time of inspection for the inspection of such weights as follows:

All weights up to and including 25 pounds ..... $ ~~.75~~ 1.10 each

~~All weights~~

Over twenty-five pounds capacity,

up to and including 50 pounds ..... ~~1.50~~ 2.25 each

Over 50 pounds capacity, up to and

including 100 pounds ..... ~~2.00~~ 3.00 each

Over 100 pounds capacity, up to

and including 500 pounds ..... ~~3.00~~ 4.50 each

Over 500 pounds capacity, up to and including 1,000 pounds		~~5.00~~ 7.50 each
The fee for all tank calibrations shall be as follows:		
100 gallons up to and including 300 gallons	$	~~3.00~~ 4.50
301 gallons up to and including 500 gallons		~~5.00~~ 7.50
501 gallons up to and including 1,000 gallons		~~7.50~~ 11.25
1,001 gallons up to and including 2,000 gallons		~~10.00~~ 15.00
2,001 gallons up to and including 3,000 gallons		~~12.00~~ 18.00
3,001 gallons up to and including 4,000 gallons		~~14.00~~ 21.00
4,001 gallons up to and including 5,000 gallons		~~16.00~~ 24.00
5,001 gallons up to and including 6,000 gallons		~~18.00~~ 27.00
6,001 gallons up to and including 7,000 gallons		~~20.00~~ 30.00
7,001 gallons and up		~~25.00~~ 37.50

~~No calibration will~~ Calibration shall not be required of ~~any~~ a tank which is not used for the purpose of measuring, or which is equipped with a meter, ~~nor shall~~ and vehicle tanks loaded from meters and carrying a printed ticket showing gallonage shall not be required to be calibrated.

Sec. 40. Section 215A.9, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A fee of ~~ten~~ fifteen dollars shall be charged for each device subject to reinspection under section 215A.5. All moneys received by the department under the provisions of this chapter shall be handled in the same manner as "repayment receipts" as defined in chapter 8, and shall be used for the administration and enforcement of the provisions of this chapter.

Sec. 41. Section 423.24, subsection 1, paragraph b, as enacted by 1992 Iowa Acts, House File 2456,* section 6, is amended to read as follows:

b. Beginning on July 1, 1993, three and one-half percent of the ~~remaining~~ revenue, not to exceed one million dollars per quarter, derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, shall be deposited in the ethanol production incentive account of the renewable fuel fund created in section 159A.7. Moneys deposited according to this paragraph are a continuing appropriation for expenditure under section 159A.8. Moneys deposited during a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in this section.

Sec. 42. Section 455A.5, subsection 6, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Approve or disapprove proposals involving the dredging or renovation of lakes; the acquisition, development, and maintenance of boating facilities; and the acquisition, development, and maintenance of recreational facilities associated with recreational boating.

Sec. 43. Section 455A.6, subsection 6, paragraph d, Code Supplement 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

*Chapter 1099 herein

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. 44. Section 455A.7, subsection 1, paragraph f, Code Supplement 1991, is amended by striking the paragraph.

Sec. 45. Section 455A.7, subsection 1, paragraph j, Code Supplement 1991, is amended to read as follows:

j. Office of the director which has responsibilities for administering the department, including information dissemination, education, and government liaison services.

Sec. 46. Section 455B.103A, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The enforcement provisions of division III, part of this chapter, apply to general permits for stormwater discharge.

Sec. 47. Section 455B.310, subsection 2, paragraph b, subparagraph (5), Code Supplement 1991, is amended to read as follows:

(5) 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~~ each fiscal year beginning July 1, 1991, and ending June 30, 1992, and beginning July 1, 1992, and ending June 30, 1993, fifty thousand dollars of the moneys appropriated under this subparagraph shall be allocated for the purposes of developing advanced microbiological technologies for reduction, destruction, or disposal of wet solid waste. For ~~the~~ each fiscal year beginning July 1, ~~1992~~ 1993, and thereafter, fifty thousand dollars of the moneys appropriated under this subparagraph 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. 48. NEW SECTION. 455B.601 PESTICIDE AND FERTILIZER CONTAMINATED AGRICULTURAL CHEMICAL DEALER SITES – PRIORITIZATION OF CLEANUP.

1. The commission shall adopt rules to establish criteria for the classification and prioritization of sites upon which contamination has been discovered.

a. For purposes of this section:

(1) "Action level" means action level as defined in 567 IAC 133.2, adopted as of a specific date by rule of the department.

(2) "Contamination" means the presence of one or more pesticides, as defined in section 206.2, or the presence of fertilizer, as defined in section 200.3, in soil or groundwater at levels above those that would result at normal field application rates or above background levels.

(3) "Contaminated site" means a site upon which contamination has been discovered.

(4) "Responsible person" means responsible person as defined in 567 IAC 133.2, adopted as of a specific date by rule of the department.

b. A contaminated site shall be classified as either high, medium, or low priority.

(1) A site shall be considered high priority under any of the following conditions:

(a) Groundwater contamination exceeds action levels and is affecting or likely to affect groundwater used as a drinking water source.

(b) Contamination is affecting or likely to affect surface water bodies to a level which exceeds surface water quality standards under section 455B.173.

(c) Contamination is discovered in an ecologically sensitive area. An ecologically sensitive area is one which is designated by the department.

(2) A site shall be considered medium priority if contamination of groundwater exceeds action levels, but does not meet the criteria for classification as a high priority site.

(3) A site shall be considered low priority under any of the following conditions:

(a) If soil contamination exists at the site, but no groundwater contamination exists at the site.

(b) If soil contamination exists and groundwater contamination has been discovered, but is below action levels.

(4) 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 paragraph.

c. An initial site plan shall be developed by the responsible person and approved by the department for each site upon which contamination has been discovered. The site plan shall include all of the following:

(1) A determination as to the extent of the existing soil, groundwater, or surface water contamination.

(2) The proximity of the contamination and the likelihood that the contamination will affect a drinking water well.

(3) The characteristics of the site and the potential for migration of the contamination.

(4) A recommendation as to whether the site should be classified as a high, medium, or low priority site.

(5) If a site is classified as a high or medium priority site, further investigation shall be conducted to determine the extent of the remediation which should be conducted on the site.

d. The corrective action response requirements for high, medium, or low priority sites shall be administered in accordance with the following:

(1) Soils and groundwaters on a high priority site shall be actively remediated, where technically feasible, until such time as the groundwater contamination levels are below action levels.

(2) Remediation on a medium priority site shall include either monitoring or active or passive remediation and shall be determined by the department on a site-by-site basis based upon the findings of the site plan. Remediation on a medium priority site shall include at least that which would be required on a low priority site.

(3) (a) Active soil remediation shall be required on a low priority site if remediation would be more practical and cost-effective than monitoring.

(b) If active soil remediation on a low priority site is undertaken, no further action shall be required on the site.

(c) If active soil remediation is not undertaken on a low priority site, a site shall be monitored, for a specified period of time as determined by the department.

2. This section is applicable to all sites upon which contamination has been discovered, unless corrective action on a site has already been approved and implemented.

3. Application of contaminated groundwaters and soils on land upon which the contaminants have been applied in accordance with department rules shall not exceed a level which would preclude the resumption of normal farming practices within a two-year period.

4. This section does not affect the ability of the department or the United States environmental protection agency to require monitoring or remediation on sites that are placed on the national priorities list pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act.

Sec. 49. Section 467A.7, subsections 17 and 19, Code 1991, are amended by striking the subsections.

Sec. 50. Section 467A.43, unnumbered paragraph 2, as enacted in 1992 Iowa Acts, House File 2343,* section 4, is amended to read as follows:

A landowner shall not be liable for a claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent installation, construction, or reconstruction of a soil and water ~~construction~~ conservation practice or an

*Chapter 1184 herein

erosion control practice that was installed, constructed, or reconstructed in accordance with generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A soil and water conservation practice or an erosion control practice installed, constructed, or reconstructed in compliance with rules adopted by the division and currently in effect shall be deemed to be installed, constructed, or reconstructed according to generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A claim shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing soil and water conservation practice or erosion control practice to a new, changed, or altered design standard. This section does not apply to a claim based on a failure of a landowner to upgrade, improve, or alter a soil and water conservation practice or erosion control practice in violation of law. This section does not apply to claims based upon gross negligence.

Sec. 51. Section 467A.73, subsection 1, paragraph b, as enacted by 1992 Iowa Acts, House File 2343,* section 8, is amended to read as follows:

b. The allocation of moneys as financial incentives provided for the purpose of establishing management practices to control soil erosion on land that is row cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping. The division shall by rule establish limits on the amount of incentives which shall be authorized for payment to landowners upon establishment of the practice.

Sec. 52. Section 467A.73, subsection 2, paragraph a, as enacted in House File 2343* by the Seventy-fourth General Assembly, is amended to read as follows:

a. The allocation of cost-share moneys as financial incentives under a special agreement with owners of land in the district who promise to adopt a watershed conservation plan as provided by rules which shall be adopted by the division. The watershed conservation plan shall be in conjunction with ~~the district soil and water resource conservation plan provided under section 467A.7~~ the owners' respective farm unit soil conservation plans. The funding agreement must provide for the funding of a project which ~~shall include~~ includes five or more contiguous farm units which have at least five hundred acres of agricultural land and which constitutes at least seventy-five percent of the agricultural land located within a watershed or subwatershed. The financial incentives shall not exceed sixty percent of the estimated cost of the project as determined by the commissioners or sixty percent of the actual cost, whichever is less.

Sec. 53. Section 467A.74, subsection 1, paragraph a, as enacted in House File 2343* by the Seventy-fourth General Assembly, is amended to read as follows:

a. The financial incentives shall not exceed more than fifty percent of the estimated cost of establishing the practices as determined by the commissioners, or fifty percent of the actual cost of establishing the practices, whichever is less. However, the commissioners may allocate an amount determined by the ~~division~~ committee for management of soil and water conservation practices, except as otherwise provided regarding land classified as agricultural land under conservation cover.

Sec. 54. Section 467A.74, subsection 2, as enacted in House File 2343* by the Seventy-fourth General Assembly, is amended to read as follows:

2. The committee shall review requirements of this section once each year. The ~~division~~ committee may authorize commissioners in districts to condition the establishment of a mandatory soil and water conservation practice in a specific case on a higher proportion of public cost-sharing than is required by this section. The commissioners shall determine the amount of cost-sharing moneys allocated to establish a specific soil and water conservation practice in accordance with an administrative order issued pursuant to section 467A.47 by considering the extent to which the practice will contribute benefits to the individual owner or occupant of the land on which the practice is to be established.

*Chapter 1184 herein

Sec. 55. Section 542.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. "Good cause" means that the department has cause to believe that the net worth or current asset to current liability ratio of a grain dealer presents a danger to sellers with whom the grain dealer does business, based on evidence of any of the following:

a. The making of a payment by use of a financial instrument which is a check, share draft, draft, or written order on a financial institution, and a financial institution refuses payment on the instrument because of insufficient funds in a grain dealer's account.

b. A violation of recordkeeping requirements provided in this chapter or rules adopted pursuant to this chapter by the department.

c. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer based on a statistical model provided in section 542.22.

Sec. 56. Section 542.3, subsection 4, paragraph b, Code 1991, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer, except as provided in section 542.15, may elect, ~~however,~~ to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause ~~to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.~~

Sec. 57. Section 542.3, subsection 5, paragraph b, Code 1991, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause ~~to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.~~

Sec. 58. Section 542.5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the department, the department shall issue a license to the applicant. The license shall terminate ~~on~~ at the ~~thirtieth of June of each year~~ end of the third calendar month following the close of the grain dealer's fiscal year. A grain dealer's license may be renewed annually by the filing of a renewal fee and a renewal application on a form prescribed by the department. An application for renewal shall be received by the department on or before the ~~thirtieth of June~~ end of the third calendar month following the close of the grain dealer's fiscal year. A grain dealer license which has terminated may be reinstated by the department upon receipt of a proper renewal application, the renewal fee, and the reinstatement fee as provided in section 542.6 if filed within thirty days from the date of termination of the grain dealer license. The department may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter. Fees for licenses issued for less than a full year shall be prorated from the date of the application.

Sec. 59. Section 542.6, subsection 1, Code 1991, is amended to read as follows:

1. For the issuance or renewal of a license ~~for a grain dealer~~ required under section 542.3, and for any inspection of a grain dealer, the fee shall be determined on the basis of ~~dollar volume of~~ all bushels of grain purchased during the grain dealer's previous ~~calendar~~ fiscal year ~~as follows~~ according to the grain dealer's financial statement required in section 542.3. The fee shall be calculated according to the following schedule:

a. If the total number of bushels purchased is ~~one hundred~~ thirty-five thousand ~~dollars~~ or less, the license fee is ~~forty~~ sixty-six dollars and the inspection fee is ~~fifty~~ eighty-three dollars.

b. If the total number of bushels purchased is more than ~~one hundred~~ thirty-five thousand ~~dollars~~, but not more than ~~seven~~ two hundred fifty thousand ~~dollars~~, the license fee is ~~seventy~~ one hundred sixteen dollars and the inspection fee is ~~seventy-five~~ one hundred twenty-five dollars.

c. If the total number of bushels purchased is more than ~~seven~~ two hundred fifty thousand ~~dollars~~, but not more than ~~one million~~ five hundred thousand ~~dollars~~, the license fee is one hundred sixty-six dollars and the inspection fee is one hundred ~~fifteen~~ ninety-one dollars.

d. If the total number of bushels purchased is more than ~~one million~~ five hundred thousand ~~dollars~~, but not more than ~~three~~ one million ~~dollars~~, the license fee is ~~one~~ two hundred ~~seventy-five~~ ninety-one dollars and the inspection fee is ~~one~~ two hundred ~~fifty~~ forty-nine dollars.

e. If the total number of bushels purchased is more than ~~three~~ one million ~~dollars~~, but not more than ~~four~~ one million ~~seven~~ eight hundred fifty thousand ~~dollars~~, the license fee is ~~three~~ four hundred ninety-eight dollars and the inspection fee is ~~one~~ three hundred ~~eighty-five~~ seven dollars.

f. If the total number of bushels purchased is more than ~~four~~ one million ~~seven~~ eight hundred fifty thousand ~~dollars~~, but not more than ~~nine~~ three million ~~five~~ two hundred thousand ~~dollars~~, the license fee is ~~four~~ seven hundred ~~twenty-five~~ six dollars and the inspection fee is ~~two~~ three hundred ~~twenty-five~~ seventy-four dollars.

g. If the total number of bushels purchased is more than ~~nine~~ three million ~~five~~ two hundred thousand ~~dollars~~, the license fee is ~~five~~ nine hundred ~~seventy-five~~ fifty-five dollars and the inspection fee is ~~two~~ four hundred ~~sixty-five~~ forty dollars.

If the applicant did not purchase grain in the applicant's previous ~~calendar~~ fiscal year, the applicant ~~will~~ shall pay the fee specified in paragraph "a". If during the ~~license period~~ licensee's fiscal year the ~~total~~ number of bushels of grain actually purchased exceeds ~~one hundred~~ thirty-five thousand ~~dollars~~, the licensee shall notify the department and the license and inspection fee shall be adjusted accordingly. Subsequent adjustments shall be made as necessary. An applicant may elect licensing in any category of this subsection. ~~New~~ Fees for new licenses issued for less than a full year shall be prorated from the date of application.

Sec. 60. Section 542.9, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department may inspect the premises used by any grain dealer in the conduct of the dealer's business at any time, and the books, accounts, records, and papers of every grain dealer which pertain to grain purchases are subject to inspection by the department during ordinary business hours. The department shall cause the business premises and books, accounts, records, and papers of every grain dealer to be inspected ~~not less than~~ at least once ~~during~~ each ~~twelve-month~~ eighteen-month period, ~~but not more than four times in a twenty-four month period~~ without ~~good cause~~ justification. The department shall prioritize inspections based on the system provided in section 542.22. The department may use a risk rating produced by a statistical model provided in section 542.22 as justification to conduct an inspection. The transporter of grain in transit shall possess bills of lading or other documents covering the grain, and shall present them to any law enforcement officer or to a person designated as an enforcement officer under section 542.13 on demand. If there is ~~good cause~~ justification to believe that a person is engaged without a license in the business of a grain dealer in this state, the department may inspect the books, papers, and records of the person which pertain to grain purchases.

Sec. 61. Section 542.11, subsection 4, Code 1991, is amended to read as follows:

4. A person in violation of this chapter, or ~~a~~ in violation of chapter 714 or 715A ~~involving~~, which violation involves the business of a grain dealer, is subject to prosecution by the county attorney in the county where the business is located. However, if the county attorney fails to initiate prosecution within thirty days and upon request by the department, the attorney general may initiate and carry out the prosecution in cooperation, if possible, with the county attorney. The person in violation may be restrained by an injunction in an action brought by the department or the attorney general upon request by the department.

Sec. 62. NEW SECTION. 542.12A LIEN ON GRAIN DEALER ASSETS.

1. A statutory lien is imposed on all grain dealer assets in favor of sellers who have surrendered warehouse receipts or other written evidence of ownership as part of a grain sale transaction or who possess written evidence of the sale of grain to a grain dealer, without receiving full payment for the grain.

2. "Grain dealer assets" includes proceeds received or due a grain dealer upon the sale, including exchange, collection, or other disposition, of grain sold by the grain dealer. As used in this section, "proceeds" means noncash and cash proceeds as provided in section 554.9306. "Grain dealer assets" also includes any other funds or property of the grain dealer which can be directly traced as being from the sale of grain by the grain dealer, or which were utilized in the business operation of the grain dealer. A court, upon petition by an affected party, may order that claimed grain dealer assets are not grain dealer assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not grain dealer assets as defined in this section.

3. The lien shall arise at the time of surrender of warehouse receipts or other written evidence of ownership as part of a grain sale transaction or the time of delivery of the grain for sale, and shall terminate when the liability of the grain dealer to the seller has been discharged. The lien of all sellers is hereby assigned to the Iowa grain indemnity fund board, on behalf of the grain depositors and sellers indemnity fund.

4. To perfect the lien, the Iowa grain indemnity fund board must file a lien statement with the office of the secretary of state. The lien statement is valid only if filed on or after the date of suspension but not later than sixty days after the incurrence date as provided in section 543A.6. The lien statement shall disclose the name of the grain dealer, the address of the dealer's principal place of business, a description of identifiable grain dealer assets, and the amount of the lien. The lien amount shall be the board's estimate of the final cost of reimbursing the grain depositors and sellers indemnity fund for the payment of claims against the fund resulting from the breach of the grain dealer's obligations. The board shall correct the amount not later than one hundred eighty days following the incurrence date. A court, upon petition by an affected person, may correct the amount. The board shall have the burden of proving that the amount is an accurate estimate.

5. The Iowa grain indemnity fund board shall upon written demand of the grain dealer file a termination statement with the secretary of state, if the license of the grain dealer is not revoked, terminated, or canceled after one hundred eighty days from the date that the lien is perfected. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the grain dealer.

6. The secretary of state shall note the filing of a lien statement under this section in a manner provided by chapter 554, the uniform commercial code. The secretary shall note the filing of a termination statement with the lien statement.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section 554.9312.

8. If the grain dealer is also licensed under chapter 543, and in the event the department is appointed as a receiver under section 543.3, assets under the authority of the receiver are free from this statutory lien. However, if there are receivership assets in excess of those necessary to fully reimburse depositors, the perfected lien will attach to those excess assets.

9. The board may enforce the lien in the manner provided in chapter 554, article 9, part 5, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the grain dealer assets, the remaining assets shall be returned to the grain dealer or, if there are competing claims to those remaining assets by other creditors, shall place those assets in the custody of the district court and implead the known creditors.

For purposes of enforcement of the lien, the board is deemed to be the secured party and the grain dealer is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 5. If a right or duty under chapter 554, article 9, part 5, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

10. Actions relating to this section shall be brought in the district court in the county in which the grain dealer's primary place of business is located or in Polk county.

Sec. 63. Section 542.15, subsection 7, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

7. a. A grain dealer shall not purchase grain on credit-sale contract during any time period in which the grain dealer fails to maintain fifty cents of net worth for each outstanding bushel of grain purchased under credit. The grain dealer may maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of deficiency in net worth.

b. A grain dealer holding a federal or state warehouse license who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture shall not purchase grain on credit-sale contract to correct the shortage of grain.

c. A grain dealer must meet at least either of the following conditions:

(1) The grain dealer's last financial statement required to be submitted to the department pursuant to section 542.3 is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state.

(2) The grain dealer files a bond with the department in the amount of one hundred thousand dollars payable to the department. The bond shall be used to indemnify sellers for losses resulting from a breach of a credit-sale contract as provided by rules adopted by the department. The rules shall include, but are not limited to, procedures and criteria for providing notice, filing claims, valuing losses, and paying claims. The bond provided in this paragraph shall be in addition to any other bond required in this chapter.

A bond filed with the department under this paragraph shall not be canceled by the issuer on less than ninety days notice by certified mail to the department and the principal. When the department receives notice from an issuer that it has canceled the bond, the department

shall automatically suspend the grain dealer's license if a replacement bond is not received by the department within sixty days of the issuance of the notice of cancellation. The department shall cause an inspection of the licensed grain dealer immediately at the end of the sixty-day period. If a replacement bond is not filed within another thirty days following the suspension, the grain dealer license shall be automatically revoked. When a license is revoked, the department shall provide notice of the revocation by ordinary mail to the last known address of each holder of an outstanding credit-sale contract and all known sellers.

Sec. 64. Section 542.15, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The department may adopt rules to suspend the right of a grain dealer to purchase grain by credit-sale contract based on any of the following conditions:

a. The grain dealer holding a federal or state warehouse license does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture.

b. The grain dealer holding a state or federal warehouse license issues back to the grain dealer a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased on credit and is unpaid for by the grain dealer.

c. The grain dealer fails to maintain requirements relating to net worth or fails to maintain a ratio of current assets to current liabilities, as required in section 542.3.

d. The grain dealer violates this section.

e. The grain dealer's total liabilities are greater than seventy-five percent of the grain dealer's total assets.

f. The grain dealer has made payment by use of a financial instrument which is a check, share draft, draft, or written order on a financial institution, and a financial institution refuses payment on the instrument because of insufficient funds in a grain dealer's account.

g. The department discovers that a grain dealer has delayed payment for grain purchased since the department last inspected the grain dealer pursuant to section 542.9.

Sec. 65. NEW SECTION. 542.22 PRIORITIZATION OF INSPECTIONS OF GRAIN DEALERS.

The department shall develop a system to prioritize the inspections of grain dealers provided in section 542.9. The system of prioritization shall be computed each year based on the risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer. The department shall compute the risk by utilizing an available statistical model to measure the financial condition of grain dealers, and especially grain dealers who execute credit-sale contracts. Procedures for utilizing the statistical model shall be adopted by department rules. The statistical model shall be used to provide risk ratings. A risk rating shall be used as a factor by the department to prioritize its inspection schedule. The department may use a risk rating produced by the statistical model as justification to inspect the grain dealer at any time. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer based on the statistical model shall be good cause.

Sec. 66. Section 543.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Good cause" means that the department has cause to believe that the net worth or current asset to current liability ratio of a warehouse operator presents a danger to depositors with whom the warehouse operator does business, based on evidence of any of the following:

a. The making of a payment by use of a financial instrument which is a check, share draft, draft, or written order on a financial institution, and a financial institution refuses payment on the instrument because of insufficient funds in the warehouse operator's account.

b. A violation of recordkeeping requirements provided in this chapter or rules adopted pursuant to this chapter by the department.

c. A quality or quantity shortage in the warehouse facility.

d. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on a statistical model provided in section 543.40.

Sec. 67. Section 543.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. The department may inspect or cause to be inspected any warehouse. Inspections may be made at times and for purposes as the department determines. Except as provided in section 543.6, the department shall cause every licensed warehouse and its contents to be inspected once in every twelve-month period. The department shall prioritize inspections based on the system provided in section 543.40. The department may require the filing of reports relating to a warehouse or its operation. If upon inspection a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouse operator's books and records according to official grain standards, the department may require an employee of the department to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the department at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day.

*Sec. 68. *Section 543.4, subsection 6, Code 1991, is amended to read as follows:*

6. The department is entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the department is prior to any claims against the commodities or proceeds of sales of commodities, and constitutes a claim against a deficiency bond or irrevocable letter of credit. Notwithstanding section 8.33, the reimbursement amount received by the department in a fiscal year shall not revert unless unobligated or unencumbered on June 30 of the following fiscal year.*

Sec. 69. Section 543.6, subsection 4, paragraph b, Code 1991, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause ~~to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.~~

Sec. 70. Section 543.6, subsection 5, paragraph b, Code 1991, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The

*Item veto; see message at end of the Act

department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause ~~to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.~~

Sec. 71. NEW SECTION. 543.12A LIEN ON WAREHOUSE OPERATOR ASSETS.

1. A statutory lien is imposed on all warehouse operator assets in favor of depositors possessing warehouse receipts covering grain stored by the warehouse operator and depositors with written evidence of ownership other than warehouse receipts disclosing a storage obligation of a warehouse operator.

2. "Warehouse operator assets" includes proceeds received or due a warehouse operator upon the sale, including exchange, collection, or other disposition, of grain sold by the warehouse operator. As used in this section, "proceeds" means noncash and cash proceeds as provided in section 554.9306. "Warehouse operator assets" also includes storage payments received or due to a warehouse operator, grain owned by the warehouse operator, and any other funds or property of the warehouse operator which can be directly traced as being from the sale of grain by the warehouse operator, or which were utilized in the business operation of the warehouse operator. A court, upon petition by an affected party, may order that claimed warehouse operator assets are not warehouse operator assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not warehouse operator assets as defined in this section.

3. The lien shall arise at the commencement of the storage obligation, and shall terminate when the liability of the warehouse operator to the depositor has been discharged. The lien of all depositors is hereby assigned to the Iowa grain indemnity fund board, on behalf of the grain depositors and sellers indemnity fund.

4. To perfect the lien, the Iowa grain indemnity fund board must file a lien statement with the office of the secretary of state. The lien statement is valid only if filed on or after the date of suspension but not later than sixty days after the incurrence date as provided in section 543A.6. The lien statement shall disclose the name of the warehouse operator, the address of the warehouse operator's principal place of business, a description of identifiable warehouse operator assets, and the amount of the lien. The lien amount shall be the board's estimate of the final cost of reimbursing the grain depositors and sellers indemnity fund for the payment of claims made against the fund resulting from the breach of the warehouse operator's obligations. The board shall correct the amount not later than one hundred eighty days following the incurrence date. A court, upon petition by an affected person, may correct the amount. The board shall have the burden of proving that the amount is an accurate estimate.

5. The Iowa grain indemnity fund board shall upon written demand of the warehouse operator file a termination statement with the secretary of state, if the license of the warehouse operator is not revoked, terminated, or canceled after one hundred eighty days from the date that the lien is perfected. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the warehouse operator.

6. The secretary of state shall note the filing of a lien statement under this section in a manner provided by chapter 554, the uniform commercial code. The secretary shall note the filing of a termination statement with the lien statement.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section 554.9312.

8. In the event the department is appointed as a receiver under section 543.3, assets under the authority of the receiver are free from this statutory lien. However, if there are receivership assets in excess of those necessary to fully reimburse depositors, the perfected lien will attach to those excess assets.

9. The Iowa grain indemnity fund board may enforce the lien in the manner provided in chapter 554, article 9, part 5, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the warehouse operator assets, the remaining assets shall be returned to the warehouse operator or, if there are competing claims to those remaining assets by other creditors, those assets shall be placed in the custody of the district court and the known creditors impleaded.

For purposes of enforcement of the lien, the board is deemed to be the secured party and the warehouse operator is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 5. If a right or duty under chapter 554, article 9, part 5, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

10. Actions relating to this section shall be brought in the district court in the county in which the warehouse operator's primary place of business is located or in Polk county.

Sec. 72. Section 543.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A licensed warehouse operator who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department shall not purchase grain on credit-sale contract to correct the shortage of grain. A licensed warehouse operator shall not issue a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased by credit-sale contract and is unpaid for by the warehouse operator.

Sec. 73. Section 543.17, subsection 7, Code 1991, is amended to read as follows:

7. Every licensed warehouse operator shall, on or before July 1 of each year, send a statement for each holder of a warehouse receipt covering grain held for more than one year at that warehouse to the holder's last known address. The statement shall show the amount of all grain held pursuant to warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouse operator against that grain. However, a licensed warehouse operator need not prepare this annual statement for a holder of a warehouse receipt, if the licensed warehouse operator prepares such statements monthly, quarterly or for any other period more frequent than annually. ~~Failure~~ The failure to prepare a statement required by this subsection is a simple misdemeanor.

PARAGRAPH DIVIDED. Violation of this section shall not constitute grounds for suspension, revocation, or modification of the license of anyone licensed under this chapter.

Sec. 74. Section 543.33, subsection 1, paragraphs a through g, Code 1991, are amended to read as follows:

a. If the total storage capacity is one hundred thousand bushels or less, the fee is ~~thirty-five~~ fifty-eight dollars.

b. If the total storage capacity is more than one hundred thousand bushels, but not more than seven hundred fifty thousand bushels, the fee is ~~seventy-five~~ one hundred twenty-five dollars.

c. If the total storage capacity is more than seven hundred fifty thousand bushels, but not more than one million five hundred thousand bushels, the fee is one hundred ~~fifteen~~ ninety-one dollars.

d. If the total storage capacity is more than one million five hundred thousand bushels, but not more than three million bushels, the fee is ~~one~~ two hundred ~~fifty~~ forty-nine dollars.

e. If the total storage capacity is more than three million bushels, but not more than four million seven hundred fifty thousand bushels, the fee is ~~one~~ three hundred ~~eighty-five~~ seven dollars.

f. If the total storage capacity is more than four million seven hundred fifty thousand bushels, but not more than nine million five hundred thousand bushels, the fee is ~~two~~ three hundred ~~twenty-five~~ seventy-four dollars.

g. If the total storage capacity is more than nine million five hundred thousand bushels, the fee is ~~two~~ four hundred ~~sixty-five~~ forty dollars.

Sec. 75. Section 543.36, subsection 4, Code 1991, is amended to read as follows:

4. A person in violation of this chapter, or ~~a~~ in violation of chapter 714 or 715A ~~involving~~, which violation involves the business of a warehouse operator, is subject to prosecution by the county attorney in the county where the business is located. However, if the county attorney fails to initiate prosecution within thirty days, and upon request by the department, the attorney general may initiate and carry out the prosecution in cooperation, if possible, with the county attorney. The person in violation may be restrained by injunction in an action brought by the department or the attorney general upon request by the department.

Sec. 76. Section 543.37, Code 1991, is amended to read as follows:

543.37 FAILURE TO PAY FEE.

Failure to pay the ~~annual~~ license fee provided for in section 543.33 on or before ~~June 30 of the year for which due~~ the end of the third calendar month following the close of the licensee's fiscal year shall cause a license to terminate. A warehouse license which has terminated may be reinstated by the department upon receipt of a proper renewal application, the renewal fee, and the reinstatement fee as provided for in section 543.33, if filed within thirty days from the date of termination of the warehouse license. The department may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 77. NEW SECTION. 543.40 PRIORITIZATION OF INSPECTIONS OF WAREHOUSE OPERATORS.

The department shall develop a system to prioritize the inspections of warehouse operators provided in section 543.2. The system of prioritization shall be computed each year based on the risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator. The department shall compute the risk by utilizing an available statistical model to measure the financial condition of warehouse operators. Procedures for utilizing the statistical model shall be adopted by department rules. The statistical model shall be used to provide risk ratings. A risk rating shall be used as a factor by the department to prioritize its inspection schedule. The department may inspect a warehouse operator at any time based on a risk of loss to the fund according to the risk rating. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on the statistical model shall be good cause.

Sec. 78. NEW SECTION. 543A.5A LIEN ON LICENSEE'S ASSETS.

The board may enforce a lien attached to assets held by a licensee under chapter 542 or 543. The lien shall be perfected and enforced pursuant to section 542.12A or 543.12A.

Sec. 79. Section 554.9407, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon written request, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated, an effective financing statement, lien statement, or termination statement under chapter 542 or 543 naming a grain dealer or warehouse operator as a debtor, the address of the grain dealer's or warehouse operator's principal place of business, and the grain indemnity fund board as secured creditor, identifiable grain proceeds subject to the lien, and the amount of the lien. The uniform fee for a certificate is five dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state, or the fee is six dollars if the request is not on a form conforming to the standards.

Sec. 80. Section 715A.2, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. Forgery is a class "D" felony if the writing is or purports to be part of an issue of money, securities, postage or revenue stamps, or other instruments issued by the government, or part of an issue of stock, bonds, credit-sale contracts as defined in section 542.1, or other instruments representing interests in or claims against any property or enterprise, or a check, draft, or other writing which ostensibly evidences an obligation of the person who has purportedly executed it or authorized its execution.

Sec. 81. TRANSITION PERIOD. There shall be a transition period for implementing and enforcing provisions of this Act relating to any license period as provided in sections 542.5 and 543.37 as amended by this Act. Within the transition period, the department of agriculture and land stewardship may issue or renew licenses under chapter 542 or 543 for a period less than twelve consecutive months. The department shall prorate the fees charged for issuing or renewing the licenses for a period of less than twelve consecutive months. The transition period shall terminate on June 30, 1993.

Sec. 82. DATES OF APPLICABILITY. The liens established in sections 542.12A and 543.12A are applicable and enforceable against all grain dealer and warehouse operator licensees with an incurrence date on or after July 1, 1992.

Sec. 83. 1991 Iowa Acts, chapter 268, sections 212 and 213, are repealed.

This section, being deemed of immediate importance, takes effect upon enactment.

Sec. 84. REPEAL. Section 542.21, Code 1991, is repealed.

Sec. 85. This Act takes effect on July 1, 1992, except as otherwise provided in specific sections of this Act.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 2 in its entirety; Section 6, subsection 8 in its entirety; Section 8, subsection 3 in its entirety; Section 11 in its entirety; Section 12, subsection 2 in its entirety; Section 13 in its entirety; Section 14 in its entirety; Section 24 in its entirety; and Section 68 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 2347, an Act relating to budgetary and administrative matters by providing for appropriations and revenue, and providing for statutory changes, including matters involving agriculture and natural resources, and providing effective dates.

Senate File 2347 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 2, in its entirety. This section appropriates $192,426 for a lamb and wool education program which is administered through the community colleges. This program was designed to be a temporary pilot project and other funds should be sought to provide ongoing support for the program.

I am unable to approve the item designated as Section 6, subsection 8, in its entirety. This section appropriates $129,279 to the Green Thumb Program. It is not possible to continue the program given existing budget limitations. Other employment opportunities may be available through the seasonal employment programs in state agencies.

I am unable to approve the item designated as Section 8, subsection 3, in its entirety. This section appropriates $144,320 to the Fish and Game Trust Fund. Because the Fish and Game Trust Fund, which is not part of the general fund, has a sufficient operating balance, this transfer is not necessary.

I am unable to approve the item designated as Section 11, in its entirety. This section mandates that $50,000 appropriated to the Agriculture Experiment Station be transferred to the Department of Agriculture and Land Stewardship to administer a new program to control predator damage to livestock. By disapproving this item, the Board of Regents will revert $50,000 to the general fund of the state at the end of fiscal year 1993.

I am unable to approve the item designated as Section 12, subsection 2, in its entirety. This section appropriates $500,000 for waste reduction and recycling programs and $400,000 for soil and water conservation practices. Alternative sources of funding already exist for these programs. By disapproving this item, the Department of Natural Resources will revert $900,000 to the general fund of the state at the end of fiscal year 1993.

I am unable to approve the item designated as Section 13, in its entirety. This section appropriates $99,445 for a new program to stabilize eroded stream banks. Because this new program has implications for ongoing funding, I am unable to approve this item.

I am unable to approve the item designated as Section 14, in its entirety. This section appropriates $397,780 for the continued dredging of Black Hawk Lake. Section 42 of this bill requires that the Natural Resource Commission approve all dredging projects. Because this section is not consistent with Section 42 and because resources are available from the marine fuel tax fund to continue the dredging of Black Hawk Lake, I am unable to approve this item.

I am unable to approve the item designated as Section 24, in its entirety. This section mandates that the Department of Natural Resources request an appropriation to pay all taxes on land purchased after July 1, 1992. Because most land purchases are now paid for through the REAP program or the Wildlife Habitat Stamp, both of which include payment for applicable taxes, I cannot approve this item.

I am unable to approve the item designated as Section 68, in its entirety. This section would allow the Grain Warehouse Bureau to carry forward for one year any reimbursement received for administration of a receivership from the federal government. This type of receipt is a repayment receipt as defined in Section 8.2 of the Code and must be expended in the year it is received or be reverted to the general fund.

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 2347 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1240

APPROPRIATIONS — JUSTICE SYSTEM

S.F. 2348

AN ACT relating to and making appropriations to the justice system for the fiscal year beginning July 1, 1992, and providing an effective date.

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

Section 1. DEPARTMENT OF JUSTICE. There is appropriated from the general fund of the state to the department of justice 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 the general office of attorney general for salaries, support, maintenance, miscellaneous purposes including odometer fraud enforcement, the farm mediation service program, and legal assistance for farmers, and for not more than the following full-time equivalent positions:

..... $	4,565,796
..... FTEs	173.00

The attorney general shall provide statistics regarding the number of clients served by the farm mediation service, the clients' general financial characteristics, and benefits provided by the farm mediation service to the co-chairpersons and ranking members of the joint justice system appropriations subcommittee and the legislative fiscal bureau on or before January 15, 1993.

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	133,074
..... FTEs	4.75

a. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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.

b. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1992, and ending June 30, 1993, and the moneys retained by the attorney general pursuant to paragraph "a", the attorney general shall provide up to $10,000 in state matching funds from moneys retained by the attorney general from property forfeited pursuant to section 809.13, for the office of the prosecuting attorneys training coordinator to use for continuation of the domestic violence response enhancement program.

The domestic violence response enhancement program shall include research, training, and other services pertaining to the investigation and prosecution of domestic abuse assault, as defined in section 708.2A. The prosecuting attorneys training coordinator shall cooperate and consult with the Iowa coalition against domestic violence, the office of the attorney general, the department of public safety, the Iowa law enforcement academy, the division of criminal and juvenile justice planning of the department of human rights, and other public and private agencies in the continuation of this program. Components of the program shall include, but are not limited to, the following:

(1) Updating and revising, as necessary, the domestic abuse prosecution manual previously published by the office of the prosecuting attorneys training coordinator.

(2) Training events concerning pertinent laws, policies, and procedures relating to domestic abuse for prosecuting attorneys on either a regional or statewide basis, which shall be open to peace officers and other interested professionals.

(3) Preparing and distributing brochures to assist victims of domestic violence in becoming fully advised of their rights and services that are available to victims.

(4) Studying the development and promulgation of comprehensive enforcement and prosecution policies to improve the criminal justice system response to, as well as the just disposition of, domestic violence matters.

(5) Coordinating the efforts of prosecuting attorneys and domestic abuse victims' advocates or other victims' advocates, where available, and facilitating the early provision of victim advocacy services.

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, 1992, and ending June 30, 1993, an amount not exceeding $200,000 to be used for the enforcement of the Iowa competition law. The expenditure of the funds appropriated in 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. However, if the funds received as a result of these judgments are in excess of $200,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

4. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1992, and ending June 30, 1993, an amount not exceeding $125,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16, and an amount not exceeding $75,000 for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older Iowans. The expenditure of the funds appropriated in 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 or settlement, if the judgment or settlement authorizes the use of the award for public education on consumer fraud. However, if the funds received as a result of these judgments and settlements are in excess of $200,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

5. For victim assistance grants:

..... $ 1,294,500

The funds appropriated in this subsection 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.

Notwithstanding section 8.33 or 8.39, any balance remaining from the appropriation made pursuant to this subsection shall not revert to the general fund of the state but shall be available for expenditure during the subsequent fiscal year for the same purpose, and shall not be transferred to any other program.

6. For the GASA prosecuting attorney program:

..... $ 100,039
..... FTEs 3.00

7. The balance of the victim compensation fund established under section 912.14 may be used to provide salary and support of not more than 7.00 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

8. 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. 2. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the general fund of the state to the office of consumer advocate of the department of justice 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 purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,943,708
.....	FTEs	32.00

Sec. 3. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole 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 purposes designated:

For salaries, support, maintenance, including maintenance of an automated docket and the board's automated risk assessment model, employment of two statistical research analysts to assist with the application of the risk assessment model in the parole decision-making process, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	718,320
.....	FTEs	18.00

a. The board of parole shall 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.

b. 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 joint justice system appropriations subcommittee during the 1993 session of the general assembly, at the request of the subcommittee, steps taken to implement any of the recommendations, or the reasons for failing to implement the recommendations.

Sec. 4. DEPARTMENT OF CORRECTIONS — FACILITIES. There is appropriated from the general fund of the state to the department of corrections 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 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, employment of 310 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	21,036,470
.....	FTEs	494.50

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of 211 correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	15,644,078
.....	FTEs	352.00

Moneys are provided within this appropriation 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:

.....	$	14,177,914
.....	FTEs	320.80

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:

.....	$	4,857,929
.....	FTEs	110.25

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of 141 correctional officers and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 11,143,365
..... FTEs 261.34

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:

..... $ 4,860,429
..... FTEs 108.00

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:

..... $ 5,356,329
..... FTEs 136.20

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:

..... $ 5,355,474
..... FTEs 132.50

2. The department of corrections shall provide a report to the co-chairpersons and ranking members of the joint justice system appropriations subcommittee and the legislative fiscal bureau on or before January 15, 1993, 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. 5. DEPARTMENT OF CORRECTIONS — ADMINISTRATION. There is appropriated from the general fund of the state to the department of corrections 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 administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,014,344
..... FTEs 41.52

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:

..... $ 241,875

3. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... $ 348,300

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:

..... $ 361,988

..... FTEs 8.19

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

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:

..... $ 3,169,163

Sec. 6. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES.

1. There is appropriated from the general fund of the state to the department of corrections 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 allocated as follows:

a. For the first judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... $ 5,525,572

(1) 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".

(2) 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, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 4,279,499

(1) 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".

(2) 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:

..... $ 2,757,653

(1) 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".

(2) 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:

..... $ 1,899,653

(1) 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".

(2) 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:

..... $ 7,484,221

(1) 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.

(2) 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:

..... $ 5,531,365

(1) 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".

(2) 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, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 3,913,737

(1) 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".

(2) 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".

(3) 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, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 3,364,777

(1) 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".

(2) 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:

..... $ 88,098

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. 7. JUDICIAL DEPARTMENT. There is appropriated from the general fund of the state to the judicial department 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 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 the district 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, reimbursement of 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, 1992, and maintenance, equipment, and miscellaneous purposes:

..... $ 73,203,747

a. 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.

b. 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.

c. It is the intent of the general assembly that counties installing new telephone systems shall provide those systems to all judicial department offices within the county at no cost.

d. Of the funds appropriated in 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

**3. For the implementation of the pilot program for mandatory mediation of contested issues of child custody and visitation established in this Act:*

..... *$ 100,000**

Sec. 8. IOWA COURT INFORMATION SYSTEM. There is appropriated from the general fund of the state to the judicial department 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 Iowa court information system:

..... $ 875,000

a. 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.

b. The judicial department shall provide a report semiannually to the co-chairpersons and ranking members of the joint justice system appropriations subcommittee and the legislative fiscal bureau specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system. The report shall demonstrate and specify how the Iowa court information system is used to improve the collection process. The report shall also compare fines, surcharges, and court costs collected in selected counties which are using an automated system versus at least three counties which are not using an automated system.

Sec. 9. AUTOMATED DATA SYSTEM. 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. 10. PLACEMENTS FOR ELDERLY OR INFIRM INMATES. The department of corrections, department of public health, department of human services, department of elder affairs, and department of inspections and appeals shall cooperate in developing community-based placements for elderly or infirm inmates who, by nature of their medical and criminal histories, are deemed to be low-risk for committing future public offenses. Community-based placements may include, but are not limited to, county care facilities, retirement homes, or veterans homes. The departments shall consider the potential for these community-based placement facilities to obtain federal funds for providing services to these inmates. The department of corrections shall develop a parole plan for these inmates once a community-based placement has been developed.

Sec. 11. NEW SECTION. 2.12A LEGAL EXPENSES REVIEWED BY THE COURT.

If a member or members of the general assembly are involved in court proceedings on behalf of the general assembly, and are represented by an attorney who is not an employee of the state, and the legislative council determines that the reasonable expense of the court proceedings, including reasonable attorneys' fees, shall be paid from funds in the state treasury appropriated pursuant to section 2.12, at the conclusion of the court proceedings, the court shall review the fees charged to the state to determine if the fees are fair and reasonable. The legislative council shall not reimburse attorneys' fees in excess of those determined by the court to be fair and reasonable.

Sec. 12. Section 13.3, Code 1991, is amended to read as follows:

*Item veto; see message at end of the Act

13.3 DISQUALIFICATION — SUBSTITUTE.

1. If, for any reason, the attorney general be disqualified from appearing in any action or proceeding, the executive council shall appoint some suitable person for that purpose and defray the reasonable expense thereof from any unappropriated funds in the state treasury. The department involved in the action or proceeding shall be requested to recommend a suitable person to represent ~~it~~ the department and when the executive council concurs in the recommendation, the person recommended shall be appointed.

2. If the governor or a department is represented by an attorney other than the attorney general in a court proceeding as provided in this section, at the conclusion of the court proceedings, the court shall review the fees charged to the state to determine if the fees are fair and reasonable. The executive council shall not reimburse attorneys' fees in excess of those determined by the court to be fair and reasonable.

Sec. 13. Section 13.25, Code 1991, is amended to read as follows:

13.25 REPEAL OF FARM MEDIATION AND LEGAL ASSISTANCE PROVISIONS.

*This subchapter is repealed on July 1, ~~1993~~ 1995.**

Sec. 14. Section 218.94, Code 1991, is amended to read as follows:

218.94 DIRECTOR MAY BUY AND SELL REAL ESTATE — OPTIONS.

1. *The director of the department of human services shall have full power to secure options to purchase real estate, to acquire and sell real estate, and to grant utility easements, for the proper uses of* ~~said~~ the *institutions*, except as otherwise provided in subsection 3. *Real estate shall be acquired and sold and utility easements granted, upon such terms and conditions as the director may determine*, except that the sale of farmland shall be subject to approval by the general assembly as provided in subsection 3. *Upon sale of the real estate, the proceeds shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the department of human services, which may be used to purchase other real estate or for capital improvements upon property under the director's control.*

2. *The costs incident to securing of options, acquisition and sale of real estate and granting of utility easements, including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which such real estate is located. Such fund shall be reimbursed from the proceeds of the sale.*

3. a. As used in this section, unless the context otherwise requires, "farmland" means land suitable for agricultural purposes.

b. Notwithstanding any other provisions of law to the contrary, and in addition to any other restrictions that may be imposed, the director shall not sell an interest in farmland unless the general assembly has approved the sale. Approval by the general assembly shall be obtained by passage of a joint resolution.*

Sec. 15. Section 246.317, Code 1991, is amended to read as follows:

246.317 DIRECTOR MAY BUY AND SELL REAL ESTATE — OPTIONS.

1. *The director, subject to the approval of the board* and the requirements of subsection 3, *may secure options to purchase real estate and acquire and sell real estate for the proper uses of the institutions. Real estate shall be acquired and sold upon terms and conditions the director recommends subject to the approval of the board*, except that the sale of farmland shall be subject to approval by the general assembly as provided in subsection 3. *Upon sale of the real estate, the proceeds shall be deposited with the treasurer of state and credited to the general fund of the state. There is appropriated from the general fund of the state to the department a sum equal to the proceeds so deposited and credited to the general fund of the state which may be used to purchase other real estate or for capital improvements upon property under the director's supervision.*

*Item veto; see message at end of the Act

2. *The costs incident to the securing of options and acquisition and sale of real estate including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which the real estate is located. The fund shall be reimbursed from the proceeds of the sale.*

3. a. As used in this section, unless the context otherwise requires, "farmland" means land suitable for agricultural purposes.

b. Notwithstanding any other provisions to the contrary, and in addition to any other restrictions that may be imposed, the director shall not sell an interest in farmland unless the general assembly has approved the sale. Approval by the general assembly shall be obtained by passage of a joint resolution.*

**Sec. 16.* *Section 246.706, unnumbered paragraph 1, Code Supplement 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 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 session of the general assembly, and obtain approval of the general assembly as required in section 218.94, subsection 3, or section 246.317, subsection 3. *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.**

Sec. 17. Section 261.2, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Develop and implement, in cooperation with the judicial district departments of correctional services and the department of corrections, a program to assist criminal offenders in applying for federal and state aid available for higher education.

**Sec. 18.* *Section 598.41, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:*

The court may order the *costs of custody mediation counseling* ~~shall~~ to *be paid in full or in part by the parties and taxed as court costs.**

**Sec. 19.* NEW SECTION. *598.43 MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES.*

1. In addition to joint custody mediation which may be ordered pursuant to section 598.41, subsection 2, in a proceeding under this chapter involving either a temporary or permanent child custody or visitation determination, the court may order mediation to be conducted by either a juvenile court officer or a private mediator.

The supreme court shall prescribe rules establishing procedures to be used in mediation proceedings under this section.

2. The court shall not require mediation if one or more of the following conditions exist:

a. The court determines that there is no reasonable possibility that mediation will promote settlement of the issues in dispute.

b. The court determines there is a substantial allegation of direct physical or significant emotional harm to a party or to a child.

*Item veto; see message at end of the Act

c. The court determines that mediation will otherwise fail to serve the best interests of the child.

d. The court determines that a verified petition alleging domestic abuse has been filed by a party pursuant to chapter 236.

e. The court determines that a child in need of assistance petition has been filed pursuant to chapter 232, division III, concerning a child for whom a custody or visitation determination is necessary.

If the court determines that mediation is inappropriate pursuant to this subsection, the court shall state its findings and conclusions in writing.

*3. All mediation proceedings shall be held in private and shall be confidential. All verbal or written communications from either or both parties to the mediator or between the parties in the presence of the mediator in a proceeding under this section are absolutely privileged and inadmissible in court, except that there shall be no privilege as to communications made in furtherance of a crime or fraud, and no grant of immunity from criminal conduct shall be inferred from the confidentiality established in this section.**

Sec. 20. Section 602.8105, subsection 1, paragraph a, Code Supplement 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, fifty dollars. The fee shall be deposited in the court revenue distribution account established under section 602.8108, and 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~~ ninety-eight thousand or over, an additional ~~five~~ three dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 21. Section 618.13, Code 1991, is amended to read as follows:

618.13 PUBLICATION OF DOCKET IN CERTAIN COUNTIES.

When the petition provided for in rule of civil procedure 70 is filed with the clerk of the district court in a county of ~~one hundred~~ ninety-eight thousand population or over, the names of the parties plaintiff and defendant in such action, the description of the real estate involved, if any, except for quieting title, partition, and suits involving tax assessments, and the names of the attorneys for the plaintiff, and the docket number assigned to such case, may, in the event the majority of the judges of the judiciary district in which such county lies, so direct, be published once in a daily newspaper having a general circulation in said county; such paper to be designated by a majority of the judges of the district court. Provided, that whenever thereafter such case is assigned for trial or any other pleadings are filed therein, or court action taken with reference thereto, except general orders of court for continuations, the title of such case and kind of pleading shall be published, and if it is in an assignment for trial it shall be carried in printed assignment from day to day until final disposition.

**Sec. 22. Section 654A.17, Code 1991, is amended to read as follows:*
654A.17 REPEAL OF CHAPTER.
*This chapter is repealed on July 1, ~~1993~~ 1995.**

**Sec. 23. Section 654B.12, Code 1991, is amended to read as follows:*
654B.12 REPEAL OF CHAPTER.
*This chapter is repealed on July 1, ~~1993~~ 1995.**

Sec. 24. Section 912.4, subsection 2, Code Supplement 1991, is amended to read as follows:

2. A person is not eligible for 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. The department may waive this requirement if good cause is shown.

*Item veto; see message at end of the Act

Sec. 25. LEGISLATIVE FINDINGS. The general assembly finds that the determination of child custody and visitation arrangements in a dissolution of marriage is an issue of great importance to the social and emotional welfare of the children and parents involved and that mediation has proven to be a less adversarial means of decision making regarding child custody and visitation in a dissolution case. The general assembly finds that a pilot program of mediation relating to the issues of child custody and visitation in dissolution cases should be established under the supervision of the supreme court.

**Sec. 26. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES IN DISSOLUTION CASES ESTABLISHED.*

1. The supreme court shall establish a pilot program for mandatory mediation of child custody and visitation issues in dissolution cases pursuant to chapter 598. However, mediation shall not be mandatory and shall not be ordered if the conditions set forth in section 598.43, subsection 2, apply. The pilot program shall be established in Linn county for a period of two years, beginning July 1, 1992, and ending June 30, 1994.

Proceedings under the program shall be conducted pursuant to section 598.43 and the rules for mediation proceedings prescribed by the supreme court.

2. The supreme court shall submit a report to the general assembly by January 1, 1995. The report shall contain recommendations regarding the use of mediation in child custody and visitation matters on a statewide basis in proceedings brought under chapter 598. The report shall also include an evaluation of the program as directed by the supreme court.

3. In a proceeding under chapter 598 involving either a temporary or permanent child custody or visitation determination, the court shall order mediation at no cost to the parties.

*4. Notwithstanding section 668A.1, subsection 2, paragraph "b", Code 1991, the executive council shall disburse to the state court administrator up to $50,000 for the fiscal year beginning July 1, 1992, and ending June 30, 1993, from the civil reparations trust fund to be used for the costs of participation in the pilot program by persons who are indigent.**

Sec. 27. IOWA COURT INFORMATION SYSTEM STUDY. The legislative council is requested to establish an interim study committee to hire a consultant to provide a performance and systems analysis of the Iowa court information system. The interim study committee shall select the consultant in consultation with the judicial department. The consultant shall submit a report to the legislative council through the interim study committee, the judicial department, the co-chairpersons and ranking members of the joint justice system appropriations subcommittee, and the legislative fiscal bureau on or before December 10, 1992.

Sec. 28. EFFECTIVE DATE. Section 1, subsections 3 and 4, of this Act, relating to Iowa competition law or antitrust actions and to civil consumer fraud actions, being deemed of immediate importance, take effect upon enactment.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 7, subsection 3 in its entirety; Sections 13, 14, 15, and 16 in their entirety; Sections 18 and 19 in their entirety; Sections 22 and 23 in their entirety; and Sections 25 and 26 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*

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit Senate File 2348, an Act relating to and making appropriations to the justice system for the fiscal year beginning July 1, 1992, and providing an effective date.

Senate File 2348 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 7, subsection 3, and Sections 18, 19, 25 and 26, in their entirety. These sections appropriate funds and establish program guidelines for a new Child Custody Pilot Program. The State has received a Federal Family Support Act grant which is being used to study such issues as mediation, family counseling and visitations. The State should review the results of this study before establishing a new program.

I am unable to approve the items designated as Sections 13, 22, and 23, in their entirety. These sections would extend the sunset on the Farmers Mediation and Farmers Legal Assistance programs from July 1, 1993, to July 1, 1995. These programs were developed to address the farm crisis of the 1980's. Extensions of these programs should be examined annually.

I am unable to approve the items designated as Sections 14, 15, and 16, in their entirety. These sections would require the Department of Human Services and the Department of Corrections to receive approval from the General Assembly prior to the sale of any farmland. These departments should retain the authority to dispose of real property under their control.

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 2348 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1241

APPROPRIATIONS – HUMAN SERVICES
S.F. 2355

AN ACT relating to appropriations for the department of human services and the prevention of disabilities policy council and including other provisions and appropriations involving health care and providing for effective and applicability dates.

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

Section 1. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For aid to families with dependent children:

..... $ 46,470,000

1. The department may fund the employee portion of the cash bonus program from unspent funds under the appropriation made in this section.

2. 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, 1992, 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 $99,400

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.

3. 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 Iowa Self-employed Household Incentive Program (ISHIP) waiver project statewide, provided training is available to a recipient through a recognized self-employment training program.

4. The department shall continue the special needs program under the aid to families with dependent children program.

5. The department shall contract with the corporation for enterprise development for Iowa's second year of participation in the two-year 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 reports on the status of the project to the legislative fiscal bureau.

6. Notwithstanding section 239.6, the department is not required to reconsider eligibility of aid to dependent children recipients every six months if a federal waiver is granted.

Sec. 2. 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, 1992, and ending June 30, 1993, 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:

..... $ 883,750

The emergency assistance provided for in this section shall be available beginning October 1, 1992, 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 report quarterly, beginning October 1, 1992, and continuing through the period that emergency assistance funding is provided, to the legislative fiscal committee concerning the emergency assistance.

*Sec. 3. *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, 1992, and ending June 30, 1993, 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:

..... *$ 276,670,000*

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.

*Item veto; see message at end of the Act

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

2. Of the funds appropriated in this section, $100,000 is allocated until January 31, 1993, 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. Any moneys allocated in this subsection which are unexpended or unobligated on January 31, 1993, 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 made in this Act for mental health, mental retardation, and developmental disabilities services under medical assistance which are jointly funded by the state and county, 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 implementing a procedure of purchase and distribution of vaccines to physicians participating in the medical assistance program is determined by the department of human services to be cost-effective for the department, the department of human services may use moneys appropriated in this section to contract with the Iowa department of public health for this purpose. In implementing the procedure, the department shall adopt rules requiring physicians to obtain vaccines from the Iowa department of public health for immunization of medical assistance recipients. The department may adopt emergency rules to implement the provisions of this subsection.

5. The department shall seek federal approval of a medical assistance waiver in order to expand the availability of the MediPASS program to an additional 27,000 enrollees. If federal approval is granted, the department may adopt emergency rules to implement the provisions of this subsection.

6. Of the funds appropriated in this section, $60,000 shall be used by the department for the fiscal year 1992-1993 costs to establish and operate an HIV and AIDS insurance continuation assistance pilot program. The pilot program shall 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 two-year period beginning October 1, 1992. 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 program or until the appropriated funding is exhausted.

a. 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 other groups identified by the coalitions.

b. The program shall provide all of the following:

(1) That an applicant is eligible for participation in the program if all of the following conditions are met:

(a) The applicant is a resident of the state.

(b) The applicant suffers from AIDS or an HIV-related illness.

(c) The applicant has an income of not 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 not more than $10,000.

(d) The applicant is enrolled in an individual or group private health insurance plan.

(e) The applicant is or will be unable, due to AIDS or the HIV-related illness, to continue employment in the applicant's current position or the applicant must significantly reduce hours of employment.

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(f) Enrollment in the program is the most cost-effective, available means of providing the applicant with health insurance coverage.

(2) That an applicant is required to provide the following to verify eligibility for participation in the program:

(a) Documentation of income and assets, as required by rule of the department.

(b) 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 six months be, unable to continue employment or be required to significantly reduce hours of employment.

(3) 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.

(4) 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.

(5) That all information relating to an applicant is confidential information and the provisions of chapter 141 are applicable to the information.

(6) Insurance premiums and medical expenses for which the applicant has no coverage, which are incurred in the month of application, shall be deducted from the applicant's gross income for the purpose of determining eligibility for the program.

c. The department shall provide a preliminary report to the general assembly by January 1, 1993, and a final report to the general assembly by January 1, 1994, regarding the cost-effectiveness of the pilot program, the impact of the requirements of federal law on the pilot 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.

d. For the purposes of this subsection, "AIDS" and "HIV" mean "AIDS" and "HIV" as defined in section 141.21.

e. 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.

f. Of the funds allocated in this subsection, the department may transfer not more than $10,000 to the appropriation made in this Act 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 made in this Act for general administration in order to administer the program.

g. The program shall start by October 1, 1992, and the department is authorized to adopt emergency rules to implement the provisions of this section by that date.

7. The department shall take action to provide for the continuing medical assistance eligibility without a spend down requirement for those persons whose eligibility is related to federal supplemental security income eligibility and who are eligible for the medically needy program without a spend down requirement. If providing for the continuing eligibility is permitted under federal requirements, the department may adopt emergency rules to implement the eligibility.

8. The department of human services shall work cooperatively with the department of elder affairs and the area agencies on aging to expedite and improve the assessment and eligibility determination process used for the medical assistance home and community-based waiver program for the elderly.

9. It is the intent of the general assembly that copayments shall not be charged to recipients for services which are mandatory under federal requirements for the medical assistance program.

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10. The department shall actively pursue the potential to fund child welfare services under the early and periodic screening, diagnosis, and treatment (EPSDT) option of the medical assistance program. If the funding is implemented, the department may transfer moneys appropriated in this Act for foster care or home-based services as necessary to pay the non-federal costs of services reimbursed under EPSDT which are provided to children who would otherwise receive services paid under those appropriations. The department may adopt emergency rules to implement the provisions of this subsection.

11. Except as otherwise provided in the appropriation made in this Act for mental health, mental retardation, and developmental disabilities services provided under medical assistance, if a medical assistance 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.

12. The department shall develop program standards, admission criteria, and reimbursement rates which are consistent with the day treatment needs of children and adolescents with severe psychiatric and behavioral disorders. The department may adopt emergency rules to implement the provisions of this subsection.

*13. Administrative rules adopted by the department establishing intermediate care facility for the mentally retarded (ICFMR) standards relating to family scale and size, location, and community inclusion, including, but not limited to, rules adopted pursuant to 1991 Iowa Acts, chapter 267, section 103, subsection 5, and Senate File 2311, as enacted by the Seventy-fourth General Assembly, 1992 Session, shall not prohibit any ICFMR with eight beds or less.**

Sec. 4. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 4,830,000

The department shall continue to contract for drug utilization review under the medical assistance program.

Sec. 5. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance:

..... $ 19,040,000

1. 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 income 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 subsection.

2. The department shall report to the members of the joint human services appropriations subcommittee concerning the 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, 1992.

3. In determining an individual's eligibility or the amount of assistance provided under the state supplementary assistance program or the federal social services block grant, the department shall not consider moneys received by that individual under the federal Social Security

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Persons Achieving Self-Sufficiency (PASS) program or the Income-Related Work Expense (IRWE) program to be income. The department shall adopt emergency rules to implement the provisions of this subsection.

*4. *In determining the amount of state supplementary assistance provided to a resident of a licensed residential care facility which has a "Section 8" program contract with the United States department of housing and urban development, the moneys which the resident must pay under the "Section 8" program shall not be considered as income.**

Sec. 6. AID TO NATIVE AMERICANS. There is appropriated from the general fund of the state to the department of human services 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 aid to Native Americans under section 252.43:

..... $ 36,765

The tribal council shall not use more than 5 percent of the funds for administration purposes. The department shall report quarterly to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau concerning aid to Native Americans and in addition shall submit an annual report.

Sec. 7. 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, 1992, and ending June 30, 1993, 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:

..... $ 7,460,000

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 $2,293,412 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 regions and each region shall distribute the allocation to the counties within the region. If a region determines that a specified portion of the funds provided to a county in that region is sufficient to meet the county's current demand and projected growth, the region may transfer the excess amount of funds to another county in that region. If the region determines that a specified portion of the funds provided to the region is sufficient to meet the region's current demand and projected growth for the remainder of the fiscal year, the excess amount may be transferred for use in another region.

b. For state child care assistance, eligibility shall be limited to children whose family income is equal to or less than 155 percent of the federal office of management and budget poverty guidelines. However, on or after October 1, 1992, 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 utilize the priority ranking of requirements for families who receive assistance developed pursuant to 1991 Iowa Acts, chapter 267, section 109, subsection 3, paragraph "b", with special priority given to foster care families within the income guidelines.

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.

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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 in this section.

4. Of the funds appropriated in this section, $633,931 is allocated for the fiscal year beginning July 1, 1992, 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.

6. Of the funds appropriated in this section, $866,265 shall be used to increase the reimbursement rate paid for child day care provided by child care centers in order to enhance the quality of child care centers. However, any reimbursement 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 increase authorized in the section of this Act relating to provider reimbursement. The department may adopt emergency rules to implement the provisions of this subsection.

7. Of the funds appropriated in this section, the department shall use $233,735, or so much thereof as is necessary, to increase the department's staff in order to meet federal requirements.

8. a. It is the intent of the general assembly that $324,962 of the funds appropriated in this section shall be used for transitional child care assistance.

b. Notwithstanding section 239.21, the department of human services shall provide the transitional child care assistance 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 4.

9. The department shall consider the feasibility of establishing a school-age child care pilot program involving regular contact between children and elder Iowans who are nursing home residents. The areas of consideration may include but are not limited to identifying potential nursing home or adult day care sites, school-age child day care providers, and transportation, safety, program, staff, and facility requirements. The department shall report to the governor and the general assembly on or before January 15, 1993, concerning the feasibility of establishing a pilot program during the 1993-1994 fiscal year.

Sec. 8. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the federal-state job opportunities and basic skills (JOBS) program, food stamp employment and training program, and family development and self-sufficiency grants, in accordance with this section:

..... $ 4,960,000

1. Of the funds appropriated in this section, $4,050,701 is allocated for the JOBS program.

2. Of the funds appropriated in this section, $129,985 is allocated for the food stamp employment and training program.

3. The department shall work with family development and self-sufficiency grantees and the state's community action agencies to develop an administrative process for 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 appropriated in this section, $779,314 is allocated to the family development and self-sufficiency grant program as provided under section 217.12.

a. Not more than 5 percent of the funds allocated in this subsection shall be used for the administration of the grant program.

b. Federal funding matched by state, county, or other funding which is not appropriated in this section shall be deposited in the department's JOBS account. If the match funding is generated by a family development and self-sufficiency grantee, the federal funding received shall be used to expand the family development and self-sufficiency grant program. If the match funding is generated by another source, the federal funding received shall be used to expand the grant program or the JOBS program. The department may adopt emergency rules to implement the provisions of this paragraph.

c. Of the funding allocated in this subsection, the family development and self-sufficiency council may use up to $200,000 to increase existing grants in an amount which does not exceed 110 percent of the fiscal year 1991-1992 grant amount and to award not more than two new grants. The council shall award new grants in a manner to expand the program into areas which document a strong commitment to family development and self-sufficiency and are not currently receiving a grant. The expansion grants shall be awarded on or before January 1, 1993, for a period ending June 30, 1993.

d. 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.

Sec. 9. 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, 1992, and ending June 30, 1993, 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:

.....	$	3,750,000
.....	FTEs	255.49

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, shall establish new positions and add additional employees to the child support recovery unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level. If 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 section 252B.4, nonpublic assistance application and user fees received by the child support recovery program are appropriated and shall be used for the purposes of the child support recovery program. 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 subsection to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau. If a statute enacted by the Seventy-fourth General Assembly, 1992 Session, authorizes the department to charge an annual cost recovery fee to nonpublic assistance users of child support recovery services, the fee may be deducted from support paid in fiscal year 1992-1993, unless the user elects to pay the fee directly. The department shall continue to provide child support recovery services to persons who were notified during fiscal year 1991-1992 that services would not be continued if an annual cost recovery fee was not paid. 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

nonrenewal 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.

5. Funding is provided within the appropriation made in this section for the department's expenses relating to a child support public awareness campaign. The department shall cooperate with the attorney general as necessary for implementation of the campaign.

Sec. 10. 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, 1992, and ending June 30, 1993, 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:

..... $ 11,810,000
..... FTEs 327.69

1. The following amount of the funds appropriated and FTEs authorized in this section are allocated for the Iowa juvenile home at Toledo:

..... $ 4,340,000
..... FTEs 119.47

2. The following amount of the funds appropriated and full-time equivalent positions authorized in this section are allocated for the state training school at Eldora:

..... $ 7,470,000
..... FTEs 208.22

3. It is the intent of the general assembly that during the fiscal year beginning July 1, 1992, 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 each state juvenile institution shall apply for an adolescent pregnancy prevention grant for the fiscal year beginning July 1, 1992.

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 twentieth 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. 11. CHILD WELFARE TASK FORCE.

1. DUTIES. An interdisciplinary child welfare task force is established to present recommendations to the governor and the general assembly relating to the design of a financing system for child welfare, juvenile justice, and mental health services for children which provides a family-centered, community-based, and prevention-oriented response to families with children currently served in out-of-home placements. The task force shall complete its duties on or before June 30, 1994. The task force shall do all of the following:

a. Develop a more flexible state financing system for child welfare that allows funding which is currently available only for out-of-home placements to be used for alternative services that can prevent the need for out-of-home placements.

b. Develop a flexible financing system within the range of options available for out-of-home placements which provide sufficient support to maintain children, who currently are generally placed in remote and institutional settings, in more community-based and family-like settings.

c. Recommend ways to redirect existing expenditures in order to meet the best interests of children, preserve families, and employ the least restrictive placements.

d. Outline the long-term needs of Iowa for the following services: family-centered; family preservation; day treatment; protective day care and crisis nursery; family foster care emphasizing reunification; family foster care supporting children with special health care needs; family foster care providing therapeutic support to troubled and troubling children; adoption; subsidized adoption; independent living; residential treatment; enhanced residential treatment; psychiatric medical institution for children; state psychiatric hospitalization; state training school; Iowa juvenile home; private psychiatric hospitalization; shelter care; detention; residential juvenile substance abuse treatment; and nonresidential juvenile substance abuse treatment. In developing this outline, attention should be given to reducing the overall needs for institutional care through greater development of alternatives to that care.

e. Identify financing options that can make use of greater federal financial participation in the development of alternatives to institutional placement.

f. Develop a financial process to reward counties involved in the demonstration program to decategorize child welfare funding for their efforts to reduce the number of children placed in state institutions.

g. Monitor the efforts of the regional out-of-state placement committees, as established in House File 2480,* if enacted by the Seventy-fourth General Assembly, 1992 Session, to reduce out-of-state placements by 25 percent by June 30, 1994.

h. Investigate the efforts used by other states to return children who have been placed out-of-state, including any training programs.

i. Investigate the potential of using funding currently expended for children placed out-of-state as matching funding for services in this state in order to retain those children in this state.

j. Investigate the potential of using medical assistance funding available under section 1915a of the federal Social Security Act in decategorization counties as a model for developing a flexible financing system.

2. MEMBERSHIP. The interdisciplinary task force membership shall include the following persons:

a. The administrator of the division of adult, children, and family services of the department of human services.

b. The administrator of the division of mental health, mental retardation, and developmental disabilities of the department of human services.

c. A juvenile court judge or referee appointed by the chief justice.

d. A juvenile court officer appointed by the chief justice.

e. Two members of county boards of supervisors appointed by the Iowa state association of counties.

f. A county attorney appointed by the Iowa county attorney's association.

g. A protective service investigator, a protective service treatment worker, a family preservation worker, and a foster care worker, appointed by the director of human services.

h. A director of a community mental health center appointed by the community mental health centers association of Iowa.

i. Two providers offering both residential and nonresidential services to families appointed by the coalition for children and family services.

j. A director of a rehabilitation or residential facility appointed by the Iowa association of rehabilitation and residential facilities.

k. A member of the general assembly appointed by the legislative council.

l. Representatives from other state agencies, and from business, legal services, and child advocacy interests approved by the task force.

The appointing organizations shall be responsible for providing any per diem and travel and meal expenses for the members of the task force.

3. ORGANIZATION. The task force may establish subcommittees and work groups as deemed necessary to perform its duties. The task force may expand its membership or utilize other interested persons on its subcommittees and work groups, as deemed appropriate. The

*Chapter 1229 herein

department of human services shall seek outside support from foundations and other organizations to provide technical assistance and to carry out the management of the task force. The task force shall hold an initial meeting no later than July 30, 1992.

4. REPORTS. The task force shall issue an initial report by December 15, 1992, which shall include preliminary recommendations regarding the establishment of a more flexible financing system for child welfare services in the state and the identification of the types of services to serve children and families that will be needed in the long-term. The report shall include additional recommendations and a work plan. The task force shall complete an additional report by September 15, 1993.

Sec. 12. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For foster care:

..... $ 47,520,000

1. a. For fiscal year 1992-1993, the statewide target, as provided for in section 232.143, if enacted in House File 2480* by the Seventy-fourth General Assembly, 1992 Session, for the average number of children placed in group foster care in any day of the fiscal year which are a charge upon or are paid for by the state, shall be 1,405. The department may adopt emergency rules in order to implement the provisions of this subsection on July 1, 1992.

b. If section 232.143 is enacted, in each quarter of the fiscal year, the department shall compare the actual number of group foster care placements in a region and the targets allocated to the region for that quarter. The department shall develop a methodology to provide, within the funds allocated in this subsection, fiscal incentives to regions which have reduced the number or length of group foster care placements below the targeted levels. The fiscal incentives shall be used by a region to maintain or further the region's reduction in the number or length of group foster care placements.

c. The department shall report quarterly to the legislative fiscal bureau concerning the status of each region's efforts to limit the number of group foster care placements in accordance with the regional plan established pursuant to section 232.143.

d. It is the intent of the general assembly that the average reimbursement rates paid for placement of children out-of-state shall not exceed the maximum reimbursement rate paid to providers in this state.

2. The department may transfer a portion of the funds appropriated in this section to provide subsidized adoption services, purchase adoption services, or to provide less restrictive treatment programs than foster care, if funds allocated under the appropriation in this Act for home-based services are insufficient.

3. On or before April 1, 1993, the department and state court administrator shall enter into a chapter 28E agreement which enables the state to receive funding for eligible cases under the federal Social Security Act, Title IV-E. The agreement shall provide for adequate compensation to the court for any additional administrative costs necessary to secure the funding and shall not limit the discretion of the court in making determinations in the best interests of a child.

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. The department may use up to $828,000 of the funds appropriated in this section to develop additional therapeutic foster care programs in the state. The programs 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. Funding allocated in this subsection shall also be used to reimburse foster parents for their services. The funding is intended to serve at least 60 more children than were served in therapeutic foster care in fiscal year 1991-1992. The department may adopt emergency rules relating to program standards for therapeutic foster care.

*Chapter 1229 herein

6. Of the funds appropriated in this section, up to $987,393 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. In developing the system the department shall involve representatives of the court, service providers, advocates, and other persons interested in the adoption and foster care process.

7. Of the funds appropriated in this section, $104,625 may be used to contract to develop a statewide system for recruiting, retaining, and supporting foster care families consistent with the recommendation of the department's family foster care advisory committee. The department shall involve the family foster care advisory committee in developing a request for proposals for the contract. The committee shall also be involved in reviewing proposals, overseeing the work of the contractor, and further defining needs in the system. The department shall also involve the committee in seeking new financial support for enhancing the family foster care system, including government and foundation grants.

8. The department shall continue the demonstration program to decategorize child welfare services in the five counties in which the program has commenced. The department may approve additional applications from a county or cluster 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, 1993. The department shall establish for the demonstration program 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. 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. By June 15, 1992, the department shall inform each demonstration program county of the estimated amount that will be available in the county's child welfare fund and on account at the institutions for that county during the ensuing fiscal year. The department shall confirm each county's budgeted amount by October 1, 1992. 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 rules. In addition, a limited amount of the child welfare fund may be used for emergency family assistance 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 three-year period. The three-year time period for a decategorization project in Dubuque, Linn, 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.

9. 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. State funding saved in excess of the amount budgeted for federal financial participation provided under Title IV-E which is received as a result of the definition changes, shall be used to implement the system changes recommended by the family foster care advisory committee pursuant to subsection 7. Notwithstanding any provision of law to the contrary, any state funding identified as saved in excess of the amount budgeted for the federal financial participation shall be considered encumbered, for the purposes of this subsection, at the time of identification.

10. The department shall draw from the reasonable efforts model court project in continuing training seminars for child welfare practitioners throughout the state on the use of reasonable efforts to prevent or eliminate the need for removal of a child from the child's home. In

addition, the department shall draw upon the reasonable efforts model court project in working with the supreme court to provide ongoing instruction and technical assistance in selected counties in the state concerning application of reasonable efforts. Counties shall be selected by targeting those with a high rate of placing children outside the children's homes. The recipients of technical assistance shall include court officials, department of human services referral workers, and child welfare service providers. Trainers shall include respected peers and colleagues of the training recipients. The department shall use up to $63,160 of the funds appropriated in this section for the contract. The department shall seek assistance from the national conference of state legislatures and private foundations in implementing the provisions of this subsection.

11. The department shall incorporate family-centered approaches to serving families into the department's general child welfare training for all child welfare workers. The training shall include an introduction to family preservation and family-centered services and these services' usages as alternatives to out-of-home care. In addition, the department shall develop specific training concerning these services for those workers who are involved with referrals of children to foster care. The department shall work with the judicial department in order to make the training applicable and available to court officers involved with referrals of children to foster care. In developing the training, the department shall seek assistance from the child welfare league of America and the national association of family-based services and shall draw from successful initiatives used in other states. In implementing the provisions of this subsection, the department may use up to $110,530 of the funds appropriated in this section.

12. The department shall allocate up to $1,050,000 of the funds appropriated in this section among the department's regions to be used for wrap-around services. The moneys shall be used by each region to reduce the number or length of group foster care placements ordered by that region. For the purposes of this subsection, "wrap-around services" means coordinated, highly individualized, and community-based services directed to the basic human needs of a child and child's family which are developed and approved by an interdisciplinary team and focused upon the strengths of the child and the child's family. The department may transfer funds allocated in this subsection in addition to other funds appropriated in this Act that are used to provide wrap-around services. The department may adopt emergency rules to implement the provisions of this subsection.

13. Of the funds appropriated in this section, up to $1,000,000 is allocated for continued foster care services to a child who is 18 years of age or older in accordance with the provisions of section 234.35, subsection 4, paragraph "c", if enacted in House File 2480* by the Seventy-fourth General Assembly, 1992 Session. The department shall distribute the moneys allocated in this subsection to the departmental regions based on each region's proportion of the total number of children placed in foster care on March 31, 1992, who, during the fiscal year beginning July 1, 1992, would no longer be eligible for foster care due to age. The department may adopt emergency rules to implement the provisions of this subsection.

14. The provisions of this section constitute a significant change in state policy involving child welfare. In order to determine whether the change in policy has the intended effect and to provide information for future decision making, adequate information is required. During the fiscal period of this appropriation, the department shall track those out-of-home placements of children in which the state or a county is financially involved. The department, in coordination with the legislative fiscal bureau and the judicial department, shall develop a system for providing the tracking information. The tracking information shall be provided in a manner by which it can be determined whether the limitations on group foster care enacted by the Seventy-fourth General Assembly, 1992 Session, have resulted in increased use of out-of-home placements of children other than group foster care. The tracking information shall be submitted quarterly to the governor, the chairpersons and ranking members of the joint human services appropriations subcommittee, and the legislative fiscal bureau and shall include all of the following information for each departmental region:

*Chapter 1229 herein

a. The number of placements of children within each of the following age ranges: 0 through 5; 6 through 10; 11 through 15; and 16 through 21.

b. The number of children placed in each of the following: family foster care, residential foster care, state training school, Iowa juvenile home, psychiatric medical institutions for children (PMICs), residential substance abuse treatment programs, hospitals for acute psychiatric care, state mental health institutes, shelter care, juvenile detention, adult correctional facilities, state hospital-schools, intermediate care facilities for the mentally retarded (ICF/MR), residential care facilities for the mentally retarded (RCF/MR).

15. Notwithstanding section 232.142, subsection 3, the financial aid paid by the state shall be limited to 0.5 percent of the total cost of the establishment, improvements, operation, and maintenance of a county or multicounty juvenile detention home.

Sec. 13. FOSTER CARE SSI DETERMINATIONS. The amount of the appropriation in this Act for foster care is based upon expansion of the number of children in foster care who are eligible for federal supplemental security income (SSI). The department may use up to $500,000 of that appropriation to enter into a performance-based contract to secure SSI benefits for children placed in foster care. In selecting a vendor, the department shall give preference to a vendor who is capable of beginning services on July 1, 1992. The contract shall include provisions for training of department of human services and juvenile court staff, completion of applications, tracking of application results, and representation during the appeals process whenever an appeal is necessary to secure SSI benefits. Notwithstanding section 217.30 and section 232.2, subsection 11, and any other provision of law to the contrary, the custodian of a child in foster care may release medical, mental health, substance abuse, or any other information necessary only to determine the child's eligibility for SSI benefits, and may sign releases for the information. In any release of information made pursuant to this subsection, confidentiality shall be maintained to the maximum extent possible. The provisions of this section shall take effect upon enactment.

Sec. 14. 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, 1992, and ending June 30, 1993, 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 changes any allocation to a program funded under this section, the department shall promptly notify the legislative fiscal bureau of the change:

..... $ 22,530,000

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. a. Of the funds appropriated in this section, $5,565,972 shall be used for family preservation and reunification services and training. A limited amount of the funds may be used for emergency family assistance 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. In addition, a portion of the funds appropriated in this section shall be used for the jurisdictions receiving reasonable efforts training pursuant to the requirements provided in the appropriation in this Act for foster care.

b. The department shall seek federal financial participation for family preservation under Title IV-A of the federal Social Security Act. The nonfederal share of the costs shall be paid from funds appropriated in this section. Any federal funds received pursuant to this paragraph

are appropriated for the purposes for which the funds are appropriated in this section. The department may adopt emergency rules to implement the provisions of this paragraph.

3. Of the funds appropriated in this section, up to $3,027,717 shall be used for family-centered services for families with children with mental retardation or other developmental disability who would otherwise be placed in group foster care or are currently placed in group foster care. The department may adopt emergency rules to implement the provisions of this subsection.

Sec. 15. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For community-based programs, on the condition that family planning services are funded, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

.....	$	1,620,000
.....	FTEs	1.0

1. Of the funds appropriated in this section, $438,713 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 8 percent of the funds for administrative costs. A grant may be awarded to a public school corporation, a maternal and child health center, an adolescent services provider, a project involving the state juvenile institutions, or a nonprofit organization which is involved in adolescent issues. Grants shall be awarded for a one-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 each of the 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 one 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.

2. Of the funds appropriated in this section, at least $209,512 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.

3. Of the funds appropriated in this section, $532,789 shall be used by the department for child abuse prevention grants.

Sec. 16. 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, 1992, and ending June 30, 1993, 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:

..... $ 3,990,000

1. Notwithstanding section 232.141 or any other provision of law, the funds appropriated in this section shall be allocated to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination on the allocations on or before June 15, 1992.

2. Each judicial district shall continue the planning group for the court-ordered services for juveniles provided in that district which was established pursuant to 1991 Iowa Acts, chapter 267, section 119. A planning group shall continue to perform its duties as specified in that law. Reimbursement rates for providers of court-ordered evaluation and treatment services paid under section 232.141, subsection 4, shall be negotiated with providers by each judicial district's planning group.

Each district planning group shall submit an annual report in January 1993 to the state court administrator and the department of human services. The report shall cover the preceding fiscal year and shall include a preliminary report on the current fiscal year. 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.

3. The department of human services shall develop policies and procedures to ensure that the funds appropriated in this section are spent only after all other reasonable actions have been taken 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 and periodic screening, diagnosis, and treatment (EPSDT) program.

b. Recover payments from any third-party insurance carrier 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 paid to those providers.

4. 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.

5. 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 court-ordered services funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds to pay for all court-related services during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively request the state court administrator to transfer funds between the districts' allocations as prudent.

6. Notwithstanding any provision of law to the contrary, 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, subsection 4.

7. Of the funds appropriated in this section, up to $200,000 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.

Sec. 17. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For improvements in the state system for child protection:

..... $ 543,251

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. 18. 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, 1992, and ending June 30, 1993, 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:

..... $ 26,510,000
..... FTEs 700.61

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. The department shall consider implementing a policy limiting the amount of subsidy to a patient to the subsidy that would be provided to that patient in a comparable facility receiving medical assistance reimbursement.

3. a. The department may adopt emergency rules to provide for medical assistance reimbursement for the care and treatment of medical assistance-eligible individuals admitted to the Iowa veterans home. If the rules result in medical assistance reimbursement to the Iowa veterans home which exceeds the amount budgeted for that purpose in the fiscal year beginning July 1, 1992, and ending June 30, 1993, the department may expend the excess amounts to exceed the number of full-time equivalent positions authorized in this section for the purpose of meeting related certification requirements or to provide additional beds.

b. An amount equal to the nonfederal share of the cost to determine the medical assistance eligibility for individuals pursuant to this subsection shall be transferred from moneys reimbursed to the Iowa veterans home pursuant to paragraph "a" and used in addition to moneys appropriated in this Act for field operations. The department may exceed the number of full-time equivalent positions authorized in the field operations appropriation for the purpose of providing medical assistance eligibility determinations pursuant to this subsection.

c. The first $2,372,481 of reimbursements received from a source other than the state, as a result of the Iowa veterans home reclassifying 147 beds under the medical assistance program and opening previously closed beds, shall be retained by the home and used for costs associated with the reclassification and reopening of the beds. The moneys retained by the home pursuant to this paragraph are in addition to state funds appropriated to the home in this section.

Sec. 19. 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, 1992, and ending June 30, 1993, 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:

.....	$	41,860,000
.....	FTEs	1,058.13

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State mental health institute at Cherokee:

.....	$	14,690,000
.....	FTEs	381.41

b. State mental health institute at Clarinda:

.....	$	5,660,000
.....	FTEs	138.11

c. State mental health institute at Independence:

.....	$	16,500,000
.....	FTEs	435.61

d. State mental health institute at Mount Pleasant:

.....	$	5,010,000
.....	FTEs	103.00

2. 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.

3. The department shall report to the legislative fiscal bureau, on or before the twentieth 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.

4. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state.

Sec. 20. 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, 1992, and ending June 30, 1993, 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:

..... $ 64,260,000
..... FTEs 1,831.25

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State hospital-school at Glenwood:

..... $ 34,680,000
..... FTEs 995.00

b. State hospital-school at Woodward:

..... $ 29,580,000
..... FTEs 836.25

2. 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.

3. The department shall report to the legislative fiscal bureau, on or before the twentieth 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. 21. 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, 1992, and ending June 30, 1993, 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:

..... $ 370,069

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, $248,862 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, $121,207 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.

Sec. 22. 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, 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 family support subsidy program:

..... $ 1,000,000

Sec. 23. 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, 1992, and ending June 30, 1993, 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:

..... $ 53,212

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 the special needs grants with the family support subsidy program and an annual report concerning the characteristics of the grantees shall be provided to the legislative fiscal bureau.

Sec. 24. MH/MR/DD STATE CASES — NON-MH/MR/DD LOCAL PURCHASES. There is appropriated from the general fund of the state to the department of human services 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 purposes designated:

For purchase of local mental health, mental retardation, and developmental disabilities services where the client has no established county of legal settlement and for allocation to the various counties for the purchase of local services not related to mental health, mental retardation, or developmental disabilities:

..... $ 4,980,000

Sec. 25. MENTAL HEALTH — MENTAL RETARDATION — DEVELOPMENTAL DISABILITIES — BRAIN INJURY — COMMUNITY SERVICES. There is appropriated from the general fund of the state to the department of human services 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 mental health, mental retardation, developmental disabilities, and brain injury community services in accordance with the provisions of this Act:

..... $ 27,280,000

1. Of the funds appropriated in this section, $12,278,889 shall be allocated to counties for funding of community-based mental health, mental retardation, developmental disabilities, and brain injury services. The moneys shall be allocated to a county as follows:

a. Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

b. Fifty percent based upon the county's proportion of the state's general population.

A county shall utilize the funding the county receives pursuant to this subsection for services provided to persons with mental illness, mental retardation, developmental disability, or brain injury. However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

For the fiscal year beginning July 1, 1992, a county shall use at least 50 percent of the funding the county receives under this subsection for the following contemporary services to persons with mental illness, mental retardation, a developmental disability, or brain injury:

(1) Case management.

(2) Supported employment.

(3) Community-based housing, including but not limited to group homes with five beds or less which promote quality support services, appropriate levels of independence, and community inclusion for residents. However, expenditures relating to a group home with more than five beds or a group home which does not comply with the location requirements of section

358A.25, subsection 3, or section 414.22, subsection 3, are not eligible for reimbursement. Expenditures for housing provided in intermediate care facilities for the mentally retarded with ten beds or less which received a certificate of need under chapter 135 on or before July 1, 1991, are eligible for payment under this allocation until July 1, 1997.

(4) Individual support services provided to individuals living in community-based housing or an independent living arrangement or to individuals and individuals' families when an individual is living with the individual's family. The support services are any service deemed necessary by a county to support an individual in a community-based housing or other living arrangement described in this lettered paragraph, and include any employment, training, crisis intervention, or educational program. The support services may also include provision of or payment for the costs of food, medical services, clothing, and counseling.

(5) Day programming provided to individuals living in community-based housing, an independent living arrangement, or with the individual's family.

The mental health, mental retardation, and developmental disabilities commission shall adopt rules pursuant to chapter 17A describing the services listed in subparagraphs (1) through (5) of this subsection.

2. Of the funds appropriated in this section $30,000 shall be used to support the Iowa compass program providing computerized information and referral services for Iowans with disabilities and their families.

3. The department shall submit an annual report concerning each population served and each service funded in this section to the chairpersons and ranking members of the joint human services appropriation subcommittee and the legislative fiscal bureau.

4. a. Provision of funding under subsection 1 is contingent upon counties establishing mental illness, mental retardation, developmental disabilities, and brain injury (MI/MR/DD/BI) planning councils. The counties shall meet in consultation with service providers, consumers, and advocates, the department, and other interested parties in establishing the planning councils. A planning council's planning area shall, to the extent possible, utilize the borders of the county clusters as established pursuant to section 217.42, if enacted in Senate File 2342,* and shall include a population of at least 40,000 and include counties with a historical pattern of cooperation in providing MI/MR/DD/BI services. The councils shall be established on or before September 1, 1992.

b. The membership of a planning council shall include a member of the county board of supervisors of each county comprising the planning council and a sufficient number of MI/MR/DD/BI service providers and service consumers or family members of service consumers to provide for adequate representation of the providers and consumers or family members. The board of supervisors of the counties comprising the planning council shall determine the size and membership of the planning council.

c. If a county does not establish a planning council arrangement by September 1, 1992, in accordance with the criteria provided in paragraph "b", the department shall assign that county to a planning council.

d. A planning council shall develop plans for the provision of services in the fiscal year beginning July 1, 1993, to persons with MI/MR/DD/BI in the county or counties comprising the planning council. The plans shall be submitted to the department on or before December 1, 1992.

5. Of the funds appropriated in this section, $20,000, or so much thereof as is necessary, shall be transferred to the legislative service bureau and used to contract for the consultant and facilitator required for the task force established in section 26 of this Act.

6. Of the funds appropriated in this section, $1,912,335, or so much thereof as is necessary, is allocated to reimburse eligible counties for their expenditures for services provided to persons with mental retardation, a developmental disability, or chronic mental illness during the fiscal year beginning July 1, 1991, and ending June 30, 1992, in accordance with the provisions of section 27, subsection 5 of this Act.

7. a. Of the funds appropriated in this section, $13,038,776 is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

*Chapter 1079 herein

**Item veto; see message at end of the Act

b. The funds allocated in this subsection shall be expended by counties in accordance with eligibility guidelines established in the department's rules outlining general provisions for service administration. Services eligible for payment with funds allocated in this subsection are limited to any of the following which are provided in accordance with the department's administrative rules for the services: community supervised apartment living arrangements, residential services for adults, sheltered work, supported employment, supported work training, transportation, and work activity.

c. In purchasing services with funds allocated in this subsection, a county shall designate a person to provide for eligibility determination and development of a case plan for individuals for whom the services are purchased. The designated person shall be a medical assistance case manager serving the person's county of residence. If an individual does not have a case manager, the individual's eligibility shall be determined by a social services caseworker of the department serving the individual's county of residence. The case plan shall be developed in accordance with the department's rules outlining general provisions for service administration.

d. Services purchased with funds allocated in this subsection must be the result of a referral by the person who identified the services in developing the individual's case plan.

e. Services purchased with funds allocated in this subsection must be under a purchase of service contract established in accordance with the department's administrative rules for purchase of service.

f. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase services under the federal social services block grant in the fiscal year beginning July 1, 1991.

g. Each county shall submit to the department a plan for funding of the services eligible for payment under this subsection. The plan may provide for allocation of the funds for one or more of the eligible services. The plan shall identify the funding amount the county allocates for each service and the time period for which the funding will be available. Only those services which have funding allocated in the plan are eligible for payment with funds provided in this subsection.

h. A county shall provide advance notice to the individual receiving services, the service provider, and the person responsible for developing the case plan of the date the county determines that funding will no longer be available for a service.

i. Moneys allocated to a county pursuant to paragraph "f" shall be provided to the county as claims are submitted to the state.

j. The moneys provided under this subsection do not establish an entitlement to the services funded under this subsection.

Sec. 26. TASK FORCE ESTABLISHED.

1. For the fiscal year beginning July 1, 1992, there is established a task force to develop a plan for restructuring the service delivery system for persons with mental illness, mental retardation and other developmental disabilities, and brain injury. The task force shall consist of individuals appointed by all of the following entities:

a. Iowa state association of counties.

b. Iowa association of rehabilitation and residential facilities.

c. Alliance for the mentally ill of Iowa.

d. Association for retarded citizens of Iowa.

e. Community mental health centers association of Iowa.

f. Iowa governor's planning council for persons with developmental disabilities.

g. Iowa farm bureau federation.

h. Iowa federation of labor.

i. Iowa association of business and industry.

j. Iowa citizen action network.

k. Iowa psychiatric society.
l. Iowa hospital association.
m. Department of human services.
n. Iowa coalition.
o. Iowa protection and advocacy service.
p. Coalition for persons with disabilities.
q. Prevention of disabilities policy council.
r. Iowa head-injury association.
s. Department of management.
t. Governor.
u. A member of the senate appointed by the legislative council.
v. A member of the house of representatives appointed by the legislative council.

2. The task force shall present a plan to the legislative council, the department of human services, and the governor, by December 1, 1992, which will implement a restructuring of the mental health, mental retardation, and developmental disabilities service system to be effective July 1, 1993. However, the funding portion of the plan referred to in paragraph "b" of this subsection is to be effective July 1, 1994. The plan shall address, but not be limited to, all of the following:

a. Multi-county structures for planning.

b. The funding responsibilities and the funding relationship between the state and counties, including but not limited to, the per diem reimbursement paid at the state mental health institutes.

c. The structure for service delivery.

d. Targeting services for state funding which are aimed at implementing the service quality standards in section 225C.28A and rights in section 225C.28B.

The task force shall be assisted by a consultant and facilitator in carrying out its responsibilities under this section.

3. It is the intent of the general assembly that the plan developed by the task force created in this section shall be considered for enactment during the 1994 Legislative Session.

Sec. 27. MH/MR/DD SERVICES UNDER MEDICAL ASSISTANCE — JOINT STATE AND COUNTY FUNDING. There is appropriated from the general fund of the state to the department of human services 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 mental health, mental retardation, and developmental disabilities provided under the medical assistance program and jointly funded by the state and counties:

..... $ 2,860,000

1. The enhanced mental health, mental retardation, and developmental disabilities services plan oversight committee is continued, as established under section 249A.25, for the fiscal year which begins July 1, 1992, and ends June 30, 1993. 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, and 100 percent of the nonfederal share of the cost of care which is reimbursed under a federally approved home and community-based waiver that would otherwise be approved for provision in an intermediate care facility for the mentally retarded, provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. The state shall have responsibility for the remaining 50 percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial

hospitalization. For persons without a county of legal settlement, the state shall have responsibility for 100 percent of the nonfederal share of the cost of case management provided to adults, day treatment, partial hospitalization, and the home and community-based waiver services.

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. The state shall pay the entire nonfederal share of the costs for case management services provided to persons 18 years of age or younger who are served in a medical assistance home and community-based waiver program for persons with mental retardation.

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, 1992, 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, 1991, 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, 1991, 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, 1991, and the base year expenditures.

b. The amount expended by the county under subsection 3 for candidate services in the fiscal year beginning July 1, 1991.

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, 1991, less any carryover amount from the fiscal year which began July 1, 1990, 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. It is the intent of the general assembly that reimbursement to counties in accordance with the provisions of this subsection shall be discontinued for succeeding fiscal years.

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 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 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.

11. Medical assistance funding for case management services for eligible persons 18 years of age and under shall also be provided to persons residing in counties with decategorization projects, provided these projects have included these persons in their service plan and the decategorization project county is willing to provide the nonfederal share of costs.

12. The department shall explore the feasibility of obtaining federal approval of additional medical assistance home and community-based waivers for services to persons with a developmental disability. The department shall also explore the feasibility of implementing an option under the medical assistance program for rehabilitative services to persons with chronic mental illness. If either item is determined to be feasible, implementation of any new provision shall be deferred until fiscal year 1993-1994.

Sec. 28. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For field operations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	37,840,000
.....	FTEs	2,180.50

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. 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. 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. If the field operations staffing level meets the funded full-time equivalent position limit authorized in this section and a region 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 imposed 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 maximum caseweight factor for the fiscal year beginning July 1, 1992, and ending June 30, 1993, is 213 for income maintenance workers and 208 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 imposed 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 maximum caseweight factor for that type of position, the director of human services may exceed the full-time equivalent position limit imposed in this section in an amount necessary to fill the critical position vacancy or to reduce the caseweight factor to the maximum level. If expenditures remain within the amount appropriated in this section, the department may exceed the full-time equivalent position limit imposed 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 region, the statewide average caseweight factor, the existence of a critical position vacancy in any region, 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 imposed 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 not affect other county or regional human services staffing levels and shall not be considered to be subject to the full-time equivalent position limit imposed in this section.

5. If the amount of the nonfederal portion of a field operations income maintenance worker's salary, benefits, and support costs are paid to the department by a hospital or health center, the costs associated with that worker and that worker shall be considered to be in addition to the amount appropriated and full-time equivalent positions authorized in this appropriation for field operations.

6. If a county supplements a full or partial full-time equivalent position, the supplemented position is considered to be in addition to the amount appropriated and full-time equivalent positions authorized in this appropriation for field operations.

Sec. 29. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	8,710,000
.....	FTEs	359.01

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. The department shall continue its activities in applying 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. The department shall report to the joint human services appropriations subcommittee on or before January 11, 1993.

3. The department, in consultation with the child development coordinating council and the family development and self-sufficiency council, shall consider the feasibility of developing 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 for a grant, 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. 30. PREVENTION OF DISABLITIES* POLICY COUNCIL. There is appropriated from the general fund of the state to the prevention of disabilities policy council established in section 225B.3 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 performance of the council's duties in accordance with chapter 225B:

..... $ 27,090

Sec. 31. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services 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 development and coordination of volunteer services:

..... $ 85,793

Sec. 32. "X-PERT" PUBLIC ASSISTANCE BENEFIT ELIGIBILITY DETERMINATION SYSTEM. There is appropriated from the general fund of the state to the department of human services 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 first year development costs of the "X-PERT" knowledge-based computer software package for public assistance benefit eligibility determination, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 453,204
..... FTEs 17.0

The department shall complete all of the following requirements relating to implementation of the X-PERT system:

1. Complete an assessment of the relative appropriateness and cost-effectiveness of the various options for developing the X-PERT system. The assessment shall include an evaluation of the relative merits of using various computer hardware platforms including, but not limited to, mainframe computers, distributed processing, and personal microcomputers. The department shall utilize experts and resources from the private sector and shall ensure that the assessment is independent of influence from potential system vendors. The department shall report to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau no later than October 1, 1992.

2. Complete a detailed work plan for the development, testing, pilot implementation, and full implementation of the X-PERT system by August 1, 1994. The work plan shall contain

*According to enrolled Act

an assessment of the fiscal and staff resources required to meet this time frame and the availability of these resources. The work plan shall be completed on or before September 1, 1992.

3. Develop, in cooperation with the legislative fiscal bureau, a methodology for measuring costs and savings resulting from the development and implementation of the X-PERT system. The methodology shall provide for separate measurement of both actual reductions in expenditures and avoidance of increased expenditures. The department shall implement the methodology during the development of the system and shall report quarterly regarding implementation of the methodology to the chairpersons and ranking members of the joint human services appropriations subcommittee and the legislative fiscal bureau.

Sec. 33. 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, 1992, the department of human services may allocate any increases 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.

b. For the fiscal year beginning July 1, 1992, the following shall have their medical assistance reimbursement rates increased by 10 percent over the rates in effect on June 30, 1992: early and periodic screening, diagnosis, and treatment program providers, providers of obstetric services when provided by physicians or certified nurse-midwives, and pediatric services.

c. The department shall revise the reimbursement methodology used for clinics, including family planning clinics, from a rate paid per visit based upon cost to a fixed fee schedule.

d. The dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1992. The reimbursement policy for drug product costs shall be in accordance with federal requirements. Total adjustments to reimbursements for prescription drugs shall remain within funds appropriated.

e. Reimbursement rates for in-patient hospital services shall be increased by 1 percent over the rates in effect on June 30, 1992.

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 federal medicare program, hospice services, and acute care mental hospitals shall be reimbursed for their current federal medicare audited costs.

h. 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, 1992, unaudited compilation of cost and statistical data.

i. The department may revise the fee schedule used for physician reimbursement.

j. Federally qualified health centers shall be reimbursed at 100 percent of reasonable costs as determined by the department in accordance with federal requirements.

k. The department shall review and utilize small area analysis to identify differences in utilization of physician and hospital services. Within funds appropriated, the department shall seek to revise reimbursement methodologies for providers and shall seek to equalize reimbursement rates between providers. In addition, the department shall identify incentives to reward efficient, effective, and quality care.

2. For the fiscal year beginning July 1, 1992, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall be $19.62 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be $14.03 per day. For the fiscal year beginning July 1, 1992, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be $390.15 per month.

3. 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, 1991.

*4. a. *The department of human services shall make reimbursement payments directly to foster parents for services provided to children pursuant to section 234.6, subsection 6, paragraph "b", or section 234.35. For each of the following fiscal years, the reimbursement rate shall be based upon the indicated percentage of the current United States department of agriculture estimate of the cost to raise a child: 1992-1993, 65 percent; 1993-1994, 75 percent; and 1994-1995, 80 percent. The department may pay an additional stipend for a child with special needs.**

b. In the 1992-1993 fiscal year, the basic maintenance rate for children ages 0 through 5 years shall be $258, the rate for children ages 6 through 11 years shall be $289, the rate for children ages 12 through 15 years shall be $328, and the rate for children ages 16 and older shall be $356. The department shall increase the monthly allowance for children in independent living from $300 to $400. The department may adopt emergency rules to implement the provisions of this subsection.

5. For the fiscal year beginning July 1, 1992, the maximum reimbursement rates for social service providers other than child day care providers shall be the same as the rates in effect on June 30, 1991, except under any of the following circumstances:

a. If a new service was added after June 30, 1991, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

b. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

6. The department may adopt emergency rules to implement the provisions of this section.

Sec. 34. 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, 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 gamblers assistance program:

..... $ 250,000

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 by the board and commission. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.

Sec. 35. 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. 36. MEDICAL ASSISTANCE STUDY. The department of management shall utilize a task force to perform a study of the medical assistance program. The study parameters shall include but are not limited to reimbursement rates, accuracy and improvement of fiscal projections, scope of covered services, cost containment provisions, relative growth of the program, and the relationship with other health coverages. The task force membership shall include consumers, service providers, affected governmental agencies, and four legislators appointed by the majority and minority leader of the senate and the speaker and minority leader of the house of representatives. The study findings and recommendations shall be submitted to the governor and the general assembly on or before January 1, 1993.

*Item veto; see message at end of the Act

Sec. 37. HEALTH DATA COMMISSION STUDY. The health data commission shall study the feasibility of creating an electronic network to transmit all claims payable to third-party payors and the feasibility of using this data transmission network to establish a statewide health data repository. The commission shall submit a report of the findings of the study to the general assembly by January 1, 1993.

Sec. 38. 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. 39. STATE INSTITUTIONS – CLOSINGS AND REDUCTIONS. If a state institution administered by the department of human services 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.

**Sec. 40. FAMILY PLANNING – REPRODUCTIVE HEALTH SERVICES INTEGRATION WITH SUBSTANCE ABUSE PROGRAMS. There is appropriated from the general fund of the state to the department of human services 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 purposes designated:*

1. For the provision of family planning services to eligible women as specified in this subsection:

..... *$ 350,000*

To be eligible for family planning services under this subsection, the following criteria apply: the woman has an income which is equal to or less than 185 percent of the federal poverty level as defined by the most recently published guidelines issued by the United States department of health and human services; the woman was receiving medical assistance at the time the child was born; the woman is no longer eligible for medical assistance; and the woman is not covered by health insurance for family planning services. The family planning services shall be provided for not more than 12 months from the date of expiration of an eligible woman's postpartum medical assistance coverage. The department shall include information concerning the availability of the family planning services at the time the department notifies a recipient that her 60 days of postpartum medical assistance coverage will expire. The department may adopt emergency rules to implement the provisions of this subsection.

2. For the use of the Iowa department of public health, division of substance abuse and health promotion, for the integration of reproductive health services with substance abuse programs:

..... *$ 100,000*

To be eligible for funding under this subsection, a program shall be a residential treatment provider which provides services to a large number of women of childbearing age.

*3. 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 services in accordance with the provisions of this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated in this section.**

*Item veto; see message at end of the Act

**Sec. 41. MEDICAL ASSISTANCE — ENHANCED SERVICES FOR HIGH-RISK PREGNANCIES. There is appropriated from the general fund of the state to the department of human services 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:*

1. For provider costs to perform risk assessments for pregnant women eligible for medical assistance:

..... $ 71,000

2. For medical assistance costs to provide enhanced services for high-risk pregnancies in accordance with this section:

..... $ 72,000

*The department of human services and the Iowa department of public health shall jointly develop risk assessment criteria which shall be applied to all pregnant women eligible for medical assistance. If a pregnant woman is determined to have a high-risk pregnancy by use of the risk assessment, enhanced services shall be made available to the woman. Enhanced services shall include care coordination, health education, social services, nutrition education, and a postpartum home visit. The department of human services may adopt emergency rules to implement the provisions of this section.**

**Sec. 42. INFANT MORTALITY AND MORBIDITY PREVENTION PILOT PROJECT. The Iowa department of public health shall award grants to establish an infant mortality and morbidity prevention pilot project beginning October 1, 1992, and ending June 30, 1995, in the designated areas of Polk, Scott, and Woodbury counties. The recipient of a grant shall establish a resource mothers program or coordinate existing resource mothers programs in the targeted areas and shall do all of the following:*

1. Identify barriers to positive birth outcomes and encourage cooperation in the targeted area to reduce infant mortality and morbidity.

2. Develop an inventory of existing community resources, including both public and private organizations, which are designed to reduce infant mortality.

*3. Collaborate with local chambers of commerce, businesses, and civic organizations, including both public and private organizations, to establish a coupon bonus program for pregnant women residing in the targeted area to encourage the pregnant women to seek prenatal care and to encourage mothers of children through one year of age to utilize the early and periodic screening, diagnosis, and treatment program. The coupon bonus program shall provide for the validation of coupons by health care providers, following the provision of prenatal care or care provided to a child through one year of age, which may be exchanged for the provision of goods or services by sponsors within the community.**

**Sec. 43. PRENATAL TO PRESCHOOL FAMILY AND CHILD PROTECTION SERVICES PROGRAM.*

1. The Iowa department of public health shall develop a program for the awarding of a grant to a statewide child abuse prevention organization for the development and implementation of the prenatal to preschool family and child protection services program to be implemented beginning October 1, 1992, and ending October 1, 1995, in at least three urban and three rural counties, three of which shall be coordinated with the existing infant mortality and morbidity programs in Polk, Scott, and Woodbury counties, and all of which shall be implemented through the use of existing nonprofit home health programs. The department shall make a request for proposals application available to any organization requesting an application by August 1, 1992, and shall require the completed application to be returned to the department by September 1, 1992.

2. The department shall adopt rules which establish the criteria for the awarding of a grant to an applicant. The criteria shall include but are not limited to the required match of one dollar provided by the organization for each two dollars provided by the state.

3. A grant recipient shall do all of the following:

a. Implement the proposed program by October 1, 1992.

*Item veto; see message at end of the Act

b. Coordinate the program with the infant mortality and morbidity prevention programs in existence in Polk, Scott, and Woodbury counties.

c. To the maximum extent possible, utilize existing programs and services necessary for implementation of the program.

d. Utilize nonprofit home health programs in the development and implementation of the program.

*4. The Iowa department of public health shall submit an evaluation of the program, by January 15, annually, to the governor and the general assembly.**

**Sec. 44. APPROPRIATION — INFANT MORTALITY AND MORBIDITY — HEALTHY FAMILY PROGRAM. There is appropriated from the general fund of the state to the Iowa department of public health, for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the purposes designated:*

..... $ 665,000

1. Of the moneys appropriated in this section, not more than $165,000 shall be used to award grants to establish infant mortality and morbidity prevention pilot projects in Polk, Scott, and Woodbury counties in the areas designated by the Iowa department of public health as areas with the highest infant mortality rates. Of the amount appropriated, not more than 15 percent shall be used for administrative expenses.

2. Of the moneys appropriated in this section, not more than $335,000 shall be used to award a grant to a statewide child abuse prevention organization for the development and implementation of the prenatal to preschool family and child protection services program to be implemented beginning October 1, 1992.

3. Of the moneys appropriated in this section, not more than $25,000 shall be used for departmental staff support of a multidisciplinary team conducting research concerning the causes of individual infant deaths in the state. Funding of the multidisciplinary team concerning an individual case shall be used solely for research purposes.

*4. Of the moneys appropriated under this section, not more than $140,000 shall be used to increase the use of mid-level practitioners to improve access to prenatal health care. The funds shall be used to issue three grants in equal amounts to hospitals, public health programs, or maternal health clinics to develop programs to provide services to pregnant women, utilizing nurse midwives with hospital privileges and physician support, in areas of the state with insufficient availability of obstetrical services.**

**Sec. 45. IOWA CENTER FOR HEALTH ISSUES — ESTABLISHED. There is appropriated from moneys collected by the division of insurance pursuant to section 505.7, subsection 3, from the amount collected in excess of $310,815, to the division of insurance 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 purposes designated:*

For the awarding of a grant, by the division, to a private institution to establish a center for use as a forum for the purposes of community discussion and consensus building, public education, and research in the area of health care and health-related issues, particularly in the area of ethical decision making:

..... $ 75,000

Criteria for the awarding of a grant includes but is not limited to:

1. That the recipient be a private institution which is centrally located in the state, which does not directly provide medical or health services, and which has developed credibility among the health care and business community.

2. That the institution is able to draw from a variety of disciplines including but not limited to the health services, law, sociology, insurance, economics, education, and public administration in carrying out the purpose of the center.

3. That the institution provide physical space for the holding of meetings, forums, and other activities of the center, and that the institution be capable of holding meetings, forums, and other activities throughout the state.

*Item veto; see message at end of the Act

4. That the institution provide or develop independent funding, in an amount which is one dollar for every state dollar provided, from sources including but not limited to private contributions or federal funding.

*The grant recipient shall cooperate with the division in establishing the center. The division shall perform ongoing evaluation of the activities of the center and shall make recommendations to the grant recipient regarding improved effectiveness of the activities of the center.**

Sec. 46. VERIFICATION OF SPENDING REDUCTIONS. The department of human services, the Iowa department of public health, and the commissioner of insurance, shall submit reports to the governor and the general assembly by January 15, 1993, regarding the effectiveness or proposed effectiveness of the initiatives established in sections 40 through 45 and 47 of this Act in reducing health care costs.

**Sec. 47.* NEW SECTION. *135.106 IOWA HEALTHY FAMILY PROGRAM — ESTABLISHED.*

1. The Iowa department of public health shall establish an Iowa healthy family program to provide services to families and children during the prenatal through preschool years. The program shall be designed to promote optimal child development, improve family coping skills and functioning, and promote positive parenting skills and intrafamilial interaction, with the goal of prevention of child abuse and neglect.

2. The program shall include the following components which shall be developed and implemented to provide for coordination of services to the greatest extent possible:

a. An infant mortality and morbidity prevention program.

b. A prenatal to preschool family and child protection services program.

3. The infant mortality and morbidity prevention program shall include, but is not limited to, the following components:

a. The establishment of pilot projects, through the awarding of grants, in three counties of the state which have areas with the state's highest infant mortality rates, to identify barriers to positive birth outcomes, to encourage collaboration and cooperation among providers of health care, social services, and other services to pregnant women and infants, and to encourage pregnant women and women of childbearing years to seek health care and other services which result in positive birth outcomes.

b. The establishment of a resource mothers program to provide pregnant and postpartum women with individual guidance, information, and access to health care. As used in this section, "resource mothers program" means a community outreach program which provides for home visits by women who have experience as mothers and who have knowledge of health care services, social services, or related fields of services and who provide pregnant and postpartum women with information and access to health care and other services necessary for positive birth outcomes.

4. The prenatal to preschool family and child protection services program shall be developed and implemented by the recipient of a grant awarded by the department and shall include but is not limited to all of the following components:

a. Systematic hospital-based screening for the highest percent of high-risk families of newborns in specific geographic areas. The systematic hospital-based screening component shall provide that a resource mother identifies hospital admissions data for childbirths to determine high-risk families, based upon risk indicators developed by rule of the department. The woman who is a member of a family which is identified to be at high-risk shall be interviewed by the resource mother to encourage the woman to accept services including but not limited to home visits, support services, and instruction in child care and development.

b. Community-based home visiting family support services. Following identification of a family as high-risk and acceptance of a family of services under the program, the resource mother shall initiate home visits to assess the needs of the family and to refer the family to appropriate services.

*Item veto; see message at end of the Act

c. Individualization of the intensity of services based upon the family's need and level of risk. The resource mother shall assess the specific needs of the participating family to ensure appropriate access to services and necessary frequency of services.

d. Linkage to a "medical home". The resource mother shall assist participating families in the selection of a primary care provider in order to promote preventive health care and positive child development. The resource mother assigned to a family shall track the scheduling and completion of and the provision of transportation to health care visits. The resource mother shall also review the results of health care visits and coordinate future visits or referrals to necessary services.

e. Coordination of a range of health and social services for at-risk families, including the provision of the appropriate levels or types of immunizations to children participating in the program.

f. Continuous follow-up with the family until the identified child reaches age three, except in the case of high-risk families in which case the follow-up shall continue to age four.

g. A structured training program in the dynamics of abuse and neglect. The grant recipient shall provide a training program to establish uniform standards for service delivery.

h. Provision of crisis child care through utilization of existing child care services to participants in the program.

i. Evaluation of the program, including an evaluation of the effects on the reduction in risk factors for the participants, an evaluation of the services provided, and recommendations for changes in or expansion of the program.

j. To the extent possible, private party, third party, and medical assistance including the early and periodic screening, diagnosis, and treatment (EPSDT) program, shall be utilized as a reimbursement to defray the costs of services provided.

5. The department shall adopt rules to establish and implement the healthy family program which address all of the following:

a. The entering of an interagency agreement with the department of human services by which the department may refer a family at high-risk, based upon reports to the department of human services, of the need for services.

b. The criteria for the awarding of a grant for the development and implementation of the infant mortality and morbidity prevention pilot program and for the development and implementation of the prenatal to preschool family and child protection services program.

c. The components required of a grant applicant for inclusion in an infant mortality and morbidity prevention pilot program proposal and in a prenatal to preschool family and child protection services program proposal.

d. Establishment of risk indicators to be used in the systematic hospital-based screening component of the prenatal to preschool family and child protection services program.

e. Designation of the areas of the counties selected for implementation of the infant mortality and morbidity prevention pilot program which have the highest infant mortality rate based on census tracts.

*f. Designation, in cooperation with the grant recipient, of the counties of the state for implementation of the prenatal to preschool family and child protection services program.**

Sec. 48. Section 135C.2, subsection 5, paragraph b, Code Supplement 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~~ requirements 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~~ requirements 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.

*Item veto; see message at end of the Act

*Sec. 49. NEW SECTION. *148E.1 DEFINITIONS.*

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

1. "Acupuncture" means promoting, maintaining, or restoring health based on traditional oriental medical concepts of treating specific areas of the human body, known as acupuncture points or meridians, by performing any of the following practices:

a. Inserting acupuncture needles.

b. Moxibustion.

c. Applying manual, conductive thermal, or electrical stimulation through use of acupuncture needles or any other secondary therapeutic technique except for use of other electromagnetic or ultrasound energy sources.

2. "Acupuncturist" means a person who is engaged in the practice of acupuncture.

3. "Board" means the board of medical examiners established in chapter 147.

*4. "Department" means the Iowa department of public health.**

*Sec. 50. NEW SECTION. *148E.2 REGISTRATION AND RENEWAL REQUIRED.*

*A person shall not engage in the practice of acupuncture unless the person has registered with the board and received a certificate of registration pursuant to this chapter. Registration shall be renewed annually. The board shall charge a fee for renewal.**

*Sec. 51. NEW SECTION. *148E.3 REGISTRATION REQUIREMENTS AND RECIPROCAL AGREEMENTS.*

1. A person shall be registered as an acupuncturist and issued a certificate of registration by the board, if the person does all of the following:

a. Submits a completed application form as provided by the board and the application fee as required by the board.

b. Successfully completes and passes the certification and examination process of the national commission for the certification of acupuncture.

c. Successfully completes a training program which conforms to standards established by the national commission for the certification of acupuncture.

*2. The board may register a person as an acupuncturist and issue a certificate of registration based upon a reciprocal agreement pursuant to chapter 147.**

*Sec. 52. NEW SECTION. *148E.4 DISPLAY OF CERTIFICATE AND DISCLOSURE OF INFORMATION TO PATIENTS.*

An acupuncturist shall display the certificate of registration issued pursuant to section 148E.3 in a conspicuous place in the acupuncturist's place of business. An acupuncturist shall provide to each patient upon initial contact with the patient the following information in written form:

1. The name, business address, and business phone number of the acupuncturist.

2. A fee schedule.

3. A listing of the acupuncturist's education, experience, degrees, certificates, or credentials related to acupuncture awarded by professional acupuncture organizations, the length of time required to obtain the degrees or credentials, and experience.

4. A statement indicating any license, certificate, or registration in a health care occupation which was revoked by any local, state, or national health care agency.

5. A statement that the acupuncturist is complying with rules adopted by the department or the board, including a statement that only presterilized, disposable needles are used by the acupuncturist.

*6. A statement indicating that the practice of acupuncture is regulated by the department.**

*Sec. 53. NEW SECTION. *148E.5 USE AND DISPOSAL OF NEEDLES.*

*An acupuncturist shall use only presterilized, disposable needles, and shall provide for adequate disposal of used needles.**

*Item veto; see message at end of the Act

*Sec. 54. NEW SECTION. *148E.6 REVOCATION OR SUSPENSION OF CERTIFICATE AND REGISTRATION.*

In addition to the grounds for revocation or suspension referred to in section 147.55, the registration and certificate of registration to practice acupuncture shall be revoked or suspended when the acupuncturist is guilty of any of the following acts or offenses:

1. Failure to provide information as required in section 148E.4 or provision of false information to patients.

2. Acceptance of remuneration for referral of a patient to other health professionals.

3. Offering of or giving of remuneration for the referral of patients, not including paid advertisements or marketing services.

4. Failure to comply with this chapter, rules adopted pursuant to this chapter, or applicable provisions of chapter 147.

5. Engaging in sexual activity or genital contact with a patient while acting or purporting to act within the scope of practice, whether or not the patient consented to the sexual activity or genital contact.

*6. Disclosure of confidential information regarding the patient.**

**Sec. 55. NEW SECTION. *148E.7 ACCIDENT AND HEALTH INSURANCE COVERAGE.*

*This chapter shall not be construed to require accident and health insurance coverage for acupuncture services under an existing or future contract or policy for insurance issued or issued for delivery in this state, unless otherwise provided by the contract or policy.**

**Sec. 56. NEW SECTION. *148E.8 SCOPE OF CHAPTER.*

*This chapter does not apply to a person who is licensed as a physician, as defined in section 135.1, or as a dentist.**

**Sec. 57. NEW SECTION. *148E.9 STANDARD OF CARE.*

*A person registered under this chapter shall be held to the same standard of care as a person licensed to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery.**

**Sec. 58. NEW SECTION. *148E.10 EVALUATION OF CONDITION REQUIRED.*

*A person registered under this chapter shall not engage in the performance of acupuncture upon another person until the person's condition has been evaluated by a physician, as defined in section 135.1, or by a dentist.**

**Sec. 59. *Section 147.1, subsections 2 and 3, Code Supplement 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, or acupuncturist *means a person licensed* or certified *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, or acupuncture.*

**Sec. 60. *Section 147.13, subsection 1, Code Supplement 1991, is amended to read as follows:*

1. For medicine and surgery, ~~and~~ osteopathy, ~~and~~ osteopathic medicine and surgery, and acupuncture, *medical examiners.**

**Sec. 61. *Section 147.74, Code Supplement 1991, is amended by adding the following new subsection after subsection 16 and renumbering the remaining subsection:*

*Item veto; see message at end of the Act

NEW SUBSECTION. *17. An acupuncturist registered under chapter 148E may use the words "registered acupuncturist" after the person's name.**

**Sec. 62. Section 147.80, Code Supplement 1991, is amended by adding the following new subsection after subsection 23 and renumbering the remaining subsections:*

NEW SUBSECTION. *24. Registration to practice acupuncture, registration to practice acupuncture under a reciprocal agreement, or renewal of registration to practice acupuncture.**

Sec. 63. Section 225C.25, Code 1991, is amended to read as follows:

225C.25 SHORT TITLE.

Sections 225C.25 through ~~225C.28~~ 225C.28B shall be known as "the bill of rights and service quality standards of persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness".

Sec. 64. Section 225C.26, Code 1991, is amended to read as follows:

225C.26 SCOPE.

These rights and service quality standards apply to any person with mental retardation, a developmental disability, brain injury, or chronic mental illness who receives services which are funded in whole or in part by public funds or services which are permitted under Iowa law.

Sec. 65. Section 225C.27, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Sections 225C.25 through ~~225C.28~~ 225C.28B shall be liberally construed and applied to promote their purposes and the stated rights and service quality standards. The division, in coordination with appropriate agencies, shall adopt rules to implement the purposes of ~~sections 225C.25 through 225C.28~~ section 225C.28B, subsections 3 and 4, which include, but are not limited to the following:

Sec. 66. NEW SECTION. 225C.28A SERVICE QUALITY STANDARDS.

As the state participates more fully in funding services to persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness, it is the intent of the general assembly that the state shall seek to attain the following quality standards in the provision of the services:

1. Provide comprehensive evaluation and diagnosis adapted to the cultural background, primary language, and ethnic origin of the person.
2. Provide an individual treatment, habilitation, and program plan.
3. Provide individualized treatment, habilitation, and program services as appropriate.
4. Provide periodic review of the individual plan.
5. Provide for the least restrictive environment and age-appropriate services.
6. Provide appropriate training and employment opportunities so that the person's ability to contribute to and participate in the community is maximized.

Sec. 67. NEW SECTION. 225C.28B RIGHTS OF PERSONS WITH MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, BRAIN INJURY, OR CHRONIC MENTAL ILLNESS.

All of the following rights shall apply to a person with mental retardation, a developmental disability, brain injury, or chronic mental illness:

1. Wage protection. A person with mental retardation, a developmental disability, brain injury, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.
2. Insurance protection. Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation, a developmental disability, brain injury, or chronic mental illness.
3. Due process. A person with mental retardation, a developmental disability, brain injury, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.
4. Participation in planning activities. If an individual treatment, habilitation, and program plan is developed for a person with mental retardation, a developmental disability, brain injury, or chronic mental illness, the person has the right to participate in the formulation of the plan.

*Item veto; see message at end of the Act

Sec. 68. Section 225C.29, Code 1991, is amended to read as follows:

225C.29 COMPLIANCE.

Except for a violation of section ~~225C.28, subsection 9~~ 225C.28B, subsection 2, the sole remedy for violation of a rule adopted by the division to ~~enforce or~~ implement ~~this Act~~ sections 225C.25 through 225C.28B shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the division. ~~Neither this Act nor any~~ Any rules adopted by the division to implement sections 225C.25 through 225C.28B do not create any right, entitlement, property or liberty right or interest, or private cause of action for damages against ~~a municipality as defined in chapter 613A~~ the state or a political subdivision of the state or for which ~~such municipality~~ the state or a political subdivision of the state would be responsible. Any violation of section ~~225C.28, subsection 9,~~ 225C.28B, subsection 2, shall solely be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7.

Sec. 69. Section 226.7, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the district court commits a patient to a state mental health institute and a bed for the patient is not available, the institute shall assist the court in locating an alternative placement for the patient.

Sec. 70. Section 230A.14, Code 1991, is amended to read as follows:

230A.14 SUPPORT OF CENTER — FEDERAL FUNDS.

The board of supervisors of any county served by a community mental health center established or continued in operation as authorized by section 230A.1 may expend money from county funds~~, federal revenue-sharing funds,~~ or ~~other~~ federal matching funds designated by the board of supervisors for that purpose, without a vote of the electorate of the county, to pay the cost of any services described in section 230A.2 which are provided by the center or by an affiliate under contract with the center, or to pay the cost of or grant funds for establishing, reconstructing, remodeling, or improving any facility required for the center. ~~However, the county board shall not expend money from that fund, except for designated revenue-sharing or other federal matching funds, for mental health treatment obtained outside a state institution in an amount exceeding eight dollars per capita in any county having less than forty thousand population.~~

Sec. 71. Section 234.40, Code 1991, is amended to read as follows:

234.40 CORPORAL PUNISHMENT.

The department of human services shall ~~not~~ adopt ~~or enforce any rule or policy~~ rules prohibiting ~~limited~~ corporal punishment of foster children by foster parents licensed by the department. ~~This paragraph shall not prevent promulgation of rules prohibiting malicious, willful and wanton conduct by a foster parent which causes injury or damage to a foster child, or exposes the foster child to danger of such injury or damage.~~ The rules shall allow foster parents to use reasonable physical force to restrain a foster child in order to prevent injury to the foster child, injury to others, the destruction of property, or extremely disruptive behavior. For the purposes of this section, "corporal punishment" means the intentional physical punishment of a foster child. A foster parent's physical contact with the body of a foster child shall not be considered corporal punishment if the contact is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the foster parent uses reasonable force, as defined under section 704.1.

Sec. 72. Section 249A.25, subsection 4, paragraph i, Code Supplement 1991, is amended by striking the paragraph.

Sec. 73. Section 249A.25, subsection 4, paragraph j, Code Supplement 1991, is amended to read as follows:

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. 74. Section 249A.26, subsection 3, Code Supplement 1991, is amended by striking the subsection.

Sec. 75. Section 331.438, Code 1991, is amended to read as follows:

331.438 COUNTY MENTAL HEALTH SERVICES EXPENDITURES FROZEN.

In the event the ~~Seventy-fourth~~ General Assembly does not enact legislation to implement a funding formula for state participation in funding of mental health, mental retardation, and developmental disabilities services which takes effect in the fiscal year beginning July 1, ~~1992~~ 1996, the mental health, mental retardation, and developmental disabilities services expenditures of counties shall be frozen in the amount the counties expended for those services in the fiscal year beginning July 1, ~~1991~~ 1995. The expenses in excess of the frozen amount shall be paid for by the state in a timely manner that is not disruptive to persons providing or receiving services.

Sec. 76. 1992 Iowa Act, Senate File 2366,* section 9, subsection 3, paragraphs c and e, if enacted by the Seventy-fourth General Assembly, 1992 Session, are amended to read as follows:

c. Foster care:

.....	$	~~4,257,392~~
.....	$	14,262,340

e. Local administrative costs and other local services:

.....	$	~~11,142,810~~
.....	$	1,137,862

Sec. 77. 1992 Iowa Acts, Senate File 2366,* section 50, subsection 60, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

60. For ~~block grant supplementation~~ foster care, grant number 13667:

.....	$	10,004,948

Sec. 78. EMERGENCY RULES. If specifically authorized by a provision of this Act, 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, 1992, and ending June 30, 1993. 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. 79. REPEAL. Section 225C.28 is repealed.

Sec. 80. EFFECTIVE DATE. Section 12, subsection 8, relating to the demonstration program to decategorize child welfare services, section 13 of this Act, relating to foster care SSI eligibility determinations, and section 16, subsection 1, relating to a determination of allocations by the state court administrator, being deemed of immediate importance, take effect upon enactment.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 3 in its entirety; Section 5, subsection 4 in its entirety; Section 25, subsection 5 in its entirety; Section 33, subsection 4, paragraph a in its entirety; Sections 40, 41, 42, 43, 44, 45, 46, and 47 in their entirety; and Sections 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60,

*Chapter 1234 herein

61, and 62 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 2355, an Act relating to appropriations for the department of human services and the prevention of disabilities policy council and including other provisions and appropriations involving health care and providing for effective and applicability dates.

Senate File 2355 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 3, in its entirety. This provision appropriates $276 million for medical assistance programs. It is imperative that the State of Iowa address the issue of escalating costs for medical services. Without adequate cost containment, we will be unable to bring the state budget under control.

I am unable to approve the item designated as Section 5, subsection 4, in its entirety. This provision would require the state to pay an additional $940,000 annually to residential care facilities for residents under the supplementary assistance program. Because this funding requirement has not been incorporated into the appropriation for state supplementary assistance, this item cannot be approved.

I am unable to approve the item designated as Section 25, subsection 5, in its entirety. This subsection transfers $20,000 from the appropriation for mental health/mental retardation/development disabilities/brain injury community services to the Legislative Service Bureau to develop a plan to restructure the MH/MR/DD system. Because the Legislative Service Bureau is one of the few remaining agencies which have a standing unlimited appropriation, funding for this purpose should come from that agency's budget. By disapproving this item, the Department of Human Services will revert $20,000 to the general fund of the state at the end of fiscal year 1993.

I am unable to approve the item designated as Section 33, subsection 4, paragraph a, in its entirety. This provides for future increases in reimbursement payments to foster parents. Because House File 2480, as amended by House File 2486, provides for an increase in reimbursement payments, I am unable to approve this section.

I am unable to approve the items designated as Sections 40 through 47, in their entirety. Given current financial constraints, I am unable to approve the expenditure of $1.3 million for the new programs established by these sections.

I am unable to approve the items designated as Sections 49 through 62, in their entirety. These sections provide for registration, licensing and certification of acupuncturists. This issue requires additional study and cannot be approved.

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 2355 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1242

APPROPRIATIONS — REGULATORY BODIES

H.F. 2455

AN ACT relating to and making appropriations to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the department of inspections and appeals, the office of the state public defender, the department of commerce, public employment relations board, and the racing and gaming commission, allocating certain standing appropriations subject to certain procedures and conditions, and providing an effective date.

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

Section 1. AUDITOR OF STATE. 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, 1992, and ending June 30, 1993, 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:

.....	$	1,037,678
.....	FTEs	109.78

The auditor of state may expend additional moneys and retain additional full-time equivalent positions as is reasonable and necessary to perform audits, including audits for local governments, if 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. The auditor of state shall notify the legislative fiscal committee and the legislative fiscal bureau at the time the additional funds are requested.

Sec. 2. CAMPAIGN FINANCE DISCLOSURE COMMISSION. There is appropriated from the general fund of the state to the campaign finance disclosure commission for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

.....	$	256,420
.....	FTEs	6.75

Sec. 3. DEPARTMENT OF EMPLOYMENT SERVICES. There is appropriated from the general fund of the state to the department of employment services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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, contingent upon the enactment of section 5 of this Act and the provision which requires moneys appropriated from the special employment security contingency fund to first be used to fully fund the appropriation of $296,508 to the division of labor services in subsection 1 of section 5 of this Act prior to funding the appropriations in section 5 of this Act to the division of industrial services and the division of job service:

.....	$	2,222,743
.....	FTEs	90.00

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.

*Item veto; see message at end of the Act

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,828,127
.....	FTEs	35.00

Sec. 4. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. 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, 1992, and ending June 30, 1993, 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, conducting labor availability surveys, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	6,259,913
.....	FTEs	161.50

Of the amount appropriated under this section, $200,000 shall be used by the department to conduct labor availability surveys. As a condition of this expenditure, the department shall adopt rules providing that all communities which are scheduled to be surveyed during the fiscal year shall contribute forty percent of the cost of completing the community surveys.

1. The department of employment services shall provide services throughout the fiscal year beginning July 1, 1992, and ending June 30, 1993, in all communities in which job service offices are operating on July 1, 1992. 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.

2. The division of industrial services shall not reduce the number of scheduled hearings of contested cases or eliminate the venue of such hearings, as established by the division for the period beginning January 1, 1992, and ending January 20, 1993. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1993, and ending June 30, 1993. 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, 1993, and ending June 30, 1993.

3. 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.

4. The industrial commissioner shall study and make written recommendations concerning options to fund the division involving all employers relieved from the requirement of obtaining insurance pursuant to section 87.11, all group self-insured associations or plans authorized by section 87.4, and all insurance companies writing insurance policies authorized by section 515.48, subsection 5, paragraph "d". Recommendations made shall provide for complete and total funding of the operations of the division of industrial services and shall also provide a plan of implementation and any legislative proposals or actions necessary to implement the recommendations. The report shall be provided in writing to the general assembly and the legislative fiscal bureau no later than January 20, 1993.

5. 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, 1992, and ending June 30, 1993, and future fiscal years, to ensure that the backlog of cases in that department will be reduced as rapidly as possible.

*Item veto; see message at end of the Act

Sec. 5. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of employment services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated and subject to the requirement that the appropriation to the division of labor services under this section be fully funded from the special employment security contingency fund prior to any amounts being used to fund the appropriations made to the division of industrial services and the division of job service under this section:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 296,508

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 175,494

3. DIVISION OF JOB SERVICE

For asbestos removal and remodeling:

..... $ 75,000

Sec. 6. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 467,307
..... FTEs 24.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 416,731
..... FTEs 15.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 197,547
..... FTEs 24.00

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 458,808
..... FTEs 35.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,367,682
..... FTEs 118.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 711,017
..... FTEs 20.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 42,764
..... 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 may 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, and miscellaneous purposes for conducting foster care review services in the sixth and eighth judicial districts, and for not more than the following full-time equivalent positions:

..... $ 131,831
..... FTEs 4.00

It is the intent of the general assembly that the state foster care review board continue to conduct business on a voluntary basis. If the appropriation made in this subsection is not sufficient to fund an administrator for the state board, personnel in the sixth judicial district shall provide administrative assistance to the state board. The funds appropriated for the foster care program shall be used first to fully fund the program in the sixth judicial district and second to implement local board reviews in the eighth judicial district.

The department of human services and the state foster care review board shall enter into a contract for the purpose of submitting an application to the appropriate federal agency to obtain any available federal funding. Funding received as a result of submitting the application shall be forwarded to the state foster care review board to be used in place of appropriated state funds for the board. Any unexpended funds shall revert to the general fund of the state.

9. The department of human services shall submit an application for funding available pursuant to Title IV-E of the federal Social Security Act for the following claims:

a. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, for state foster care review board administrative review costs. The department shall begin making application for the costs upon the effective date of this Act.

b. For the fiscal period beginning July 1, 1989, and ending June 30, 1991, for state foster care review board administrative review costs. The department shall make application for the costs no later than July 1, 1992.

Sec. 7. STATE PUBLIC DEFENDER. 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, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,271,741
..... FTEs 144.75

The office of the state public defender shall submit monthly written reports to the legislative fiscal bureau indicating the status of the activities of the office as a result of its expansion.

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.

2. For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 8,445,465

Sec. 8. 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. 9. ROAD USE TAX FUND. There is appropriated from the use tax receipts collected under chapter 423 prior to deposit in the road use tax fund, to the department of inspections and appeals for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 821,929

Sec. 10. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 673,998
..... FTEs 13.00

Sec. 11. DEPARTMENT OF COMMERCE. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 802,762
..... FTEs 11.00

2. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,195,532
..... FTEs 30.50

3. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,706,848
..... FTEs 27.00

4. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,957,650
..... FTEs 99.00

**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. The amounts necessary to fund the excess examination expenses shall be collected from banks being regulated,*

*Item veto; see message at end of the Act

*and the collections shall be treated as repayment receipts as defined in section 8.2. The division shall notify in writing the legislative fiscal bureau and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by this section.**

5. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	858,333
	FTEs	20.00

The credit union division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for credit union examinations and directly result from examinations of credit unions. The amounts necessary to fund the excess examination expenses shall be collected from credit unions being regulated, and the collections shall be treated as repayment receipts as defined in section 8.2. The division shall notify in writing the legislative fiscal bureau and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by this section.

6. INSURANCE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	4,312,118
	FTEs	91.00

The division of insurance may reallocate authorized full-time equivalent positions as necessary to respond to accreditation criticisms or requirements.

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 company examinations or accreditation purposes, directly result from examinations of insurance companies or accreditation purposes, and the additional funds expended for such purposes are fully reimburseable** from insurance companies. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations or accreditation, 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 or accreditation expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination or accreditation expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess examination or accreditation expenses. The amounts necessary to fund the excess examination or accreditation expenses shall be collected from those insurance companies being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2.

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	4,391,833
	FTEs	84.00

*Item veto; see message at end of the Act

**According to enrolled Act.

The utilities division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for utility regulation. Before the division expends or encumbers an amount in excess of the funds budgeted for regulation, 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 regulation expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which regulation expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess regulation expenses. The amounts necessary to fund the excess regulation expenses shall be collected from those utility companies being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2.

Sec. 12. RACING AND GAMING COMMISSION. 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, 1992, and ending June 30, 1993, 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:

.....	$	1,655,339
.....	FTEs	18.71

Sec. 13. EXCURSION BOAT REGULATION. 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, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes for administration and enforcement of the excursion boat gambling laws, and for not more than the following full-time equivalent positions:

.....	$	619,513
.....	FTEs	12.84

Sec. 14. Section 11.4, subsection 6, unnumbered paragraph 3, Code 1991, is amended to read as follows:

The state auditor is hereby authorized to obtain, maintain, and operate, under the auditor's exclusive control such ~~offset printing~~ machinery as may be necessary to print confidential reports and documents originating in the auditor's office.

**Sec. 15.* *Section 11.5B, Code 1991, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *The reimbursement of the department or agency to the auditor of state shall be allocated to each funding source of the department or agency in proportion to the percentage each funding source is of the total funding to the department or agency.**

Sec. 16. Section 11.6, subsection 5, Code Supplement 1991, is amended to read as follows:

5. The auditor of state may, within three years of filing, during normal business hours upon reasonable notice of at least twenty-four hours, review the audit work papers prepared ~~by a certified public accountant~~ in the performance of an audit or examination conducted pursuant to this section.

Sec. 17. Section 11.6, subsection 11, Code Supplement 1991, is amended by striking the subsection.

Sec. 18. Section 13B.4, Code Supplement 1991, is amended by adding the following new subsections:

*Item veto; see message at end of the Act

NEW SUBSECTION. 5A. The state public defender shall report in writing to the general assembly on January 20 of each year regarding any funds recouped or collected pursuant to section 331.756, subsection 86, during the previous calendar year.

Sec. 19. Section 96.13, subsection 3, Code Supplement 1991, is amended to read as follows:

3. Special employment security contingency fund.

a. There is created in the state treasury a special fund to be known as the special employment security contingency fund. All interest, fines, and penalties, regardless of when they become payable, collected from employers under section 96.14 shall be paid into the fund. The moneys shall not be expended or available for expenditure in any manner which would permit their substitution for federal funds which would in the absence of the moneys be available to finance expenditures for the administration of the ~~employment security law~~ department. However, the moneys may be used as a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to the charging of the expenditures against the funds when received. The moneys may be used for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds, received for ~~or in the employment security administration fund~~ the department. The moneys in the fund are specifically made available to replace, within a reasonable time, any moneys received by this state in the form of grants from the federal government for administrative expenses which because of any action or contingency have been expended for purposes other than, or in excess of, those necessary for the proper administration of the ~~employment security law~~ department. All moneys in the fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the state treasury. Interest earned upon moneys in the fund shall be deposited in and credited to the fund.

The treasurer of state shall be the custodian of the fund and shall give a separate and additional bond conditioned upon the faithful performance of the treasurer's duties in connection with the fund in an amount and with sureties as shall be fixed and approved by the governor. The premium for the bond shall be paid from the moneys in the fund. All sums recovered on the bond for losses sustained by the fund shall be deposited in the fund. Refunds of interest and penalties shall be paid only from the fund.

Balances to the credit of the fund shall not lapse at any time but shall continuously be available to the ~~division of job service~~ department for expenditures consistent with this subsection. Moneys remaining in the fund at the end of each fiscal year shall not revert to any fund and shall remain in the fund.

b. The ~~division~~ department shall annually report to the joint ~~regulatory and finance~~ regulations appropriations subcommittee on its plans for expenditures during the next state fiscal year from the special employment security contingency fund. The report shall describe the specific expenditures and explain why the expenditures are to be made from the fund and not from federal administrative funds.

c. The ~~division~~ department may appear before the executive council and request funds to meet unanticipated emergencies.

Sec. 20. Section 117.29, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Noncompliance with the trust account requirements under section 117.46.

Sec. 21. Section 117.34, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima-facie case, request ~~the department of inspections and appeals~~ commission staff or any other duly authorized representative or designee to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee is found to be guilty of any of the following:

Sec. 22. Section 117.46, subsections 3 and 5, Code 1991, are amended to read as follows:

3. Each broker shall authorize the ~~department of inspections and appeals~~ real estate commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the ~~department~~ commission. The certification and consent shall be furnished on forms prescribed by the ~~department~~ commission. This does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager.

5. A broker may maintain more than one trust account provided the ~~department~~ commission is advised of said account as specified in subsections 2 and 3 above.

Sec. 23. Section 117.46, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The commission will verify on a test basis, a random sampling of the brokers, corporations, and partnerships for their trust account compliance as a condition of licensure renewal. Each broker, corporation, and partnership shall submit a special report or audit of their trust account to the commission when required.

The special report or audit shall be submitted with the filed renewal application or at such other time as the commission may direct. In addition, the commission may upon reasonable cause request or order an audit or special report. All audits and special reports addressed in this section shall be conducted at the expense of the broker by a certified public accountant.

NEW SUBSECTION. 7. The examination of a trust account shall have been conducted within the twelve months immediately preceding expiration of the license or at such other times as directed by the commission. The report shall be in the approved form and shall include, but is not limited to, a list of all trust account numbers examined and their location and statement indicating if the broker's trust accounts are maintained in accordance with this chapter and the rules adopted for this chapter.

NEW SUBSECTION. 8. The commission shall adopt rules to ensure implementation of this section.

Sec. 24. Section 123.24, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsection 4, the division shall assess a bottle surcharge to be included in the price of alcoholic liquor in an amount sufficient, when added to the amount not refunded to class "E" liquor control licensees pursuant to section 455C.2, to pay the costs incurred by the division for collecting and properly disposing of the liquor containers. The amount collected pursuant to this subsection, in addition to any amounts not refunded to class "E" liquor control licensees pursuant to section 455C.2, shall be deposited in the beer and liquor control fund established under section 123.53.

Sec. 25. Section 123.53, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The treasurer of state, after making the transfer provided for in subsection 3, shall transfer to the division from the beer and liquor control fund and before any other transfer to the general fund, an amount sufficient to pay the costs incurred by the division for collecting and properly disposing of the liquor containers.

Sec. 26. Section 135C.16, subsection 1, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

1. In addition to the inspections required by sections 135C.9 and 135C.38, the department shall make or cause to be made such further unannounced inspections as it deems necessary to adequately enforce this chapter. At least one general unannounced inspection shall be conducted for each health care facility within a fifteen-month period. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. An employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section

135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant to the merit system provisions of chapter 19A the discipline shall not exceed the discipline authorized pursuant to that chapter.

Sec. 27. Section 237.16, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The members of the state board shall annually select a chairperson, vice chairperson, and other officers the members deem necessary. The members ~~are~~ may be entitled to receive reimbursement for actual and necessary expenses incurred in the performance of their duties, subject to available funding. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The state board shall meet at least twice a year.

Sec. 28. Section 237.18, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Employ ~~an administrator and~~ appropriate staff in accordance with available funding. The board shall coordinate with the department of inspections and appeals regarding administrative functions of the board.

Sec. 29. Section 237.23, Code 1991, is amended to read as follows:

237.23 AUTOMATIC REPEAL.

Sections 237.15 through 237.22, Code 1987, are repealed July 1, ~~1992~~ 1996.

Sec. 30. Section 331.756, subsection 5, Code 1991, is amended to read as follows:

5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures accruing to the state or the county or to a school district or road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations which are generally considered to have knowledge and special abilities which are not generally available to state or local government or may designate another county official or agency to assist with collection efforts.

If professional collection services are procured, the county attorney shall enter on the appropriate record of the clerk of the district court an indication of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of that obligation, including all fees and compensation retained by the collection service incident to the collection and not paid into the office of the clerk.

Before a county attorney designates another county official or agency to assist with collection of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures, the board of supervisors of the county must approve the designation. Notwithstanding the disposition provisions of sections 602.8106 and 911.3, the county may retain up to thirty-five percent of all moneys collected, excluding amounts collected for victim restitution, as compensation for collection services. The county attorney shall enter on the appropriate record of the clerk of the district court an indication of the satisfaction of each obligation, including the amount retained by the county for collection services and not paid into the office of the clerk.

Sec. 31. Section 331.756, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 64A. Assist the department of revenue and finance in the implementation of the setoff under section 421.17, subsection 25, in regard to moneys owed to the state.

NEW SUBSECTION. 64B. Make a written report to the department of inspections and appeals within fifteen days of the end of each calendar quarter of the amount of funds which were owed to the state for indigent defense services and which were recouped pursuant to subsection 5 or 64A.

Sec. 32. Section 421.17, subsection 25, Code Supplement 1991, is amended to read as follows:

25. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt which is in the form of a liquidated sum due, owing, and payable ~~to the clerk of the district court~~ as a criminal fine, civil penalty, surcharge, ~~or~~ court costs, or restitution of attorney fees incurred as a result of services provided under chapters 13B and 815, and section 232.141. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the ~~clerk of the district court~~ county attorney shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the ~~clerk~~ county attorney. However, only relevant information required by the ~~clerk~~ county attorney shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The ~~clerk shall, at least quarterly and monthly if practicable,~~ county attorney, on the first day of February and August of each calendar year, shall submit to the department for setoff the debts described in this subsection, which are at least fifty dollars.

d. Upon submission of a claim the department shall notify the ~~clerk~~ county attorney if the debtor is entitled to a refund or rebate and of the amount of the refund or rebate and the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the ~~clerk~~ county attorney shall send written notification to the debtor of the ~~clerk's~~ county attorney's assertion of rights to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, and the debtor's opportunity to give written notice of intent to contest the amount of the claim. The ~~clerk~~ county attorney shall send a copy of the notice to the department.

f. Upon the request of a debtor or a debtor's spouse to the ~~clerk~~ county attorney, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the ~~clerk~~ county attorney shall notify the department of the request to divide a joint income tax refund or rebate. The department shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department shall, after notice has been sent to the debtor by the ~~clerk~~ county attorney, set off the debt against the debtor's income tax refund or rebate. The department shall transfer ~~at least quarterly and monthly if practicable,~~ sixty-five percent of the amount set off to the ~~clerk~~ treasurer of state for deposit in the general fund of the state. The remaining thirty-five percent shall be remitted to the county and deposited in the general fund of the county. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim. The ~~clerk~~ county attorney shall notify the debtor in writing upon completion of setoff.

Sec. 33. Section 421.17, subsection 26, Code Supplement 1991, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college student aid commission under subsection 23, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a ~~clerk of the district court~~ county attorney under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Sec. 34. Section 455C.2, subsection 1, Code Supplement 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", "C", and "E" liquor control licenses,~~ a 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. 35. Section 455C.3, subsection 5, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

5. The alcoholic beverages division of the department of commerce shall provide for the disposal of empty beverage containers as required under subsection 2. The division shall give priority consideration to the recycling of the empty beverage containers to the extent possible, before any other appropriate disposal method is considered or implemented.

Sec. 36. Section 910.2, Code 1991, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities and, ~~if the court so orders and~~ to the extent that the offender is reasonably able to ~~do so~~ pay, for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution is paid for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or for the expense of a public defender. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, crime victim assistance reimbursement, court costs, and court-appointed attorney's fees or the expense of a public defender. When the offender is not reasonably able to pay all or a part of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 37. NEW SECTION. 910.7A JUDGMENT — ENFORCEMENT.

1. An order requiring an offender to pay restitution constitutes a judgment and lien against all property of a liable defendant for the amount the defendant is obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property.

2. A judgment of restitution may be enforced by the state, a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

Sec. 38. Sections 123.24 and 123.53, section 455C.2, subsection 1, and section 455C.3, subsection 5, as amended in this Act, take effect September 1, 1992.

Sec. 39. 1989 Iowa Acts, chapter 272, sections 35 and 36, are repealed.

Sec. 40. 1989 Iowa Acts, chapter 272, section 42, as amended by 1990 Iowa Acts, chapter 1261, section 43, and 1991 Iowa Acts, chapter 268, section 442, is amended to read as follows:

SEC. 42. ~~Sections~~ Section 34~~, 35, and 36~~ of this Act ~~are~~ is effective ~~July~~ September 1, 1992.

Sec. 41. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, is repealed.

Sec. 42. 1991 Iowa Acts, chapter 268, section 404, subsection 2, unnumbered paragraph 2, is amended to read as follows:

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". Notwithstanding section 8.33 or this section, unencumbered and unobligated funds remaining on June 30, 1992, from the appropriations in this subsection for asbestos removal or encapsulation at the job service site located at 1000 East Grand, Des Moines, shall not revert but shall be available for expenditure for the same purpose for the fiscal year beginning July 1, 1992.

Sec. 43. The supreme court shall review the indigency criteria and procedures used by district court judges for reviewing attorney fee claims for indigent defense in an effort to implement uniform application of such criteria and procedures. This review shall be completed no later than January 1, 1993.

Sec. 44. PILOT PROJECT.

1. The state public defender shall establish a two-year pilot project to contract with private attorneys for the provision of legal services to indigent persons in two counties, with such counties to be determined by the chief justice of the supreme court, pursuant to this section.

2. If the local public defender is unable to handle a case, because of a conflict of interest or overload of cases, or if a county is not served by a local public defender, the court shall appoint other counsel for the indigent person as follows:

a. Subject to paragraph "b", the court shall appoint an attorney designated by the state public defender as a contract attorney in the county to handle the case. Appointment of contract attorneys shall be on a rotational or equalizational basis, while taking into consideration the experience of the contract attorneys and the difficulty of the case.

b. If the court determines that the nature of the charge or the complexity of the issues in a case requires that an attorney, other than the attorney or attorneys who have contracted with the state public defender, be appointed, the court may appoint a noncontract attorney that the court deems appropriate to provide legal services to the indigent person. If the court appoints a noncontract attorney under this paragraph, the court shall notify the state public defender in writing of the reasons for not appointing the attorney specified in the state public defender contract for legal services to indigent persons and submit a copy of the notification to the state public defender within five working days of the date of the appointment of other counsel.

3. This section is repealed June 30, 1994.

Sec. 45. REPORT.

1. The state public defender shall make a written report to the legislative fiscal bureau on or before January 10, 1994, concerning the pilot project established in section 44 of this Act. The report shall include the following information:

a. Type and number of cases, and the number of cases which proceed to trial, for which legal services are being provided under the pilot project.

b. The rate paid to the contract attorneys.

c. The total number of hours dedicated to providing the legal services.

d. The total cost incurred in providing the legal services.

*Item veto; see message at end of the Act

2. The information collected pursuant to subsection 1 shall be provided to the indigent defense advisory commission established pursuant to section 13B.2A, which shall review the information and make recommendations to the general assembly concerning the elimination or continuation of the use of contract attorneys in providing indigent defense. The recommendations shall be provided prior to March 1, 1994.

Sec. 46. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 47. EFFECTIVE DATES. Section 6, subsection 9, paragraph "a" and section 29, and sections 40 through 42 of this Act, being deemed of immediate importance, are effective upon enactment.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 1, unnumbered and unlettered paragraph 3 in its entirety; Section 4, subsections 1 and 2 in their entirety; Section 11, subsection 4, unnumbered and unlettered paragraph 2 in its entirety; Section 11, subsection 5, unnumbered and unlettered paragraph 2 in its entirety; Section 15 in its entirety; and Section 41 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 2455, an Act relating to and making appropriations to regulatory bodies of state government, including the auditor of state, the campaign finance disclosure commission, the department of employment services, the department of inspections and appeals, the office of the state public defender, the department of commerce, public employment relations board, and the racing and gaming commission, allocating certain standing appropriations subject to certain procedures and conditions, and providing an effective date.

House File 2455 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, unnumbered and unlettered paragraph 3, in its entirety. This provision would permit the Auditor of State to expend additional moneys and hire additional staff by merely notifying the Legislative Fiscal Committee and the Legislative Fiscal Bureau. I cannot approve this provision which would allow the Office of the Auditor of State to exceed its authorized spending level.

I am unable to approve the item designated as Section 4, subsection 1, in its entirety. This provision requires the Department of Employment Services to continue all Job Service Offices that were in operation on July 1, 1992. This removes the department's flexibility in providing services where they are most needed and in the most cost effective manner.

I am unable to approve the item designated as Section 4, subsection 2, in its entirety. This provision requires the Industrial Services Division of the Department of Employment Services to maintain the current hearing schedule for contested workers' compensation cases. The division should have the flexibility to schedule hearings and locations which are most convenient to employers and injured workers.

I am unable to approve the items designated as Section 11, subsection 4, unnumbered and unlettered paragraph 2, and Section 11, subsection 5, unnumbered and unlettered paragraph 2, in their entirety. These provisions would permit the Banking and Credit Union Divisions of the Department of Commerce to hire additional personnel without following current hiring procedures.

I am unable to approve the item designated as Section 15, in its entirety. This provision would require an agency to reimburse the Auditor of State for audit costs in proportion to all sources of funding for the agency. We should maximize the use of funds other than general funds in paying audit costs. However, reimbursements should be made in proportion to the source of funds which are paying for the activity being audited.

I am unable to approve the item designated as Section 41, in its entirety. This provision relates to the sunset of workers' compensation insurance rate regulation. By disapproving this provision, the regulations will sunset July 1, 1994.

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 2455 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1243

APPROPRIATIONS – STATE DEPARTMENTS AND AGENCIES
H.F. 2459

AN ACT relating to and making appropriations to state departments, agencies, funds, and certain other entities, providing for the payment of abandoned property and payment of workers' compensation claims of state employees, providing for centralized collection of debt owed to the state, making related statutory changes, and providing effective dates.

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

Section 1. There is appropriated from the general fund of the state to the following named agencies 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. COMMISSION ON UNIFORM STATE LAWS
For support of the commission and expenses of the members:
..... $ 19,280

2. NATIONAL CONFERENCE OF STATE LEGISLATURES
For support of the membership assessment:
..... $ 79,542

Sec. 2. REVIEW OF PROFESSIONAL, SCIENTIFIC, OR EDUCATIONAL DUES. The executive council shall review dues paid by state agencies of the executive department of state government for membership in professional, scientific, and educational organizations with the goal of reducing membership costs by one third. The executive council shall give first consideration to reductions by state agencies which have multiple memberships.

Sec. 3. WORLD FOOD PRIZE. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, before the transfer of the revenue there is appropriated from the lottery fund to the treasurer of state 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 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. 4. There is appropriated from the general fund of the state to the department of general services 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. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 463,473
..... FTEs 13.95

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 154,471
..... FTEs 11.00

3. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,032,484
..... FTEs 142.50

4. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,422,992
..... FTEs 133.00

5. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 792,636
..... FTEs 32.00

The department of general services shall not change the appropriations for the purposes designated in subsections 1 through 5 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.

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.

Sec. 5. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 1,349

2. 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:

..... $ 549,510

3. UTILITY COSTS

For payment of utility costs:

..... $ 2,000,000

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 joint administration appropriations subcommittee, and to the legislative fiscal bureau, concerning the savings generated as a result of implementation of these projects.

Notwithstanding sections 8.33 and 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, 1993, and these funds shall be used for implementation of energy conservation projects having a payback of 100 percent within a two-year to six-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.

Sec. 6. There is appropriated from the revolving funds designated to the department of general services 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. 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:

..... $ 907,489

..... FTEs 28.00

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, 1992, and ending June 30, 1993, 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:

..... $ 641,739

..... FTEs 17.00

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, 1992, and ending June 30, 1993, 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:

..... $ 574,292

..... FTEs 16.00

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, 1992, and ending June 30, 1993, which are legally payable from this fund.

The vehicle dispatcher shall report, not later than January 2, 1993, 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.

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.

Sec. 7. 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, 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 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:

..... $ 941,666
..... FTEs 17.00

2. For the governor's expenses and the lieutenant governor's expenses connected with office:

..... $ 2,597

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:

..... $ 86,100
..... FTEs 2.50

4. The ad hoc committees, councils, and task forces appointed by the governor are subject to chapters 21 and 22 and the members and the staff shall be so informed. 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:

..... $ 1,731

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.

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:

..... $ 88,293
..... FTEs 1.74

6. For payment of Iowa's membership in the national governors' conference:

..... $ 78,353

Sec. 8. There is appropriated from the general fund of the state to the office of the drug enforcement and abuse prevention coordinator 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 138,657
..... FTEs 7.50

2. 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.

For the Iowa substance abuse clearinghouse in Cedar Rapids for staff, materials, and operating expenses:

..... $ 34,625

Sec. 9. There is appropriated from the general fund of the state to the department of management 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 purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,474,360
..... FTEs 29.00

Sec. 10. There is appropriated from the road use tax fund to the department of management 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 56,000

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 1992 on or before September 1, 1992. The department shall continue this reporting for fiscal year 1993. A report on the first five months of the fiscal year is due by January 2, 1993, and a year-end report is due by September 1, 1993.

Sec. 11. There is appropriated from the general fund of the state to the department of management 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. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 67,338

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:

..... $ 50,000

Sec. 12. There is appropriated from the general fund of the state to the department of personnel 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 including the filing of quarterly reports as required in the section:

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, office services, data-word processing, and employment law and labor relations, and for not more than the following full-time equivalent positions:

..... $ 1,263,554
..... FTEs 33.25

2. FIELD SERVICES

For salaries for the personnel services and for not more than the following full-time equivalent positions:

..... $ 673,838
..... FTEs 27.00

3. PROGRAM MANAGEMENT

a. For salaries for employment and training, and for not more than the following full-time equivalent positions:

..... $ 618,565

..... FTEs 24.00

b. For salaries for compensation and benefits and for the administration of the workers' compensation fund and for not more than the following full-time equivalent positions:

..... $ 802,036

..... FTEs 25.00

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.

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. 13. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel 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 salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 3,279,418

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

a. Notwithstanding section 8.33, funds appropriated in this subsection that remain unencumbered or unobligated on June 30, 1993, 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.

b. The department of personnel shall report on or before January 1, 1993, and each six 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.

c. 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.

d. 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. 14. There is appropriated from the primary road fund to the department of personnel 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 275,346

Sec. 15. There is appropriated from the road use tax fund to the department of personnel 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 44,824

Sec. 16. There is appropriated from the general fund of the state to the department of revenue and finance 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, and for not more than the following full-time equivalent positions used for the purposes designated in subsections 1 through 6:

..... FTEs 643.75

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,030,809

2. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,510,955

3. FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 6,941,884

4. INFORMATION AND MANAGEMENT SYSTEMS

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,918,680

5. LOCAL GOVERNMENT SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,271,700

6. TECHNICAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 2,512,259

7. INSURANCE PREMIUMS

For payments of medical, dental, and life insurance premiums as required in section 79.23:

..... $ 460,000

8. SECURITY DEPOSITS

For payments of refunds on security deposits as required in section 422.52:

..... $ 600,000

9. RECORDING FEES

For payment of recording fees pursuant to section 422.26:

..... $ 48,375

10. a. 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.

b. 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.

c. 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.

Sec. 17. There is appropriated from the lottery fund to the department of revenue and finance 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 purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	7,217,285
.....	FTEs	138.55

Sec. 18. 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, 1992, and ending June 30, 1993, 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:

.....	$	1,283,202

Sec. 19. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the following purpose only if Monroe county is not reimbursed for the machinery and computer equipment tax replacement with money appropriated pursuant to section 427B.13:

To reimburse, under section 427B.12, the taxing districts of Monroe county for machinery and computer equipment tax replacement pursuant to sections 427B.10 through 427B.12 and 427B.14:

.....	$	470,000

If a state agency, other than the department of revenue and finance, has outstanding accounts receivable over six months which are delinquent, the state agency shall issue a request for proposal to private collection agencies to collect the outstanding delinquent accounts receivable. State agencies shall report to the department of revenue and finance by January 1, 1993, on the costs and returns associated with this section.

Sec. 20. 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, 1992, and ending June 30, 1993, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND ELECTIONS

For salaries, support, maintenance, relocation of office facilities outside of the state capitol building, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	445,013
.....	FTEs	10.00

*Item veto; see message at end of the Act

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,489,825
..... FTEs 40.00

Sec. 21. There is appropriated from the general fund of the state to the office of state-federal relations 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 purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 200,768
..... FTEs 2.83

Sec. 22. There is appropriated from the general fund of the state to the office of treasurer of state 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 purposes designated:

For salaries, support, maintenance, relocation of office facilities outside of the state capitol building, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 732,493
..... FTEs 28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 23. STATE CAPITOL OFFICES VACATED. The auditor of state, secretary of state, and treasurer of state, and their staff shall vacate their respective office facilities in the state capitol building on or before December 1, 1992, so as to provide more effective and efficient management and operation of state government. The auditor of state, secretary of state, and treasurer of state shall cooperate with the legislative council pursuant to section 2.43 and the director of the department of general services in relocating their respective offices to other buildings within the state capitol complex as provided in section 18.12, subsection 9. The legislative council may authorize the use of formal personal office facilities in the state capitol building by the auditor of state, secretary of state, and treasurer of state.

Sec. 24. IOWA 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, 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 Iowa special olympics fund established in the office of the treasurer of state:

..... $ 4,837

The moneys in the Iowa special olympics fund shall be expended at the request of the honorary chairperson of the Iowa special olympics.

**Sec. 25. Notwithstanding the standing appropriation in section 307.45, and 1991 Iowa Acts, chapter 267, section 507, there is appropriated from the general fund of the state to the city of Guttenberg to pay the cost of a public improvement assessment against the state-owned land the following amount:*

*..... $ 37,911**

Sec. 26. 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, 1992, and ending June 30, 1993.

*Item veto; see message at end of the Act

Sec. 27. IMPLEMENTATION OF FUNDING REDUCTIONS – INTENT OF GENERAL ASSEMBLY. It is the intent of the general assembly that the departments, agencies, and offices of the executive department of state government shall implement funding reductions through organizational changes which reduce supervisory positions, vertically and horizontally, and increase the span of control of the remaining supervisors as recommended by the governor's committee on government spending reform.

The reductions of the department of general services shall not be achieved by discontinuing the computer mainframe upgrades which began in the fiscal year 1992.

Sec. 28. Section 19A.32, Code 1991, is amended to read as follows:

19A.32 WORKERS' COMPENSATION CLAIMS.

The director ~~of the department of personnel~~ shall employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, 85B, and 86, or with the approval of the executive council contract for the services or purchase workers' compensation insurance coverage for state employees or selected groups of state employees. ~~The director shall quarterly determine an appropriate amount, based upon the cost of workers' compensation insurance, that shall be collected from the agencies, departments, or divisions which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund, and the amounts collected shall be deposited in the general fund.~~ A state employee workers' compensation fund is established to pay state employee workers' compensation claims. The department shall establish a rating formula and assess premiums to all agencies, departments, and divisions of the state including those which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund of the state. The department shall collect the premiums and deposit them into the state employee workers' compensation fund. Notwithstanding section 8.33, moneys deposited in the state employee workers' compensation fund shall not revert to the general fund of the state at the end of any fiscal year but shall remain in the state employee workers' compensation fund and be continuously available to pay state employee workers' compensation claims. The director of revenue and finance is authorized and directed to draw warrants on this fund for the payment of state employee workers' compensation claims.

Sec. 29. STATE EMPLOYEE WORKERS' COMPENSATION CLAIMS – REPEAL. Sections 85.57 and 85.58, Code 1991, are repealed.

Sec. 30. STATE WORKERS' COMPENSATION CLAIMS. There is appropriated from the general fund of the state to the department of personnel 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 distribution, subject to approval of the department of management, to various state departments to fund the premiums for paying workers' compensation claims which are assessed to and collected from the state department by the department of personnel based upon a rating formula established by the department of personnel:

..... $ 6,325,000

The premiums collected by the department of personnel shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund shall not revert.

Sec. 31. Section 421.17, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 34. a. To establish, administer and make available a centralized debt collection capability and procedure for the use by any state agency as defined in subsection 29 to collect delinquent accounts, charges, fees, loans, or other indebtedness due the state. The department's collection facilities shall only be available for use by other state agencies for their

*Item veto; see message at end of the Act

discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency.

b. The director shall establish, as provided in this section, a centralized computer data bank to compile the information provided and shall establish in the centralized data bank all information provided from all sources within the state concerning addresses, financial records, and other information useful in assisting the department in collection services.

c. The director shall establish a formal debt collection policy for use by state agencies which have not established their own policy. Other state agencies may use the collection facilities of the department pursuant to formal agreement with the department. The agreement shall provide that the information provided to the department shall be sufficient to establish the obligation in a court of law and to render it as a legal judgment on behalf of the state. After transferring the file to the department for collection, an individual state agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of the file, the department shall assume all liability for its actions without recourse to the agency, and shall comply with all applicable state and federal laws governing collection of the debt. The department has the powers granted in section 421.17 regarding setoff from income tax refunds or other accounts payable by the state for any of the obligations transferred by state agencies.

d. The department's existing right to credit against tax due shall not be impaired by any right granted to, or duty imposed upon, the department or other state agency by this section.

e. All state agencies shall be given access, at the discretion of the director, to the centralized computer data bank and may deny any license or renewal authorized by the laws of this state to any person who has defaulted on an obligation owing to the state. The confidentiality provisions of sections 422.20 and 422.72 do not apply to tax information contained in the centralized computer data bank. State agencies shall endeavor to obtain the applicant's social security or federal tax identification number, or state driver's license number from all applicants.

f. At the director's discretion, the department may accept payment of debts, interest, and fees, or any portion by credit card. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charge by the credit card issuer.

g. The director shall adopt administrative rules to implement this section, including, but not limited to, rules necessary to prevent conflict with federal laws and regulations or the loss of federal funds, to establish procedures necessary to guarantee due process of law, and to provide for reimbursement of the department by other state agencies for the department's costs related to debt collection.

h. The director shall report quarterly to the legislative fiscal committee, the legislative fiscal bureau, and the chairpersons and ranking members of the joint administration appropriations subcommittee concerning the implementation of the centralized debt collection program, the number of departmental collection programs initiated, the amount of debts collected, and an estimate of future costs and benefits which may be associated with the collection program. It is the intent of the general assembly that the centralized debt collection program will result in the collection of at least two dollars of indebtedness for every dollar expended in administering the collection program during a fiscal year. It is also the intent of the general assembly that the centralized debt collection program be administered without the anticipation of future additional commitments of computer equipment and personnel.

Sec. 32. Section 556.13, Code 1991, is amended to read as follows:

556.13 PAYMENT OR DELIVERY OF ABANDONED PROPERTY.

Every person who has filed a report under section 556.11 shall, within twenty days after the time specified in section 556.12 for claiming the property from the holder, or at the time of filing the report in the discretion of the holder, or in the case of sums payable on traveler's

checks or money orders presumed abandoned under section 556.2, or property for which the holder is not required to report the name of the owner, ~~shall, at the time of filing the report,~~ pay or deliver to the treasurer of state all abandoned property specified in this report, except that, if the owner establishes the owner's right to receive the abandoned property to the satisfaction of the holder within the time specified in section 556.12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the treasurer of state, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

Sec. 33. This Act, being deemed of immediate importance, takes effect upon enactment. However, all sections except this section and section 25, take effect on July 1, 1992.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 19, unnumbered and unlettered paragraph 3 in its entirety; Section 23 in its entirety; Sections 25 and 26 in their entirety; and Section 27, unnumbered and unlettered paragraph 2, 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 2459, an Act relating to and making appropriations to state departments, agencies, funds, and certain other entities, providing for the payment of abandoned property and payment of workers' compensation claims of state employees, providing for centralized collection of debt owed to the state, making related statutory changes, and providing effective dates.

House File 2459 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 19, unnumbered and unlettered paragraph 3, in its entirety. If a state agency has outstanding accounts receivable which are delinquent by more than six months, the agency would be required to seek the assistance of private collections agencies under certain conditions. The timing of turning collections over to private collection agencies should be determined by individual state agencies.

I am unable to approve the item designated as Section 23, in its entirety. This provision would require the Auditor of State, Secretary of State, and the Treasurer of State to vacate their office facilities in the State Capitol. Because it is appropriate for statewide elected officials to continue to be housed in the State Capitol, I am unable to approve this item.

I am unable to approve the item designated as Section 25, in its entirety. This provision appropriates nearly $38,000 in fiscal year 1992 to pay for the cost of a public improvement assessment against land owned by the state. Given the financial condition of the state, I am unable to approve of this expenditure. However, it is anticipated that other moneys will be available to pay for this assessment in fiscal year 1993.

I am unable to approve the item designated as Section 26, in its entirety. This provision relates to the Iowa Economic Emergency Fund, which was substantially modified by the provisions of Senate File 2351. Because these provisions are in conflict, I am unable to approve this item.

I am unable to approve the item designated as Section 27, unnumbered and unlettered paragraph 2, in its entirety. This provision prohibits the Department of General Services from discontinuing the upgrade of computer systems. Because the Department of General Services should retain the flexibility to manage their resources during this period of financial constraint, I am unable to approve this item.

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 2459 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1244

APPROPRIATIONS — ECONOMIC DEVELOPMENT
H.F. 2462

AN ACT appropriating funds to the department of economic development, the Iowa finance authority, the Wallace technology transfer foundation, INTERNET, state university of Iowa, and Iowa state university of science and technology, creating the strategic investment fund, replacing the Iowa economic development network with a manufacturing technology program under the Wallace technology transfer foundation, providing for economic development planning and research activities by the department of economic development, and making related and other statutory changes.

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

Section 1. There is appropriated from the general fund of the state to the department of economic development 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. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, to implement total quality management, and for not more than the following full-time equivalent positions:

.....	$	789,000
.....	FTEs	21.00

The department shall plan for and initiate a long-term process for the continuous improvement of the services provided to the citizens of Iowa using the principles of total quality management.

b. Information management center

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	361,000
.....	FTEs	6.50

c. Film office

For salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions, and for utilizing $20,000 or so much thereof as is necessary, to promote the film "Gentle Giants, Windows to our Heritage" regarding the impact of the Iowa draft horse in making Iowa the greatest food producing state in the world:

.....	$	182,000
.....	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:

..... $ 2,525,000
..... FTEs 15.00

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, the small business advisory council, targeted small business program, and business incubators, of which $46,424 shall be allocated for the administration of the targeted small business program and $50,000 shall be used to fund, with local matching funds, a targeted small business incubator in each county with a population greater than two hundred fifty thousand:

..... $ 323,000
..... FTEs 5.50

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 96,953
..... FTEs 3.00

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1993, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1993, for the same purposes.

d. Strategic investment fund

For deposit in the strategic investment fund for salaries, support, and for not more than the following full-time equivalent positions:

..... $ 4,075,733
..... FTEs 10.00

Notwithstanding section 8.33, moneys in the strategic investment fund at the end of each fiscal year shall not revert to the general fund but shall remain in the strategic investment fund.

e. Small business investment company capitalization

For transfer to the treasurer of state for the purpose of facilitating the organization and private capitalization of the small business investment company under sections 28.162 through 28.164. If the small business investment company for which the funds are to be used is not organized within eighteen months of the effective date of this Act, unused funds shall revert to the general fund of the state:

..... $ 200,000

f. Insurance economic development

There is appropriated from moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, to the department 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 insurance economic development and international insurance economic development:

..... $ 200,000

3. COMMUNITY AND RURAL DEVELOPMENT DIVISION

a. Community assistance

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:

..... $ 500,000
..... FTEs 7.50

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 353,386

..... FTEs 3.00

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund or through transfers from the Iowa community development loan fund 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.

c. Rural development program

For allocating $75,000 to the Adams community economic development corporation and for salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions for rural resource coordination, rural community leadership, and the rural enterprise fund, out of which the department may set aside a portion of the moneys for one or more pilot efforts supporting cooperative agriculture-related or livestock production projects:

..... $ 675,000

..... FTEs 3.50

The department shall allocate $75,000 to the Adams community economic development corporation for the purposes of evaluating the organizational structure of the county, the present workload of the county office functions, consolidation of county offices, and exploring state outreach services available for cross-training employees, and that the funds shall not be used by the department for any other purpose.

Notwithstanding section 8.33, moneys obligated or committed to grantees under contract from the general fund or through transfers from the Iowa community development loan fund that remain unexpended at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the contract during succeeding fiscal years.

d. Community development block grant and HOME

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:

..... $ 375,397

..... FTEs 18.75

e. 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:

..... $ 187,500

4. INTERNATIONAL DIVISION

a. International trade operations

For conducting foreign trade missions on behalf of Iowa businesses, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 375,000

..... FTEs 6.00

b. Foreign trade offices

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 743,000

..... FTEs 6.00

c. Export trade assistance 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

*Item veto; see message at end of the Act

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, provided that the department shall consult with the department of agriculture and land stewardship prior to allocating export trade assistance program moneys, including salaries and support for not more than the following full-time equivalent positions:

..... $ 334,000
..... FTEs .25

d. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

..... $ 1,400

5. TOURISM DIVISION

a. Tourism operations

For utilizing $41,586, or so much thereof as may be necessary, to be used for the operation of the interstate welcome center system, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, provided that the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing:

..... $ 691,586
..... FTEs 17.77

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:

..... $ 2,250,000

The department shall not use the moneys appropriated in this paragraph unless the department develops 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

To implement the recommendations of the statewide long-range plan for developing and operating welcome centers throughout the state, for transferring $30,000 to the city of West Branch for the purpose of conducting a study and for planning for the development of a welcome and historical center, and for a match of $25,000 if the department uses $125,000 of other moneys for a welcome center project based on the department's prioritization report, dated December 1991:

..... $ 263,625

Notwithstanding section 8.33, pursuant to 1990 Iowa Acts, chapter 1255, section 37, subsection 1, as amended by 1991 Iowa Acts, chapter 260, section 1001, the department may use up to $125,000 for a welcome center project based upon the department's prioritization report, dated December 1991. Moneys used for welcome center projects based on the department's prioritization report require a dollar-for-dollar match. 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.

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:

..... $ 1,000,000
..... 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. Job retraining program

To the community college job training fund created in section 280C.6, including salaries and support for not more than the following full-time equivalent positions:

..... $	932,831
..... FTEs	.60

c. Work force investment program

For purposes of the work force investment program, for a competitive grant program by the department in consultation with the state job training coordinating council for projects that increase Iowa's pool of available labor via training and support services with priority given to projects which serve displaced homemakers or welfare recipients, including salaries and support for not more than the following full-time equivalent positions:

..... $	500,000
..... FTEs	.90

The department shall ensure that the work force investment program is coordinated with services provided under the federal Job Training Partnership Act and that welfare recipients receive priority for services under both programs.

Notwithstanding section 8.33, moneys obligated or committed to grantees under contract that remain unexpended at the end of the fiscal year, shall not revert but shall be available for expenditure for purposes of the contract during succeeding fiscal years.

d. Labor management councils

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	195,745
..... FTEs	1.00

The department shall not use moneys appropriated in this paragraph for grants to grantees who do not facilitate the active participation of labor as members of labor management councils or who fail to 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.

7. For transfer to the Iowa product development corporation fund established in section 28.89:

..... $	887,500
..... FTEs	5.00

Sec. 2. Notwithstanding section 28.120, subsections 5, 6, and 7, and section 15.287, there is appropriated from the Iowa community development loan fund from the moneys available during the fiscal year beginning July 1, 1992, and ending June 30, 1993, to the department of economic development for the fiscal year beginning July 1, 1992, and ending June 30, 1993, $50,000, or so much thereof as is necessary, to be used for rural development financing; $20,000 to be transferred to and used by the main street program; with the remainder of the Iowa community development loan fund to be transferred only to the rural development program to be used by the department for the purposes of the program, including pilot efforts supporting cooperative agriculture-related or livestock production projects.

Sec. 3. 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, 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 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

2. For the target alliance program:

..... $ 30,000

**3. For allocation 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 on the basis of the percentage of total contact hours enrolled in apprenticeship training at community colleges as of July 1, 1992, if funds remain in the job training fund after the appropriations in subsections 1 and 2 are made:*

..... *$ 125,000**

Sec. 4. There is appropriated from the community college job training fund created in section 280C.6, subsection 1, to the department of economic development 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 purposes designated:

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 positions:

..... $ 38,954

..... FTEs .70

**Sec. 5. There is appropriated from the general fund of the state to the Iowa finance authority 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 deposit in the housing improvement fund created in section 220.100 for purposes of the fund:

..... *$ 1,623,550**

Sec. 6. There is appropriated from the general fund of the state to the Wallace technology transfer foundation 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 salaries, support, maintenance, and other operational purposes, **for providing a state match of $50,000 for present and future federal funding for the subcontractor of an existing federal grant for beef fat content research administered through the United States department of agriculture and the cooperative state research service,** for approving and submitting to the governor and general assembly not later than January 15 an annual report relating to performance goals of and efforts by the foundation to improve the modernization of industrial facilities, for funding the small business innovation research program, for funding activities as provided in section 28.158, and for transferring $75,000 of the funds appropriated in this subsection to the Iowa quality coalition for productivity enhancement projects:

..... $ 2,900,000

..... FTEs 6.00

The foundation shall transfer $50,000 to the department of natural resources for the approval of a grant to a waste paper recycling company located in Iowa which recycles waste paper into paperboard products, which grant shall be used to conduct a feasibility study for a new cogeneration plant to be located in Iowa.

Sec. 7. There is appropriated from the general fund of the state to INTERNET 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 purposes designated:

For deposit in the international network on trade fund created by the INTERNET board, provided that $290,250 shall be allocated to the department of economic development for the Iowa international development foundation for the salaries and support for not more than 5.00

*Item veto; see message at end of the Act

full-time equivalent positions for employees of the department of economic development, $96,750 shall be allocated to the peace institute, and $96,750 shall be allocated for the partner state program and the department may contract with private groups or organizations which are the most appropriate to administer this program, and the groups and organizations participating in the program shall, to the fullest extent possible, provide the funds to match the appropriation made in this section:

..... $ 828,750
..... FTEs 5.00

INTERNET shall use moneys appropriated in this section, unless otherwise specified, for the purposes set out in chapter 18B.

Of the full-time equivalent positions authorized for the Iowa international development foundation, 3.00 full-time equivalent positions shall be devoted to the agribusiness centers in Russia and the Ukraine and shall be effective upon enactment of this Act.

Sec. 8. 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, 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 funding the small business development centers:

..... $ 991,325

2. For funding the institute for physical research and technology provided that $281,360 shall be allocated to the institute for physical research and technology industrial incentive program in accordance with the legislative intent of this section:

..... $ 3,281,360

It is the intent of the general assembly that the incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from businesses, industrial foundations, and trade associations and that moneys for the institute for physical research and technology industrial incentive program shall only be allocated for projects which are matched by private sector moneys for directed contract research or for nondirected research. The match required of small businesses as defined in section 15.102, subsection 4, for directed contract research or for nondirected research shall be $1 for each $3 of state funds. The match required for other businesses for directed contract research or for nondirected research shall be $1 for each $1 of state funds. The match required of industrial foundations or trade associations shall be $1 for each $1 of state funds.

Iowa state university shall report annually to the joint economic development subcommittee of the senate and house appropriations committees the total amounts of private contributions, the proportion of contributions from small businesses and other businesses, and the proportion for directed contract research and nondirected research of benefit to Iowa businesses and industrial sectors.

Notwithstanding section 8.33, moneys appropriated for any fiscal year which remain unobligated and unexpended at the end of the fiscal year shall not revert but shall be available for expenditure the following fiscal year and the appropriation for the incentive program for the following year shall be reduced by an equal amount.

Sec. 9. There is appropriated from the general fund of the state to the university of Iowa 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 funding the advanced drug development program at the Oakdale research park:

..... $ 500,000

Sec. 10. Section 12.44, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Agencies of state government shall be required to waive the requirement of satisfaction, ~~or~~ performance, surety, or bid bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of a lack of experience, lack of net worth, or lack of capital. This waiver shall not apply to businesses with a record of repeated failure

of substantial performance or material breach of contract in prior circumstances. The waiver shall be applied only to a project or individual transaction amounting to fifty thousand dollars or less, notwithstanding section 573.2. In order to qualify, the targeted small business shall provide written evidence to the department of inspections and appeals that the bond would otherwise be denied the business. The granting of the waiver shall in no way relieve the business from its contractual obligations and shall not preclude the state agency from pursuing any remedies under law upon default or breach of contract.

Sec. 11. Section 15.108, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. ECONOMIC DEVELOPMENT PLANNING AND RESEARCH ACTIVITIES. To provide leadership and support for economic and community development activities statewide. To carry out this responsibility, the department may establish a research center for economic development programs and services whose duties may include but are not limited to the following:

a. Implementation of a comprehensive statewide economic development planning process and provision of leadership, coordination, and support to regional and local economic and community planning efforts.

b. Coordination of the delivery of economic and community development programs with other local, regional, state, federal, and private sector programs and activities.

c. Collection and analysis of data and information, development of databases and performing research to keep abreast of Iowa's present economic base, changing market demands, and emerging trends, including identification of targeted markets and development of marketing strategies.

d. Provision of access to databases to facilitate sales and exports by Iowa businesses.

e. Establishment of a database of community and economic information to aid local regional and statewide economic development and service delivery efforts.

Sec. 12. Section 15.241, unnumbered paragraphs 1 and 2, Code 1991, are amended to read as follows:

~~The department shall establish, contingent upon the availability of funds authorized for the program, a~~ A "self-employment loan program~~,~~ account" is established within the strategic investment fund created in section 15.313 to provide funding for the self-employment loan program which is to be conducted in coordination with the job training partnership program and other programs administered under section 15.108, subsection 6, paragraph "c". The department may contract with local community action agencies or other local entities in administering the program, and shall work with the department of employment services and the department of human services in developing the program.

The self-employment loan program shall administer a low-interest loan program to provide loans to low-income persons for the purpose of establishing or expanding small business ventures. The terms of the loans shall be determined by the department, but shall not be in excess of ~~five~~ ten thousand dollars to any single applicant or at a rate to exceed five percent simple interest per annum. ~~A self-employment loan program revolving loan fund shall be established within the department.~~ The department shall maintain records of all loans approved and the effectiveness of those loans in establishing or expanding small business ventures.

Sec. 13. Section 15.241, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Payments of interest, recaptures of awards, and repayments of moneys loaned under this program shall be deposited into the strategic investment fund.

Sec. 14. Section 15.247, subsections 2 and 3, Code 1991, are amended to read as follows:

2. ~~The department shall establish, contingent upon the availability of funds authorized for the program, a~~ A "targeted small business financial assistance program account" is established

within the strategic investment fund created in section 15.313, to provide for loans, loan guarantees, revolving loans, loans secured by accounts receivable, or grants to targeted small businesses. A targeted small business in any year shall receive under this program not more than twenty-five thousand dollars in a loan or grant, and not more than forty thousand dollars in a guarantee, or a combination of loans, grants, or guarantees. The program shall provide guarantees not to exceed seventy-five percent for loans made by qualified lenders. The department shall establish a financial assistance reserve account from funds ~~provided for this~~ allocated to the program account, from which any default on a guaranteed loan under this section shall be paid. In administering the program the department shall not guarantee loan values in excess of the amount credited to the reserve account and only moneys set aside in the loan reserve account may be used for the payment of a default.

3. All moneys designated for the targeted small business financial assistance program shall be credited to the ~~financial assistance reserve~~ program account. ~~The department shall also establish an administrative account from which the operating costs of the program shall be paid. The department may transfer moneys between the reserve and the administrative accounts except that not more than twenty-five percent of the moneys shall be used to administer the fund.~~ The department shall determine the actuarially sound reserve requirement for the amount of guaranteed loans outstanding.

Sec. 15. Section 15.247, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Payments of interest, recaptures of awards, and repayments of moneys loaned under this program shall be deposited into the strategic investment fund.

Sec. 16. NEW SECTION. 15.311 STRATEGIC INVESTMENT FUND.

This part shall be known as the "Iowa Strategic Investment Fund" program.

Sec. 17. NEW SECTION. 15.312 PURPOSE.

The purpose of this part shall be to provide a mechanism for funding those programs listed in section 15.313, subsection 2, in order to more efficiently meet the needs identified within those individual programs.

Sec. 18. NEW SECTION. 15.313 STRATEGIC INVESTMENT FUND.

1. An Iowa strategic investment fund is created as a revolving fund consisting 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. The fund shall also include all of the following:

a. All unencumbered and unobligated funds from the special community economic betterment program fund created under 1990 Iowa Acts, chapter 1262, section 1, subsection 18, remaining on June 30, 1992, all repayments of loans or other awards made under the community economic betterment account or under the community economic betterment program during any fiscal year beginning on or after July 1, 1985, and recaptures of awards.

b. All unencumbered and unobligated funds from the self-employment loan program, the targeted small business financial assistance program, the microenterprise development revolving fund, financing rural economic development or successor loan program, and the value-added agricultural products and processes financial assistance fund remaining on June 30, 1992, and all repayments of loans or other awards or recaptures of awards made under these programs.

Notwithstanding section 8.33, moneys in the strategic investment fund at the end of each fiscal year shall not revert to any other fund but shall remain in the strategic investment fund for expenditure for subsequent fiscal years.

2. The assets of the fund shall be used by the department for the following programs and purposes:

a. The community economic betterment program created in sections 15.315 through 15.320.

b. The value-added agricultural products and processes financial assistance program created in sections 28.111 and 28.112.

c. The business development finance corporation created in sections 28.131 through 28.149.

d. The self-employment loan program created in section 15.241.

e. The targeted small business financial assistance program created in section 15.247.

f. To provide comprehensive management assistance for applicants or recipients of assistance from programs supported by the fund.

g. If funds are available under a federal microloan demonstration program, a portion of the moneys in the strategic investment fund may be utilized to access those federal funds to expand the state's small business financial assistance programs including the self-employment loan program and the targeted small business financial assistance program.

3. The director shall submit annually at a regular or special meeting preceding the beginning of the fiscal year, for approval by the economic development board, the proposed allocation of funds from the strategic investment fund to be made for that fiscal year to the community economic betterment program, the value-added agricultural products and processes financial assistance program, the business development finance corporation, the self-employment loan program, and the targeted small business financial assistance program and for comprehensive management assistance. If funds are available under a federal microloan demonstration program, the director may recommend an allocation for that purpose. The plans may provide for increased or decreased allocations if the demand in a program indicates that the need exceeds the allocation for that program. The director shall report on a monthly basis to the board on the status of the funds and may present proposed revisions for approval by the board in January and April of each year. Unobligated and unencumbered moneys remaining in the strategic investment fund or any of its accounts on June 30 of each year shall be considered part of the fund for purposes of the next year's allocation.

Sec. 19. NEW SECTION. 15.315 COMMUNITY ECONOMIC BETTERMENT PROGRAM.

This part shall be known as the "Community Economic Betterment Program."

Sec. 20. NEW SECTION. 15.316 PURPOSE.

The purpose of this program is to assist communities and rural areas of the state with their economic development efforts and to increase employment opportunities for Iowans by increasing the level of economic activity and development within the state.

Sec. 21. NEW SECTION. 15.317 PROGRAM.

1. The department shall establish a program to effectuate the purposes of this part by providing financial assistance for small business gap financing, new business opportunities, and new product and entrepreneurial development. These purposes may be accomplished by providing the following types of assistance:

a. A principal buy-down program to reduce the principal of a business loan.

b. An interest buy-down program to reduce the interest of a business loan.

c. Loans or forgivable loans to aid in economic development.

d. Loan guarantees for business loans made by commercial lenders.

e. Equity-like investments.

2. Only a political subdivision of this state may apply to receive funds for any of the purposes specified in subsection 1. The political subdivision shall make application to the department specifying the purpose for which the funds will be used.

3. The department shall not provide more than one million dollars for any project, unless approved by at least two-thirds of the members of the economic development board.

Sec. 22. NEW SECTION. 15.318 RATING FACTORS AND CRITERIA.

In ranking applications for funds, the department shall consider a variety of factors including, but not limited to, the following:

1. The proportion of local match to be provided.

2. The proportion of private contributions to be provided, including the involvement of financial institutions.

3. The total number of jobs to be created or retained.

4. The size of the business receiving assistance. The department shall award more points to small businesses as defined by the United States small business administration than to other businesses.

5. The potential for future growth in the industry represented by the business being considered for assistance.

6. The need of the business for financial assistance from governmental sources. The department shall award more points to a business for which the department determines that governmental assistance is most necessary to the success of a project, than to other businesses.

7. The quality of the jobs to be created. In rating the quality of the jobs the department shall award more points to those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, provide comprehensive health benefits, or have other related factors which could be considered to be higher in quality, than to other jobs. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.

8. The level of need of the political subdivision.

9. The impact of the proposed project on the economy of the political subdivision.

10. The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

11. The impact to the state of the proposed project. In measuring the economic impact the department shall award more points for projects which have greater consistency with the state strategic plan than other projects. Greater consistency may include any or all of the following:

a. A business with a greater percentage of sales out-of-state or of import substitution.

b. A business with a higher proportion of in-state suppliers.

c. A project which would provide greater diversification of the state economy.

d. A business with fewer in-state competitors.

e. A potential for future job growth.

f. A project which is not a retail operation.

12. If a business has a record of violations of the law over a period of time that tends to show a consistent pattern, the business shall be given the lowest ranking for providing assistance. The department shall make a good faith effort to compile this information.

13. If a business has, within three years of application for assistance, acquired or merged with an Iowa corporation or company, whether the business has made a good faith effort to hire the workers of the acquired or merged company.

14. Whether a business provides for a preference for hiring residents of the state or of the economic development area, except for out-of-state employees offered a transfer to Iowa or to the economic development area.

15. Whether all known required environmental permits have been issued and regulations met before moneys are released.

Sec. 23. NEW SECTION. 15.319 MONITORING OF JOB CREATION AND RETENTION.

1. The department shall develop definitions for the terms "job creation" and "job retention" to measure and identify the actual number of permanent, full-time positions which businesses actually create or retain and which can be documented by comparison of the payroll reports during the twenty-four-month period after awards to the businesses are made.

2. The department shall document the actual job creation and retention effects of all businesses receiving financial assistance from the program in the context of the employer contribution and payroll reports filed by the businesses.

3. The department shall require businesses which receive assistance from the program to submit historical copies of the employer contributions and payroll reports with the application for funds, require businesses to submit the reports after an award is made on a timely basis, and require businesses to estimate the expected job creation and retention effects for the twelve-month and twenty-four-month periods after an award is made in terms of the number of employees and total wages as documented in the payroll reports.

Sec. 24. NEW SECTION. 15.320 COMMUNITY ECONOMIC BETTERMENT PROGRAM ACCOUNT.

1. A community economic betterment program account is established within the strategic investment fund to be used by the department for the community economic betterment program. The account shall consist of all appropriations, grants, or gifts received by the department specifically for use under this part and any moneys allocated to the community economic betterment program account from the strategic investment fund.

2. Payments of interest, repayments of moneys loaned under the community economic betterment program, or recaptures of awards shall be deposited into the strategic investment fund.

Sec. 25. Section 28.111, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department of economic development may grant financial or technical assistance to a person eligible to receive assistance under this section, upon review and evaluation of the person's application by the agricultural products advisory council as established in section 15.203. ~~The council shall make recommendations to approve or disapprove an application to the department.~~ The department shall consider the ~~recommendations~~ council's evaluation in granting or denying assistance. The department shall not approve an application for assistance under this section to refinance an existing loan~~,~~ or to finance traditional agricultural operations. An application is eligible for consideration if the application seeks assistance for any of the following purposes:

Sec. 26. Section 28.112, Code Supplement 1991, is amended to read as follows:

28.112 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE ~~FUND~~ ACCOUNT.

1. ~~The department may establish a~~ A value-added agricultural products and processes financial assistance ~~fund~~ account is established within the strategic investment fund created in section 15.313. The ~~fund~~ account shall ~~be a revolving fund composed~~ consist of any money appropriated by the general assembly for that purpose, moneys allocated to the account from the strategic investment fund, 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~~ account. Except as otherwise provided in subsection 2, the assets of the ~~fund~~ account 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~~ account 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~~ account 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.

3. ~~Section 8.33 shall not apply to moneys in the fund.~~ Payments of interest, recaptures of awards, or repayments of moneys loaned under the value-added agricultural products and processes financial assistance program shall be deposited into the strategic investment fund.

Sec. 27. Section 28.148, Code 1991, is amended to read as follows:

28.148 STATE ASSISTANCE FUND.

There is created in the treasurer of state's office a "business development finance corporation assistance fund". The fund shall consist of all appropriations, grants, or gifts received by the treasurer specifically for assistance under this division and moneys allocated from the strategic investment fund created in section 15.313. Moneys in this fund are appropriated to the corporation for the purposes stated in this division. Moneys allocated to this fund for purposes of the capital access program and repayments of moneys or recaptures of awards from the capital access program which remain unobligated at the end of a fiscal year may be returned to the strategic investment fund upon approval of the board of directors of the business development finance corporation.

Sec. 28. Section 28.156, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Carry out the duties specified in section 28.166 regarding the manufacturing technology program and adopt rules pursuant to chapter 17A for the monitoring and enforcement of contracts awarded to community colleges to carry out the purposes of the program. The foundation may withhold the disbursement of funds for failure to comply with the elements required to be included in the contracts.

Sec. 29. Section 28.158, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For the manufacturing technology program.

Sec. 30. NEW SECTION. 28.162 IOWA BUSINESS INVESTMENT CORPORATION — PURPOSE.

1. The purpose of this section is to provide for the incorporation under chapter 504A of a nonprofit corporation to organize, capitalize, and fund an Iowa-based small business investment company which shall have the purpose of increasing the availability of funds for investment in and loans to Iowa small businesses on a regional basis. The small business investment company shall be incorporated under the Iowa law.

2. In addition to the powers granted under chapter 504A, the corporation shall have the power to invest in the small business investment company and to serve as guarantor of the preferred stock of the small business investment company.

In exchange for the guaranty, the corporation shall receive warrants for a percentage of the preferred stock of the small business investment company. The guaranty shall expire ten years after the guaranty agreement is entered into. The corporation shall only be liable as guarantor in the event that capital replenishment becomes necessary due to federal small business administration requirements or in the event of a capital loss upon liquidation of the small business investment company.

Sec. 31. NEW SECTION. 28.163 BOARD OF DIRECTORS OF CORPORATION.

1. The powers of the corporation are vested in and shall be exercised by the board of directors. The directors shall serve a term of three years. Each term shall begin and end as provided in section 69.19. No more than a simple majority of the members of the board shall belong to the same political party as provided in section 69.16.

2. The board shall consist of three members appointed as follows:

a. One member appointed by the governor or the governor's designee.

b. One member shall be the treasurer of state or the treasurer's designee.

c. One member shall be a private citizen appointed by the legislative council. This member shall be well qualified and shall have at least five years of experience in a responsible position in a business involved in investing in business concerns.

3. The board shall annually elect one member as chairperson and one member as secretary. The board may elect other officers of the corporation as necessary.

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

Sec. 32. NEW SECTION. 28.164 SMALL BUSINESS INVESTMENT COMPANY.

1. The small business investment company organized pursuant to section 28.162 and this section may make investments in the common and preferred stock of and may make loans to or purchase the debt obligations of Iowa small businesses which are unable to raise equity capital or obtain financing from conventional sources. The criteria for investment in or loans to Iowa small businesses by the small business investment company shall include geographic distribution, economic diversity, potential for job creation and retention, and potential for long-term success.

2. The small business investment company shall comply with the small business investment company licensing requirements of the federal small business administration.

3. The capital of the small business investment company shall consist of shares sold on a regional basis to banks, insurance companies, finance companies, savings institutions, other corporations, limited liability companies, partnerships, and individuals. For the purposes of section 28.162 the shares acquired by each investor shall be divided equally between common and preferred shares.

4. Applications to the small business investment company for investments and loans shall originate within the regions set out in section 28H.1. For the purposes of this section, Boone, Dallas, Jasper, Marion, Polk, Story, and Warren counties shall constitute a region.

5. The operations of the small business investment company shall be conducted by a private manager contracted for by the board of directors of the company on the basis of the manager's expertise and record in the making or procuring of investments in and loans to small businesses. The small business investment company shall be operated in accordance with federal small business administration regulations.

6. The board of directors of the small business investment company shall consist of not less than seventeen nor more than twenty-one persons who shall be elected by the private shareholders from each of the seventeen regions set out in subsection 4.

7. To qualify for the guaranty under section 28.162, the small business investment company shall satisfy the conditions set out in this section and those of the federal small business administration, provided that federal small business administration requirements shall take precedence over the requirements of this section.

Sec. 33. NEW SECTION. 28.165 PURPOSE — INTENT.

The purposes of the manufacturing technology program are:

1. To create and stimulate economic opportunity by providing technical assistance to individual industry or to industrial sectors in this state.

2. To assist in the identification of opportunities for modernization and increased competitiveness of individual business or industry or industrial sectors.

3. To assist individual business and industry or industrial sectors to integrate state-of-the-art technologies and processes.

4. To provide specific programs for individual industry or industrial sectors by:

a. Developing partnerships and coordination between statewide and regional providers of services for modernization and increased competitiveness for Iowa industry.

b. Establishing an industrial contact outreach program to evaluate the need for technical services and implementing an industrial needs assessment database.

c. Collaborating with a network of specialized technology resource sites throughout the state.

5. To facilitate the transfer of university research that is available for commercial application to individual industry or industrial sectors.

6. To provide technical assistance to existing individual industry or industrial sectors or nonmanufacturing business regarding available technological and management innovations to improve products, processes, and management systems, including implementation of total quality management methods.

Sec. 34. NEW SECTION. 28.166 REGIONALLY BASED MANUFACTURING TECHNOLOGY PROGRAM.

1. Contingent on the availability of funding from sources other than the general fund of the state or other state funds, the executive director of the foundation shall contract with six or more community colleges for employment of an industrial technology outreach specialist to work with individual industry or industrial sectors to determine company needs and provide technical assistance or referral to services, or to coordinate with other service providers to determine how services should be accessed or provided. However, if the foundation does not receive funding from other sources, the executive director shall contract with at least four community colleges. The contract shall include but is not limited to the following:

a. The establishment of an industrial technology outreach program that will identify needs of individual industry or industrial sectors.

b. Criteria for assuring access to programs and services to assist individual industry or industrial sectors.

c. An annual budget for operation of the program and activities agreed to in the contract including provisions related to the transfer of funds to the community college, as agreed upon by the president of the community college and the executive director.

d. Performance measures for quarterly and annual evaluation of the program and activities agreed to in the contract. The foundation may withhold the disbursement of funds for failure to achieve criteria established in the contract.

e. The duties of the industrial technology outreach specialist.

f. The provision of technical assistance to existing individual industry or industrial sectors or nonmanufacturing business regarding available technological and management innovations to improve products, processes, and management systems, including implementation of total quality management methods.

2. The foundation may provide or contract for the delivery of technical services to individual industry or industrial sectors.

3. The executive director of the foundation shall issue requests for proposals to the community colleges and shall select the best proposals after considering, among other factors, the geographic distribution of the provision of the program services to areas of the state which do not serve a city with a population over twenty thousand, the number of small and medium-sized industries within the community college district, and the level of community college interaction with those industries. Community colleges in contiguous regions may submit a joint proposal.

**Sec. 35. Section 29C.9, subsections 7 and 8, Code 1991, as amended by 1992 Iowa Acts, Senate File 390, section 10, are amended to read as follows:*

7. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission duties as described in the division's administrative rules. Each commission shall appoint a county emergency management coordinator who shall meet the qualifications specified in the administrative rules by the administrator of the emergency management division. However, in counties having a population of twenty-five thousand or less, an emergency management coordinator is not required to meet the qualifications specified by the administrator of the emergency management division. *Additional emergency management personnel may be appointed at the discretion of the commission.*

8. The commission shall develop, adopt, and submit for approval by local governments within the county, a comprehensive county-wide emergency operations plan which meets standards adopted by the division in accordance with chapter 17A. If an approved comprehensive county-wide emergency operations plan has not been prepared according to established standards and the administrator of the emergency management division finds that satisfactory progress is not being made toward the completion of the plan, or if the administrator finds that a local emergency management commission has failed to appoint a qualified emergency management coordinator as provided in this chapter, the administrator shall notify the governing bodies of the counties and cities affected by the failure and the governing bodies shall not

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appropriate any moneys to the local emergency management fund until the disaster plan is prepared and approved or a qualified emergency management coordinator is appointed. If the administrator finds that a city or a county has appointed an unqualified emergency management coordinator, the administrator shall notify the governing body of the city or county citing the qualifications which are not met and the governing body shall not approve the payment of the salary or expenses of the unqualified emergency management coordinator. However, in counties having a population of twenty-five thousand or less, funding sanctions in this subsection based solely on the qualifications of an emergency management coordinator do not apply.*

Sec. 36. Section 73.18, Code Supplement 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, the administrator of each area education agency, the president of each community college, and the superintendent of each school district 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~~ consult a directory of certified targeted small businesses produced by the department of economic development that lists all certified targeted small businesses by category of goods or services provided prior to or upon release of the solicitation and shall send a copy of the request for proposal or solicitation to any appropriate targeted small business listed in the directory. The Iowa department of economic development may charge the department, agency, area education agency, community college, or school district a reasonable fee to cover the cost of producing, distributing, and updating the directory. ~~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 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. 37. Section 99E.31, subsection 2, Code 1991, is amended by striking the subsection.

Sec. 38. Section 99E.32, subsection 2, Code Supplement 1991, is amended by striking the subsection.

**Sec. 39.* *Section 280B.6, Code 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *7. Notwithstanding any other provision of this chapter to the contrary, a community college may use funds available from the retirement of certificates for the purposes of sections 280A.44 and 280A.46 and for economic development purposes. The funds may be used for these purposes for a period of five years following the date a certificate is retired.**

**Sec. 40.* NEW SECTION. *307.41 MAINTENANCE FACILITIES.*

*The department shall maintain maintenance facilities within the boundaries of every county with a population in excess of eight thousand persons in which the department maintains a maintenance facility as of January 1, 1988.**

Sec. 41. Section 321.19, subsection 2, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Any person, firm, corporation, or company operating an urban transit system shall pay to the county treasurer annually as a registration fee for each bus, car, or vehicle used in the transportation of passengers, five dollars, which shall be paid into the city general fund. Any urban transit company operated by a municipality is not required to pay such registration fees.~~ The department, in accordance with subsection 1, shall furnish distinguishing plates for vehicles used by urban transit companies operated by a municipality. No other provision of law providing for the payment of taxes, registration, or license fees for vehicles shall be applicable to any bus, car, or vehicle for the transportation of passengers owned and operated by any urban transit company.

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Sec. 42. Section 321.22, subsection 4, Code 1991, is amended by striking the subsection.

**Sec. 43. Section 368.7, unnumbered paragraphs 2 and 3, as amended by 1992 Iowa Acts, Senate File 2290, section 2, is amended to read as follows:*

An application for annexation of territory not within an urbanized area 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, however, the applicant shall be given an opportunity to amend or correct its application to eliminate any island. *The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.*

An application for annexation of territory within an urbanized area 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. If the board, committee, or secretary of state determines that granting an application or petition would create an island, or that the application or petition is in violation of a requirement of this chapter, the applicant or petitioner shall be given reasonable opportunity, after notice thereof from the board, committee, or secretary of state, to amend or otherwise correct such application or petition. *Notice of the application shall be mailed by certified mail, by the city to which the annexation is directed, at least ten days prior to any action by the city council on the application 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 application shall be published in an official county newspaper in each affected county at least ten days prior to any action by the city council on 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. 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. 44. Section 455B.310, subsection 2, paragraph b, subparagraph (1), Code Supplement 1991, is amended to read as follows:

(1) 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 subparagraph 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 transfer existing contracts to one or more community colleges or councils of governments and shall revise the criteria and rules for this program to allow community colleges or councils of governments ~~or regional planning councils~~ to be applicants for competitive grants.

Sec. 45. Section 455D.16, Code 1991, is amended to read as follows:

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455D.16 PACKAGING PRODUCTS — RECYCLING — PROHIBITION OF POLYSTYRENE PRODUCTS.

The department, in cooperation with businesses involved in the manufacturing and use of packaging products or food service items, shall establish a recycling program to increase the recycling of packaging products or food service items by twenty-five percent by ~~January 1, 1992~~ July 1, 1993, and by fifty percent by ~~January 1, 1993~~ July 1, 1994. If the recycling goals are not reached, beginning January 1, ~~1994~~ 1995, a person shall not manufacture, offer for sale, sell, or use any polystyrene packaging products or food service items in this state.

Sec. 46. Section 490.1422, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A corporation administratively dissolved under section 490.1421 may apply to the secretary of state for reinstatement within ~~two~~ ten years after the effective date of dissolution. The application must meet all of the following requirements:

Sec. 47. Section 508.10, unnumbered paragraph 2, Code 1991, is amended to read as follows:

An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part, and if so approved is deemed to be organized under the laws of this state and is an Iowa domestic insurer as provided by rules adopted by the commissioner. The approval of the commissioner may be based upon such factors as:

Sec. 48. NEW SECTION. 634.7 PUBLIC GRANTS BY PRIVATE FOUNDATIONS OR TRUSTS.

A grant, by a trust organized and funded prior to January 1, 1992, to which this chapter applies, to the state of Iowa, or a political subdivision, or agency of the state or political subdivision, for purposes of economic development, shall be regarded as a charitable contribution if made prior to January 1, 1994.

Sec. 49. Notwithstanding the provision in section 15.313 granting the director of the department of economic development discretion in the allocation of the moneys to the various accounts in the strategic investment fund, for the fiscal year beginning July 1, 1992, 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.

Sec. 50. All loan repayments under the rural community 2000 program shall be transferred to the Iowa finance authority housing improvement fund under section 220.100.

Sec. 51. Sections 15.301 through 15.307, Code 1991, are repealed.

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as those portions of Section 1, subsection 3, paragraph c which are herein bracketed in ink and initialed by me; Section 3, subsection 3 in its entirety; Section 5 in its entirety; those portions of Section 6 which are herein bracketed in ink and initialed by me; Section 35 in its entirety; Sections 39 and 40 in their entirety; and Section 43 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 2462, an Act appropriating funds to the department of economic development, the Iowa finance authority, the Wallace technology transfer foundation, INTERNET, state university of Iowa, and Iowa state university of science and technology, creating the strategic investment fund, replacing the Iowa economic development network with a manufacturing technology program under the Wallace technology transfer foundation, providing for economic development planning and research activities by the department of economic development, and making related and other statutory changes.

House File 2462 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 1, subsection 3, paragraph c. This provision would appropriate $75,000 for a specific economic development project. Projects such as this are eligible for funding under the Rural Enterprise Fund. Appropriate plans and applications for specific projects should be submitted to the Department of Economic Development and be reviewed on a competitive basis with other locally initiated projects. By disapproving this provision, the Department of Economic Development will revert $75,000 to the general fund of the state at the end of fiscal year 1993.

I am unable to approve the item designated as Section 3, subsection 3, in its entirety. This provision would appropriate moneys from the job training fund to community colleges for apprenticeship programs. I support the establishment of apprenticeship programs and encourage trade associations to sponsor such programs. However, because the availability of sufficient funds from the job training fund is uncertain, I am unable to approve this item.

I am unable to approve the item designated as Section 5, in its entirety. This section would provide funding for housing assistance programs. Iowa recently received an award of $9.5 million from the federal National Affordable Housing Act which will provide significant new funding for housing programs. I will continue to seek other alternative funding sources for Iowa's housing needs.

I am unable to approve the designated portions of Section 6. These provisions would appropriate $50,000 for beef fat content research and appropriate $50,000 for a feasibility study for a new cogeneration plant. The Wallace Technology Transfer Foundation has established a peer review process to evaluate applications for financial assistance awarded to projects such as these. This evaluation process assures that applications are consistent with the Foundation's strategic plan and have the highest potential for development of transferable technologies. These projects should be submitted to the Foundation and be subject to the regular review process. By disapproving these provisions, the Wallace Technology Transfer Foundation will revert $100,000 to the general fund of the state at the end of fiscal year 1993.

I am unable to approve the item designated as Section 35, in its entirety. This provision would exempt Emergency Management Coordinators in counties of less than 25,000 population from meeting qualifications for that position. This could make the counties ineligible to receive federal grants under emergency management assistance program rules. Administrative rules have been developed in cooperation with the Iowa Emergency Management Directors Association and can allow for temporary certification while coordinators receive training. Current law allows two or more adjacent counties to share a coordinator.

I am unable to approve the item designated as Section 39, in its entirety. This section would allow for the continued collection of incremental income and property withholding taxes for up to five years after training certificates have been retired. The funds collected during this five-year period could be used for apprenticeship programs, program and administrative sharing programs between community colleges and Regent universities and other economic development purposes. While I understand the desire to provide an alternative source of funding for community college programs, this provision goes far beyond the original intent of the uses for the taxes, and cannot be approved.

I am unable to approve the item designated as Section 40, in its entirety. This item places an inappropriate restriction on the Department of Transportation's ability to adjust to changing needs.

I am unable to approve the item designated as Section 43, in its entirety. Changes made by this section would allow a city to amend an application for annexation after it has been submitted to the City Development Board if it is determined that the application would create an island or would be in violation of a requirement of Chapter 368. Current board policy allows a city to correct a minor technical defect or omission in a filed application. If an application is flawed to the extent that it is in violation of Chapter 368, the application should be withdrawn and resubmitted.

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 2462 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1245

COMPENSATION FOR PUBLIC EMPLOYEES
H.F. 2490

AN ACT relating to compensation and benefits for public employees by providing adjustments for salaries, by providing for other properly related matters, by making appropriations, and providing retroactive applicability.

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

**Section 1.* *COLLECTIVE BARGAINING AGREEMENTS FUNDED — GENERAL FUND APPROPRIATION FOR COVERED AND NONCOVERED EMPLOYEES. 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 for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, $101,009,928, or so much thereof as may be necessary, to fully 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 university of northern Iowa faculty bargaining unit.

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.

*Item veto; see message at end of the Act

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

*11. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 2 and 3 of this Act for employees not covered by a collective bargaining agreement.**

Sec. 2. NONCONTRACT STATE EMPLOYEES – GENERAL.

1. Effective July 3, 1992, all pay plans provided for in section 19A.9, subsection 2, as they existed for the fiscal year ending June 30, 1991, shall be increased as of July 1, 1991, for employees who are not included in a bargaining agreement made final under chapter 20 and who are not otherwise specified in this Act, by not less than nor more than 2 percent. Effective July 3, 1992, the pay plans established as of July 1, 1991, in this subsection shall be increased by not less than nor more than 4 percent. The department of personnel shall revise the pay plans as provided under section 19A.9, subsection 2, by increasing the salary levels of the various grades within the respective plans as provided in this subsection. The employees shall receive a bonus of four hundred dollars each, payable in December 1992. In addition to the increases specified above, employees may receive a merit increase in accordance with policies to be adopted by the department of personnel for the reimplementation of merit increases. This subsection does not authorize annual pay adjustments, interest, and related benefits pursuant to the increase in the pay plans for the fiscal year beginning July 1, 1991, and ending June 30, 1992.

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 percentages and in the same manner as provided in subsection 1, including the bonus of four hundred dollars in December 1992 and the merit increases.

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 pay plans for the bargaining eligible employees of the state shall be increased by the same percentages and in the same manner as provided in subsection 1, including the bonus of four hundred dollars in December 1992 and merit increases. As used in this section, "bargaining eligible employee" means an employee who is eligible to organize under chapter 20, but has not done so.

5. The policies for implementation of this section shall be approved by the governor.

Sec. 3. NONCONTRACT STATE EMPLOYEES – STATE BOARD OF REGENTS. The funds allocated to the state board of regents for the purpose of providing increases for employees not covered by a collective bargaining agreement shall be used as follows:

1. The amount necessary to fund for the fiscal year beginning July 1, 1992, and ending June 30, 1993, an average base salary increase in an amount equal to the salary increase received by state employees in subsection 1 of section 2 of this Act for the fiscal year beginning July 1, 1992, of the base salaries of professional and scientific staff members, except board office employees as provided for in section 2 of this Act, paid during the preceding fiscal year, to be allocated to professional and scientific staff members at the discretion of the state board of regents.

2. For employees under the state board of regents merit system who are not included in the collective bargaining agreement made final under chapter 20, except board office employees, the amount necessary to fund an average base salary increase in an amount equivalent to the salary increase received by state employees in subsection 1 of section 2 of this Act for the

*Item veto; see message at end of the Act

fiscal year beginning July 1, 1992, to be allocated to the employees of the state board of regents merit system who are not included in the collective bargaining agreement made final under chapter 20 at the discretion of the state board of regents. The employees shall receive a bonus of four hundred dollars each, payable in December 1992. In addition to the increases specified above, employees may receive a merit increase or the equivalent of a merit increase.

3. For faculty members who are not included in the collective bargaining agreement made final under chapter 20, for the fiscal year beginning July 1, 1992, and ending June 30, 1993, an average base salary increase of 7 percent for the fiscal year beginning July 1, 1992, to be allocated at the discretion of the state board of regents.

Sec. 4. REGIONAL LIBRARIES. Of the funds appropriated from the general fund of the state in section 1 of this Act, the department of management shall allocate funds to pay the state's share of authorized salary increases for the fiscal year beginning July 1, 1992, and ending June 30, 1993, for regional libraries.

Sec. 5. APPROPRIATIONS FROM ROAD FUNDS.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 5,159,862

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 14,030,835

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 reimbursements, and related benefits for public employees as provided in the Act.

Sec. 6. BACK PAY. The moneys appropriated in this Act shall also be used to pay annual pay adjustments, interest, and related benefits due employees covered by collective bargaining agreements negotiated pursuant to chapter 20 for the fiscal year beginning July 1, 1991, and ending June 30, 1992.

Sec. 7. SPECIAL FUNDS – AUTHORIZATION. 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. 8. GENERAL FUND SALARY MONEYS. 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. 9. FEDERAL FUNDS APPROPRIATED. 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. 10. PERSONNEL COMPARABLE WORTH STUDY. The department of personnel 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, including possible disparities affecting compensation equity. The department shall complete its study and report its findings and recommendations to the general assembly by February 1, 1993. A committee shall be appointed to supervise the study and*

*Item veto; see message at end of the Act

shall have seven members, including six legislators and one member appointed by the governor. The legislative members shall consist of two members of the majority party and one member of the minority party from the house of representatives and the senate. The legislative members shall be selected by the speaker of the house, the majority leader of the senate, and the minority leaders of the house of representatives and the senate.

*The judicial department shall conduct a separate study of the impact of the salary adjustment provisions of this Act related to the judicial department.**

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 1 in its entirety; Section 4 in its entirety; and Section 10 in its entirety. My reasons for vetoing those 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 2490, an Act relating to compensation and benefits for public employees by providing adjustments for salaries, by providing for other properly related matters, by making appropriations, and providing retroactive applicability.

House File 2490 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 1, in its entirety. This item appropriates $101,009,928 from the general fund to cover the estimated cost of salary increases for state employees.

I strongly object to the disparity in the amount of salary increases provided in this bill for contract and noncontract covered employees. This disparity is directly contrary to the state's long-standing policy of providing equal pay for comparable work. Beyond its basic unfairness, I believe such a practice would make the state vulnerable to legal challenges on the basis of the state's comparable worth law. The bill also inappropriately excludes judges from receiving any salary increase.

It is my intention to bring the General Assembly back for a second special session, thus affording an opportunity to enact a new salary bill that corrects these deficiencies.

It remains my intention to implement all labor arbitration awards. With the appropriate action by the General Assembly, that will be accomplished while extending comparable pay raises to noncontract employees.

I am unable to approve the item designated as Section 4, in its entirety. This section authorizes salary increases for employees of regional libraries. Because these individuals are not state employees, it is inappropriate to include them in this Act.

I am unable to approve the item designated as Section 10, in its entirety. Recognizing the potential disparate effects likely to result from implementation of this bill, the General Assembly in this section requires the Department of Personnel to conduct a study of comparable worth, and establishes a committee to supervise the study. Because it is still my expectation to achieve a salary bill that provides for pay equity, such a study will be unnecessary and I am therefore unable to approve this section.

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 2490 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1246

APPROPRIATIONS – EDUCATION

H.F. 2465

AN ACT relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for education and cultural programs of this state and providing effective and applicability provisions.

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

DEPARTMENT OF EDUCATION

Section 1. 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 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:

..... $ 8,412,000
..... FTEs 145.00

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 704,000
..... FTEs 26.45

3. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,459,000
..... FTEs 307.50

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:

..... $ 20,611
..... FTEs 1.50

4. CORRECTIONS EDUCATION PROGRAM

For educational programs at state penal institutions:

..... $ 1,948,000

5. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 120,000
..... FTEs 2.00

6. 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:

..... $ 2,809,000
..... FTEs 16.00

7. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic 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:

..... $ 580,000

8. 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:

..... $ 52,000

9. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,959,000

..... FTEs 96.00

10. COMMUNITY COLLEGES

Notwithstanding chapter 286A, for general state financial aid, including general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13, 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:

..... $ 90,444,323

The funds appropriated in this subsection shall be allocated as follows:

a.	Merged Area I	$	4,233,706
b.	Merged Area II	$	5,106,833
c.	Merged Area III	$	4,923,558
d.	Merged Area IV	$	2,316,905
e.	Merged Area V	$	4,910,817
f.	Merged Area VI	$	4,602,152
g.	Merged Area VII	$	6,318,184
h.	Merged Area IX	$	7,947,083
i.	Merged Area X	$	12,285,772
j.	Merged Area XI	$	13,347,163
k.	Merged Area XII	$	5,207,421
l.	Merged Area XIII	$	5,360,677
m.	Merged Area XIV	$	2,372,695
n.	Merged Area XV	$	7,354,647
o.	Merged Area XVI	$	4,156,710

Sec. 2. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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, including general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13, to merged areas to be accrued as income and used for expenditures incurred by the community colleges during the fiscal year beginning July 1, 1992, and ending June 30, 1993:

..... $ 16,450,231

The funds appropriated in this section shall be allocated as follows:

a.	Merged Area I	$	777,072
b.	Merged Area II	$	930,993
c.	Merged Area III	$	894,475
d.	Merged Area IV	$	423,103
e.	Merged Area V	$	897,586
f.	Merged Area VI	$	836,461
g.	Merged Area VII	$	1,152,178
h.	Merged Area IX	$	1,446,020
i.	Merged Area X	$	2,232,424
j.	Merged Area XI	$	2,414,311
k.	Merged Area XII	$	948,649
l.	Merged Area XIII	$	974,188

m. Merged Area XIV ..... $ 431,773
n. Merged Area XV ..... $ 1,335,675
o. Merged Area XVI ..... $ 755,323

2. Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1993.

Sec. 3. 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:

..... $ 343,308

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I ..... $ 27,015
b. Merged Area II ..... $ 20,967
c. Merged Area III ..... $ 14,053
d. Merged Area IV ..... $ 9,601
e. Merged Area V ..... $ 24,896
f. Merged Area VI ..... $ 14,311
g. Merged Area VII ..... $ 24,001
h. Merged Area IX ..... $ 28,653
i. Merged Area X ..... $ 40,294
j. Merged Area XI ..... $ 59,072
k. Merged Area XII ..... $ 19,157
l. Merged Area XIII ..... $ 16,988
m. Merged Area XIV ..... $ 8,635
n. Merged Area XV ..... $ 22,816
o. Merged Area XVI ..... $ 12,849

2. Funds appropriated in subsection 1 shall be allocated pursuant to this section and paid on or about August 15, 1992.

Sec. 4. 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, 1992, and ending June 30, 1993, 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:

1. Notwithstanding section 294A.25, for the educational excellence program:

..... $ 92,297,891
..... FTEs 1.00

2. To supplement the appropriation in section 294A.25 for phase II:

..... $ 563,953

Sec. 5. Notwithstanding the standing appropriations in section 279.51 for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 10,727,640

During the fiscal year beginning July 1, 1992, the funds appropriated in this section shall be allocated in the same manner as allocated in 1991 Iowa Acts, chapter 267, section 205.

Sec. 6. 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 amount, or so much thereof as may be necessary, to be used for the purpose designated:

For expenditures incurred by school districts during the previous fiscal year for vocational education aid to secondary schools:

..... $ 3,483,000

Funds appropriated in 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.

Sec. 7. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

For expenditures incurred by school districts during the previous fiscal year for vocational education aid to secondary schools:

..... $ 3,483,000

Funds appropriated in 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.

COLLEGE STUDENT AID COMMISSION

Sec. 8. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 333,000
..... FTEs 7.80

a. The college student aid commission, in conjunction with the university of osteopathic medicine and health sciences and the state university of Iowa college of medicine, shall conduct a tracking study of the Iowa graduates of the university of osteopathic medicine and health sciences and the Iowa graduates of the state university of Iowa college of medicine. The study shall track Iowa students who graduated from the university and completed their residencies from 1989 through 1992. The study shall ascertain the number of graduates who practice outside of Iowa and the number who practice within Iowa. Of the graduates practicing in Iowa, the study shall determine their reasons for remaining in Iowa; the number of graduates practicing in rural communities, hospitals, or clinics; the number of graduates practicing in urban communities, hospitals, or clinics; the number of graduates practicing in county communities, hospitals, or clinics; the number of graduates who include medical assistance patients and indigent patients in their practice; and the average percentage of medical assistance and indigent patients treated by graduates. The commission shall report the study's findings and recommendations to the general assembly by January 1, 1993.

*b. *The higher education strategic planning council shall conduct a study relating to dental hygienists in Iowa. The study shall determine the following:*

(1) The need for dental hygienists in Iowa.

(2) The qualifications needed to perform as a dental hygienist in Iowa.

*(3) Cost-effective means to provide the education necessary to supply the state with qualified dental hygienists.**

*Item veto; see message at end of the Act

2. UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

a. For grants to seniors and for forgivable loans to freshmen and sophomores and juniors, 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:

..... $ 387,000

b. For the university of osteopathic medicine and health sciences for the admission and education of Iowa students in each of the four years of classes at the university of osteopathic medicine and health sciences pursuant to section 261.19:

..... $ 250,000

3. STUDENT AID PROGRAMS

For payments to students for student aid programs:

..... $ 1,500,000

From the moneys appropriated in this subsection, $1,425,651 shall be expended for an Iowa grant program, with funds to be allocated to institutions pursuant to section 261.93A. The remainder shall be allocated for the graduate student financial assistance program.

It is the intent of the general assembly that the college student aid commission reduce the maximum grant and average grant under the state tuition grant program while maintaining the same number of qualified students receiving grants in the fiscal year beginning July 1, 1992, and ending June 30, 1993, as were provided in the previous fiscal year.

Sec. 9. There is appropriated from the loan reserve account to the college student aid commission for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 3,894,741
..... FTEs 36.52

STATE BOARD OF REGENTS

Sec. 10. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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:

..... $ 1,025,000
..... FTEs 16.63

The moneys provided in this paragraph shall not be augmented by reimbursements from the institutions under the control of the state board of regents for the funding of the office of the state board of regents.

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:

..... $ 22,927,000

c. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 35,000

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 68,000

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 145,000

*Item veto; see message at end of the Act

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:

.....	$	168,193,000
.....	FTEs	3,962.27

b. 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:

.....	$	27,359,000
.....	FTEs	5,364.14

Funds appropriated in this 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.

The total quota allocated to the counties for indigent patients for the fiscal year commencing July 1, 1992, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1991. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

c. 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:

.....	$	6,517,000
.....	FTEs	284.00

d. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent support, and for not more than the following full-time equivalent positions:*

.....	$	5,133,000
.....	FTEs	165.49

e. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,653,000
.....	FTEs	64.48

*According to enrolled Act

f. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	2,820,000
	FTEs	100.93

g. 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:

	$	1,694,000
	FTEs	161.44

h. 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:

	$	402,000
	FTEs	11.16

i. Agricultural health and safety programs

For agricultural health and safety programs:

	$	238,000
	FTEs	3.30

j. Statewide tumor registry

For the statewide tumor registry and for not more than the following full-time equivalent positions:

	$	181,000
	FTEs	3.44

k. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation:

	$	58,000
	FTEs	1.50

l. Center for biocatalysis

For the center for biocatalysis:

	$	1,304,874

m. National advanced driving simulator

For the national advanced driving simulator:

	$	272,000

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:

	$	136,964,000
	FTEs	3,612.45

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	23,955,396
	FTEs	481.43

Of the funds appropriated in this lettered paragraph, $281,601 shall be used by the school of veterinary medicine for livestock disease research consistent with the recommendation of the livestock health advisory council required by chapter 267.

c. 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:

..... $ 16,037,000
..... FTEs 446.07

Of the funds appropriated in this lettered paragraph, $24,187 shall be expended for a child farm safety program.

d. Fire service education

For salaries and support and for not more than the following full-time equivalent positions:

..... $ 397,000
..... FTEs 11.66

e. Leopold center

For agricultural research grants at Iowa state university under section 266.39B:

..... $ 572,000

4. UNIVERSITY OF NORTHERN IOWA

a. For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 58,338,189
..... FTEs 1,382.93

b. Recycling and reuse center:

..... $ 244,638

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,744,000
..... FTEs 122.99

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,201,000
..... FTEs 89.75

7. TUITION AND TRANSPORTATION COSTS

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:

..... $ 7,000

Sec. 11. Reallocations of sums received under section 10, subsections 2, 3, 4, 5, and 6, of this Act, including sums received for salaries, shall be reported on a quarterly basis to the co-chairpersons and ranking members of the legislative fiscal committee and the joint education appropriations subcommittee.

Sec. 12. For the fiscal year beginning July 1, 1992, the state board of regents may 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 six years.

Sec. 13. The department of human services shall implement a supplemental disproportionate share adjustment applicable to state-owned acute care hospitals with more than five hundred beds and shall reimburse qualifying hospitals pursuant to that adjustment with a supplemental amount for services provided medical assistance recipients. The adjustment shall generate payments intended to equal the state appropriation made to a qualifying hospital for treatment of indigent patients as provided in chapter 255. To the extent of the supplemental disproportionate share adjustment payments, a qualifying hospital shall, after receipt of the

funds, transfer to the department of human services an amount equal to the actual supplemental payments that were made in that month. The aggregate amounts for a fiscal year shall not exceed the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255. If 1992 Iowa Acts, Senate File 2351,* becomes law, the department of human services shall deposit the portion of these funds equal to the state share in the department's medical assistance account and the balance shall be credited to the cash reserve fund created under section 8.56, and if 1992 Iowa Acts, Senate File 2351, does not become law, the department of human services shall deposit the portion of these funds equal to the state share in the department's medical assistance account and the balance is transferred and appropriated to the department of management to be spent for the purpose of eliminating Iowa's GAAP deficit. As used in this section, "GAAP" means generally accepted accounting principles as established by the governmental accounting standards board. To the extent that state funds appropriated to a qualifying hospital for the treatment of indigent patients as provided in chapter 255 have been transferred to the department of human services as a result of these supplemental disproportionate share payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup the supplemental disproportionate share adjustment payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by a qualifying hospital pursuant to this provision is transferred to the qualifying hospital by the department.

If the state supplemental amount allotted to the state of Iowa for the federal fiscal year beginning October 1, 1992, and ending September 30, 1993, pursuant to section 1923 (f)(3) of the federal Social Security Act, as amended, is greater than the amount necessary to fund the federal share of the supplemental disproportionate share payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the university of Iowa general education fund and allocated by the university for the college of medicine. The university of Iowa shall transfer from the allocation for the college of medicine to the department of human services, on a monthly basis, an amount equal to the additional supplemental disproportionate share payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental disproportionate share payments pursuant to this paragraph that are greater than the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255 shall be obligated as a condition of its participation in the medical assistance program to transfer to the university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the university of Iowa to the department of human services. To the extent that state funds appropriated to the university of Iowa and allocated for the college of medicine have been transferred to the department of human services as a result of these supplemental disproportionate share payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental disproportionate share adjustment payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by the university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

It is the intent of the general assembly that any implementation of the supplemental disproportionate share adjustment shall preserve the funds available to the university hospital for medical and surgical treatment of indigent patients as provided in chapter 255 and to the university of Iowa for the educational purposes of the college of medicine at the same level as provided by the state funds initially appropriated for that purpose.

The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to a qualifying hospital through the supplemental disproportionate share adjustment as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a qualifying hospital for services to medical assistance recipients.

*Chapter 1227 herein

For purposes of this section, "supplemental disproportionate share payment" means a supplemental payment amount paid for medical assistance to a hospital qualifying for that payment under this section.

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 14. There is appropriated from the general fund of the state to the department of cultural affairs 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. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants, for areawide arts and cultural service organizations which meet the requirements of chapter 303C, and for not more than the following full-time equivalent positions:

..... $ 1,047,000
..... FTEs 11.00

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,432,000
..... FTEs 62.50

Of the funds appropriated in this subsection, $10,000 shall be allocated for the operating and maintenance costs of the Plum Grove residence of former Governor Lucas.

3. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

..... $ 140,000
..... FTEs 3.00

4. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3:

..... $ 720,000

Not more than one percent of moneys appropriated for grants under this section shall be used for administrative purposes.

OFFICE OF THE GOVERNOR

Sec. 15. TERRACE HILL COMMISSION

There is appropriated from the general fund of the state to the office of the governor 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 salaries, support, maintenance, miscellaneous purposes, for the operation of Terrace Hill, and for not more than the following full-time equivalent positions:

..... $ 161,000
..... FTEs 4.75

Sec. 16. Any moneys contained in the artist endowment fund shall revert and be transferred to the general fund of the state on June 30, 1992.

Sec. 17. Notwithstanding section 8.33, funds appropriated in 1991 Iowa Acts, chapter 267, section 210, subsection 1, paragraph "b", remaining unencumbered or unobligated on June 30, 1992, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 10, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1992, and ending June 30, 1993.

Sec. 18. Notwithstanding section 261.20, of the unencumbered or unobligated moneys in the scholarship and tuition grant reserve fund, $33,000 shall be transferred to the state board

of regents for purposes of the southwest Iowa graduate studies center, $280,040 shall be distributed under the Iowa scholarship program, $11,209 shall be distributed under the vocational-technical tuition grant program, and $26,293 shall be distributed under the work-study program by the college student aid commission.

Sec. 19. Notwithstanding section 294A.25, for the fiscal year beginning July 1, 1992, the additional funds transferred from phase I to phase III may be used by the department of education for management information systems, the center for assessment, and the Iowa geography alliance. However, moneys transferred under this section shall not exceed $275,000. The department shall notify the legislative fiscal bureau as to the distribution of moneys for these programs.

Sec. 20. Notwithstanding sections 302.1 and 302.1A, for the fiscal year beginning July 1, 1992, and ending June 30, 1993, 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. 21. Notwithstanding section 321.376, the annual budget request requirement is suspended for the fiscal year ending June 30, 1993, and the moneys collected from fees for the issuance of a school bus driver's permit for the fiscal year beginning July 1, 1992, and ending June 30, 1993, shall be deposited in the department of education's operating fund for the purposes designated under section 321.376, subsection 3.

*Sec. 22. *1992 Iowa Acts, Senate File 2116, section 100, subsection 8, is amended to read as follows:*

8. Appropriations made to school corporations in chapter 257 for state aid to school districts and ~~chapter 286A~~ in 1991 Iowa Acts, chapter 267, section 201, subsections 9 and 10, *for state aid to* ~~area schools~~ merged areas *shall not be reduced under subsection 1.**

Sec. 23. 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, 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~~ 1994.

Sec. 24. Section 18.136, subsection 3, Code 1991, is amended to read as follows:

3. The financing for the procurement costs for the entirety of Part I of the system, and the video, data, and voice capacity for state agencies for Part II and Part III of the system, shall be provided by the state. The financing for the procurement costs for Part II of the system shall be provided eighty percent from the state and twenty percent from the community colleges for the areas in which Part II of the system is located. The basis for the state match is eighty percent of a single interactive video and interactive audio for Parts I and II of the system, and such data and voice capacity as is necessary. The financing for the procurement and maintenance costs for Part III of the system shall be provided eighty percent from the state and twenty percent from the local school boards of the areas which receive transmissions from the system. The local school boards may meet all or part of the match requirements of Part III of the system through a cooperative arrangement with community colleges. The basis for the state match is eighty percent of a single interactive audio and one-way video for Part III of the system, and such data and voice capacity as is necessary. The local school boards and community colleges may meet the match requirements for Part II and Part III of the system from funds they have already spent for their systems, from funds available in the school budget, or from funds received from other nonstate sources. In the case of existing systems, in order to upgrade facilities to the specifications of the state communications network, the

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local school boards and community colleges, in lieu of a cash match, may meet the match requirements from funds they have already spent for their systems provided that the state match does not exceed the lesser of eighty percent of the total cost of the upgraded system or eighty percent of the replacement cost of the system. The communications equipment funds used as a match by a community college shall be calculated based on verified expenditures for capital, equipment, hardware, and software for long-distance learning technologies, including both audio and visual transmission. The communications equipment used as a match shall not subsequently be used as a match by another educational entity or for another part of the system. A local school board may request the school budget review committee to adjust the allowable growth for the school district so that the resulting increase in budget could be used for the match. A local school board may also elect not to become part of the system. Such election shall be made on an annual basis. State matching funds shall not be provided for Part III of the system until Part I and Part II of the system have been completed.

Sec. 25. Section 176A.10, subsection 6, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

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, which levy is payable in the fiscal year beginning July 1, 1992. 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, which levy is payable in fiscal years beginning on or after July 1, 1993, 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.

Sec. 26. Section 256.7, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Receive and review the budget and unified plan of service submitted by the division of libraries and information services.

Sec. 27. Section 256.9, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 46. Serve as an ex officio member of the commission of libraries.

NEW SUBSECTION. 47. Receive, from the division of public broadcasting, and submit an annual public broadcasting budget request separately from the department's annual budget request.

NEW SUBSECTION. 48. Establish a division of libraries and information services, a public broadcasting division, and a regional library system, to perform the duties and exercise the responsibilities enumerated in section 256.22.

Sec. 28. NEW SECTION. 256.22 LIBRARY DIVISION, REGIONAL LIBRARY SYSTEM, LIBRARY COMPACT, STATE DATA CENTER, AND PUBLIC BROADCASTING DIVISION.

Notwithstanding sections 7E.5, 15.108, 15.272, 18.87, 18.97, 18.100, 218.22, 246.601, 303.1, 303.1A, 303.2, 303.75 through 303.85, 303.91 through 303.94, 303A.8 through 303A.11, chapter 303B, and any provisions to the contrary, the department of education, and its director, shall perform the duties and exercise the authority delegated to the department of cultural affairs, and its director, for purposes of administering the library division, the regional library system, the state data center, the public broadcasting division, and the library compact. Any authority of the department of cultural affairs to adopt rules for the library division, the regional library system, the state data center, and library compact is transferred to the state board of education.

*Sec. 29. Section 261.1, subsection 5, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

~~Eight~~ Ten *additional members to be appointed by the governor. One of the members shall be selected to represent private colleges, private universities and private junior 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 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 member shall be the executive director of the organization or association that represents all of the students attending the institutions of higher education under the control of the state board of regents. *One member shall be enrolled as a student at a* ~~board of regents institution,~~ *community college,* ~~or~~. One member shall be enrolled as a student at an *accredited private institution. One member shall be a representative of a lending institution located in this state. One member shall be a representative of the Iowa student loan liquidity corporation. The other three members, none of whom shall be official board members or trustees of an institution of higher learning or of an association of institutions of higher learning, shall be selected to represent the general public.**

Sec. 30. Section 261.25, subsections 1, 2, and 3, Code Supplement 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 four hundred eighty~~ thirty-one million one hundred forty-six thousand eight hundred sixty-seven 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~~ five hundred five thousand eight hundred eighty-two 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~~ two hundred sixty-one thousand dollars for vocational-technical tuition grants.

Sec. 31. Section 261.38, subsection 7, Code Supplement 1991, is amended to read as follows:

7. The commission may expend funds in the reserve account ~~to~~ and enter into agreements ~~which~~ with the Iowa student loan liquidity corporation in order to increase access for students to ~~a~~ education loan ~~program for guaranteed loans which are not subsidized by the federal government~~ programs that the commission determines meet the education needs of Iowa residents. The agreements shall permit the establishment, funding, and operation of alternative education loan programs, as described in section 144(b)(1)(B) of the Internal Revenue Code of 1986 as amended, as defined in section 422.3, in addition to programs permitted under the federal Higher Education Act of 1965. In accordance with those agreements, the Iowa student loan liquidity corporation may issue bonds, notes, or other obligations to the public and others for the purpose of funding the alternative education loan programs. This authority to issue such bonds, notes, or other obligations shall be in addition to the authority established in the articles of incorporation and bylaws of the Iowa student loan liquidity corporation.

Bonds, notes, or other obligations issued by the Iowa student loan liquidity corporation are not an obligation of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitations, but are special obligations of the Iowa student loan liquidity corporation, and the corporation shall not pledge the credit or taxing power of this state or any political subdivision of this state, or make its debts payable out of any of the moneys except those of the corporation.

Sec. 32. Section 261.47, Code 1991, is amended by adding the following new unnumbered paragraph after subsection 4:

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NEW UNNUMBERED PARAGRAPH. Priority for loan reimbursement payments shall be given to eligible nurses who currently practice in an area of the state that is determined by the college student aid commission to demonstrate a nursing shortage, and shall be based upon the nurses' level of educational debt.

Sec. 33. Section 261.85, unnumbered paragraph 1, Code Supplement 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 eight five~~ two million nine hundred fifty-eight thousand dollars for the work-study program.

Sec. 34. Section 262.9, subsection 15, Code Supplement 1991, is amended by striking the subsection.

Sec. 35. Section 262.9, subsection 24, Code Supplement 1991, is amended to read as follows:

24. By July 1, 1991, develop a policy which requires oral communication competence of persons who provide instruction to students attending institutions under the control of the board. The policy shall include a student evaluation mechanism which requires student evaluation of persons providing instruction ~~at the end of each academic period~~ on at least an annual basis.

**Sec. 36. Section 262.9, Code Supplement 1991, is amended by adding the following new subsection:*

NEW SUBSECTION. *27. Establish a policy by which the institutions of higher education under its control shall charge fees for specific services provided by the institutions to the non-student population.**

**Sec. 37.* NEW SECTION. *262.29A LEGAL COUNSEL.*

*The legal counsel to the board and its member institutions shall be an assistant attorney general appointed by the attorney general who shall perform and supervise the legal work of the board. The salary of the assistant shall be fixed by the attorney general, subject to the approval of the board. The attorney general shall appoint additional assistant attorneys general as necessary. The board shall reimburse the attorney general for the salary and necessary expenses for each assistant attorney assigned to the board and upon the request of the attorney general the board shall provide and equip a suitable office and the necessary secretarial assistance to perform these duties.**

Sec. 38. NEW SECTION. 262.34A BID REQUESTS.

The state board of regents shall request bids and proposals for materials, products, supplies, provisions, and other needed articles to be purchased at public expense, from Iowa state industries as defined in section 246.802, subsection 2, when the articles are available in the requested quantity and at comparable prices and quality.

Sec. 39. NEW SECTION. 262.34B STUDENT FEE COMMITTEE.

1. A student fee committee composed of five students and five university employees shall be established at each of the universities governed by the board as identified in section 262.7, subsections 1 through 3. The five student members of the student fee committee of each university shall be appointed by the recognized student government organization of each university. The five university employees shall be appointed by the president of the university.

2. The student fee committee shall consider any proposed student activity changes at the university and shall make recommendations concerning student activity fee changes to the president of the affected university for review no later than April 15 of the year which includes the subsequent academic period in which the proposed fee change will take effect. The student fee committee shall provide a copy of its recommendations to the recognized student government organizations at each university and those organizations may review the recommendations and provide comment to the president of the university and the state board of

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regents. The president of the university shall transmit the recommendations of the student fee committee and the president's endorsement or recommendation to the state board of regents for consideration. The president of the university shall transmit a copy of the president's endorsement or recommendation to the recognized student government organizations for the university.

3. The state board of regents shall make the final decision on student activity fee changes. The state board of regents shall forward a copy of the committee's recommendations, the president's endorsement or recommendation, the recognized student government organization's comments, and its decision regarding student activity fee changes to the chairpersons and ranking members of the joint education appropriations subcommittee.

4. This section does not apply to fees charged for purposes of acquisition or construction of self-liquidating and revenue-producing buildings and facilities under sections 262.35 through 262.42, 262.44 through 262.53, and 262.55 through 262.66; or acquiring, purchasing, leasing, or constructing buildings and facilities under chapter 262A.

Sec. 40. Section 267.5, subsection 3, Code 1991, is amended to read as follows:

3. Make recommendations to the Iowa State University college of veterinary medicine concerning the application of funds appropriated ~~by this chapter~~ to the college of veterinary medicine. The Iowa State University college of veterinary medicine shall not expend any of the funds appropriated by this chapter until the recommendation of the council concerning that appropriation is adopted or sixty days following the effective date of the appropriation, whichever is earlier.

Sec. 41. Section 275.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

It is the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining kindergarten and twelve grades. If a school district ceases to maintain kindergarten and twelve grades except as otherwise provided in section 28E.9, 256.13, 280.15, 282.7, subsection 1 or subsections 1 and 3, or 282.8, it shall reorganize within six months or the state board shall attach the school district not maintaining kindergarten and twelve grades to one or more adjacent districts. Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous or marginally adjacent to one another. A reorganized district shall meet the requirements of section 275.3.

Sec. 42. Section 275.1, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. "Marginally adjacent district" or "marginally adjacent territory" means a district or territory which is separated from a second district or territory by property which is part of a third school district which completely surrounds one of the two districts.

Sec. 43. Section 275.4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

In addition, the area education agency board shall consult with the ~~commissioner of public instruction~~ director of the department of education in the development of surveys and plans. The ~~commissioner of public instruction~~ director of the department of education shall provide assistance to the area education agency boards as requested and shall advise the area education agency boards concerning plans of contiguous area education agencies and the reorganization policies adopted by the state board of ~~public instruction~~ education.

Sec. 44. Section 275.11, Code 1991, is amended to read as follows:

275.11 PROPOSALS INVOLVING TWO OR MORE DISTRICTS.

Subject to the approval of the area education agency board, contiguous or marginally adjacent territory located in two or more school districts may be united into a single district in the manner provided in sections 275.12 to 275.22 ~~hereof~~.

Sec. 45. Section 275.23A, subsection 1, Code 1991, is amended to read as follows:

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs "b" through "e", shall be divided into director districts

on the basis of population as determined from the most recent federal decennial census. The director districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of director districts to be established into the population of the school district. The director districts shall be composed of contiguous or marginally adjacent territory as compact as practicable.

Sec. 46. Section 280A.28, Code 1991, is amended to read as follows:

280A.28 TAX FOR EQUIPMENT REPLACEMENT AND PROGRAM SHARING.

1. Annually, the board of directors may certify for levy a tax on taxable property in the merged area at a rate not exceeding three cents per thousand dollars of assessed valuation for equipment replacement for the community college.

2. However, the board of directors may annually certify for levy a tax on taxable property in the merged area at a rate in excess of the three cents per thousand dollars of assessed valuation specified under subsection 1 if the excess tax levied does not cause the total rate certified to exceed a rate of nine cents per thousand dollars of assessed valuation, and the excess revenue generated is used for purposes of program sharing between community colleges. Programs that are shared shall be designed to increase student access to community college programs and to achieve efficiencies in program delivery at the community colleges, including, but not limited to, the programs described under sections 280A.45 and 280A.46. Prior to expenditure of the excess revenues generated under this subsection, the board of directors shall obtain the approval of the director of the department of education.

3. If the board of directors wishes to certify for a levy under subsection 2, the board shall direct the county commissioner of elections to call an election to submit the question of such authorization for the board at a regular or special election. If a majority of those voting on the question at the election favors authorization of the board to make such a levy, the board may certify for a levy as provided under subsection 2 during each of the ten years following the election. If a majority of those voting on the question at the election does not favor authorization of the board to make a levy under subsection 2, the board shall not submit the question to the voters again until twelve months has lapsed from the election.

**Sec. 47. Section 280A.50, unnumbered paragraph 1, Code 1991, is amended to read as follows:*

*The department of education shall provide for the establishment of a staff development account in the office of treasurer of state for purposes of providing moneys to community colleges for staff development. There is appropriated from the general fund of the state to the department of education on July 1 of each fiscal year beginning July 1, ~~1992~~ 1993, for crediting to the staff development account for each budget year an amount equal to an amount which is five-tenths of one percent of the total state general aid generated under chapter 286A for all community colleges during the base year. In the fiscal years succeeding June 30, ~~1993~~ 1994, an additional five-tenths of one percent shall be added to the percent multiplier, used to determine the appropriation in this section, until that percent multiplier reaches four percent. Once the percent multiplier has reached the four percent level, it shall remain at that level for purposes of calculating the amount to be appropriated in succeeding fiscal years. Moneys appropriated by the general assembly to the department of education for the purpose of the staff development program shall be paid to community colleges upon approval by the department of education of an application submitted by a community college. Funds shall be distributed to a community college based upon the proportion that a college's state general aid paid for the base year bears to the total state general aid paid that year to all community colleges.**

Sec. 48. Section 286A.14A, unnumbered paragraph 1, Code Supplement 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

*Item veto; see message at end of the Act

the general fund of the state to the department of education for the fiscal year beginning July 1, ~~1992~~ 1993, 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. 49. Section 294A.25, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. Commencing with the fiscal year beginning July 1, 1992, the amount of three hundred thirty-five thousand dollars from phase III moneys for the support of school transformation pilot projects administered by the department of education. Funds appropriated in this subsection may be used for projects by nonprofit corporations representing a coalition of organizations interested in school improvement in Iowa.

*NEW SUBSECTION. *6A. Commencing with the fiscal year beginning July 1, 1993, the amount of one hundred fifty thousand dollars, from additional funds transferred from Phase I to Phase III, for support of family resource centers under the family resource center demonstration program.**

**Sec. 50. Section 303.1, subsection 6, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:*

The ~~divisions shall be administered by administrators who shall be appointed by the director and serve at the director's pleasure. However, the~~ *administrator of the public broadcasting division shall be appointed by and serve at the pleasure of the public broadcasting board* ~~and the~~. The *administrator of the library division shall be appointed by and serve at the pleasure of the library commission.* The administrator of the historical division shall be appointed by and serve at the pleasure of the state historical society board of trustees. The administrator of the arts division shall be appointed by and serve at the pleasure of the arts council. The administrators shall serve four-year terms beginning and ending as provided in section 69.19 and are subject to senate confirmation as provided in section 2.32. For purposes of this section, the public broadcasting board, the library commission, the state historical society board of trustees, and the arts council, shall assume the duties and responsibilities of the governor enumerated in section 2.32. *The administrators shall:**

Sec. 51. Section 303.2, subsection 3, paragraph f, Code Supplement 1991, is amended to read as follows:

f. Shall develop in cooperation with the Iowa regional library system ~~an annual~~ a biennial unified plan of service for the ~~Iowa regional library system and its individual members to insure consistency with the state long-range plan~~ division of libraries.

**Sec. 52. Section 303.92, subsection 1, Code 1991, is amended to read as follows:*

1. The state library commission consists of one member appointed by the state supreme court and six members appointed by the governor to serve four-year terms beginning and ending as provided in section 69.19. Of the governor's appointees, one member shall be from the medical profession, two members shall be regional library trustees at the time of appointment, *and* ~~five~~ three *members* shall be *selected at large. Not more than three of the members appointed by the governor shall be of the same gender. The members shall be reimbursed for their actual expenditures necessitated by their official duties. Members may also be eligible for compensation as provided in section 7E.6.**

Sec. 53. Section 303.92, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The commission shall receive and approve the budget and unified plan of service submitted by the division of libraries.

*Item veto; see message at end of the Act

Sec. 54. NEW SECTION. 303B.2A REGIONAL LIBRARY TRUSTEES – NONVOTING MEMBERS.

In addition to the members of the seven regional boards of library trustees provided in section 303B.2, the director of education shall appoint to each of the seven regional boards of library trustees the following nonvoting members:

1. A representative from an area education agency.

2. A representative who serves as a member on the board of directors for a community college.

The nonvoting members shall serve at the pleasure of the director. The appointed members shall cease to be members if they no longer are employed by an area education agency or no longer serve as a member on a community college board of directors. Sections 303B.3 and 303B.4 do not apply to the appointed nonvoting members of the regional boards of library trustees.

Sec. 55. The department of education shall conduct a study of statewide coordination of information delivery and report the results of the study, along with any recommendations, to the general assembly by January 1, 1994.

Sec. 56. DEPARTMENTAL STUDY. The department of education shall conduct a study on dyslexia. The department, in conjunction with the area education agencies and the institutions of higher education governed by the state board of regents, shall appoint a committee to study the methods by which the school districts in this state address dyslexia and related reading disorders. Members to be appointed by the department shall include, but are not limited to, representatives from the department, the area education agencies, and the state board of regents; a school administrator; a regular classroom teacher; a teacher employed under the federal Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Pub. L. No. 100-297, chapter 1; a representative selected by the Iowa branch of the Orton dyslexia society; a representative selected by the Iowa reading association; a representative selected by the learning disabilities association of Iowa; and a parent of a child with dyslexia or a related reading disorder. The study shall include, but is not limited to, the identification, methods of teaching, and the remediation of persons with dyslexia and related reading disorders. The committee shall report the results of the study, along with any recommendations, to the department of education and the general assembly by January 1, 1994.

Sec. 57. TRANSITION. The current administrators of the arts division, the historical division, the library division, and the public broadcasting division of the department of cultural affairs shall continue to serve as administrators of the divisions to which they were appointed until May 1, 1993.

Sec. 58. TRANSFER. On the effective date of this Act, the budget analyst III employed in the administrative division of the department of cultural affairs, and all of the equipment assigned to that position, shall be transferred to the department of education.

Sec. 59. Section 267.8, Code Supplement 1991, is repealed.

Sec. 60. Section 275.59, Code 1991, is repealed.

Sec. 61. 1991 Iowa Acts, chapter 267, sections 203 and 207, are repealed.

Sec. 62. RETROACTIVE APPLICABILITY. Section 22 of this Act is retroactive to March 10, 1992.

Sec. 63. EFFECTIVE DATES.

1. Section 13 of this Act takes effect October 1, 1992.

2. Sections 16, 17, and 25 of this Act, being deemed of immediate importance, take effect upon enactment.

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*Item veto; see message at end of the Act

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Section 8, subsection 1, paragraph b in its entirety; Section 10, subsection 1, paragraph a, unnumbered and unlettered subparagraph 2 in its entirety; Section 22 in its entirety; Section 29 in its entirety; Section 34 in its entirety; Sections 36 and 37 in their entirety; Section 47 in its entirety; that portion of Section 49 which is herein bracketed in ink and initialed by me; Section 50 in its entirety; Section 52 in its entirety; Sections 55, 56, and 57 in their entirety; and Section 62 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 2465, an Act relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for education and cultural programs of this state and providing effective and applicability provisions.

House File 2465 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 8, subsection 1, paragraph b, in its entirety. This section would direct the Higher Education Strategic Planning Council to conduct a study relating to dental hygienists. While I recognize that there is concern about the availability of appropriately trained dental hygienists in the State of Iowa, this study is beyond the Council's scope of responsibilities and insufficient resources are available to conduct the study.

I am unable to approve the item designated as Section 10, subsection 1, paragraph a, unnumbered and unlettered subparagraph 2, in its entirety. This provision would prohibit the Board of Regents from seeking reimbursement from the institutions for activities performed by the Board. The Board should retain the authority to finance critical leadership activities.

I am unable to approve the items designated at Section 22 and Section 62, in their entirety. These provisions would exempt community colleges from the budget adjustment implemented under 1992 Iowa Acts, Senate File 2116, Section 100, subsection 8. This adjustment has already been implemented and it would be inappropriate to reverse this action, because it would require a corresponding adjustment to other agency budgets late in this fiscal year.

I am unable to approve the item designated as Section 29, in its entirety. This provision would add two new student positions to the Iowa College Aid Commission. Because a student representative currently serves as a member of the Commission and because the Commission is committed to strengthening relationships with students and student organizations, I am unable to approve this item.

I am unable to approve the item designated as Section 34, in its entirety. This provision would repeal the authority of the Board of Regents to employ attorneys for the purpose of carrying out collective bargaining and related responsibilities. The Board of Regents should retain this flexibility.

I am unable to approve the item designated as Section 36, in its entirety. This provision would require the Board of Regents to establish a policy requiring the institutions under its control to charge fees for specific services to the nonstudent population. The Board of Regents currently has sufficient authority to establish policies regarding fees.

I am unable to approve the item designated as Section 37, in its entirety. This provision would provide that an Assistant Attorney General, appointed by the Attorney General, would perform and supervise the legal work of the Board of Regents. Currently, the Board of Regents retains legal counsel as needed, and it is not necessary to direct the Attorney General to assign staff to the Board for this purpose.

I am unable to approve the item designated as Section 47, in its entirety. This section is in conflict with Section 22 of Senate File 2351, and therefore should not be approved.

I am unable to approve the designated portion of Section 49. This provision would appropriate $150,000 for the support of family resource center projects to be implemented in the 1994 fiscal year. Because House File 2467, which establishes the family resource demonstration program, directs the Department of Education to review the cost of these projects, it is premature to appropriate funds at this time.

I am unable to approve the items designated as Section 50 and Section 57, in their entirety. These sections would provide that the administrators of the Historical Division and the Arts Division be appointed by the State Historical Society Board of Trustees and the Arts Council, respectively. Under current law, these administrators are appointed by the Director of the Department of Cultural Affairs. The Director should retain the authority to appoint these administrators, and I am therefore unable to approve these provisions.

I am unable to approve the item designated as Section 52, in its entirety. This provision would change the composition of the State Library Commission. The current makeup of the Commission is appropriate, and I am therefore unable to approve this section.

I am unable to approve the items designated as Section 55 and Section 56, in their entirety. These provisions would require the Department of Education to conduct a study of statewide coordination of information delivery and a study of dyslexia. Because no funds have been appropriated for the studies, I am unable to approve these items.

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 2465 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1247

STATUTORY APPROPRIATIONS AND OTHER BUDGETARY MATTERS

H.F. 2486

AN ACT relating to certain statutory appropriations made from the general fund of the state and the lottery fund, budgetary revenues and expenditures, and other budgetary matters, for the fiscal year beginning July 1, 1992.

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

DIVISION I

**Section 1.* *Section 422.13, subsection 1, paragraphs a and b, Code 1991, are amended to read as follows:*

~~a. The individual is required to file a federal income tax return under the Internal Revenue Code.~~

b. The individual has net income of ~~five~~ nine *thousand dollars or more for the tax year from sources taxable under this division.**

*Item veto; see message at end of the Act

Sec. 2. Section 422C.3, subsection 1, as enacted by 1992 Iowa Acts, House File 695, section 4, is amended to read as follows:

*1. A tax of ~~four~~ five percent is imposed upon the rental price of an automobile if the rental transaction is subject to the sales and services tax under chapter 422, division IV, or the use tax under chapter 423. The tax shall not be imposed on any rental transaction not taxable under the state sales and services tax, as provided in section 422.45, or the state use tax, as provided in section 423.4, on automobile rental receipts.**

*Sec. 3. Section 423.24, subsection 1, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2034, section 27, applies to the revenues derived from the five percent use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected after June 1, 1992, pursuant to section 423.7.**

Sec. 4. Section 425.17, subsection 2, Code Supplement 1991, as amended by 1992 Iowa Acts, Senate File 2034, section 28, is amended to read as follows:

2. "Claimant" means a person filing a claim for credit or reimbursement under this division who has attained the age of eighteen years on or before December 31 of the base year, and was domiciled in this state during the entire base year, and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate and, in the case of a person who is not disabled and has not reached the age of sixty-five, was not claimed as a dependent on any other person's tax return for the base year.

*"Claimant" includes a vendee in possession under a contract for deed and may include one or more joint tenants or tenants in common. In the case of a claim for rent constituting property taxes paid, the claimant shall have rented the property during any part of the base year. If a homestead is occupied by two or more persons, and more than one person is able to qualify as a claimant, the persons may determine among them who will be the claimant. If they are unable to agree, the matter shall be referred to the director of revenue and finance not later than October 31 of each year and the director's decision is final.**

Sec. 5. 1992 Iowa Acts, Senate File 2034, section 36, is amended to read as follows:

SEC. 36. APPLICABILITY. This section applies in regard to the increase in the state sales, services, and use taxes from four to five percent. The five percent rate applies to all sales of taxable personal property, consisting of goods, wares, or merchandise if delivery occurs on or after June 1, 1992. *The use tax rate of five percent applies to motor vehicles subject to registration which are registered on or after June 1, 1992. The five percent use tax rate applies to the use of property when the first taxable use in this state occurs on or after June 1, 1992. The five percent rate applies to the gross receipts from the sale, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service if the date of billing the customer is on or after June 1, 1992. In the case of a service contract entered into prior to June 1, 1992, which contract calls for periodic payments, the five percent rate applies to those payments made or due on or after June 1, 1992. This periodic payment applies, but is not limited to, tickets or admissions, private club membership fees, sources of amusement, equipment rental, dry cleaning, reducing salons, dance schools, and all other services subject to tax, except the aforementioned utility services which are subject to a special transitional rule. Unlike periodic payments under service contracts, installment sales of goods, wares, and merchandise are subject to the full amount of sales or use tax when the sales contract is entered into or the property is first used in Iowa.**

Sec. 6. Sections 1 through 5 of this division are contingent upon the enactment of Senate File 2034 by the Seventy-fourth General Assembly, 1992 Session.

*If Senate File 2034 is enacted, section 1 of this division is retroactive to January 1, 1992, for tax years beginning on or after that date, section 2 of this division is effective July 1, 1992, sections 3 and 5 of this division are effective June 1, 1992, and section 4 of this division is effective January 1, 1993, for property tax claims filed on or after that date and is applicable to rent reimbursement claims filed on or after January 1, 1994. This section, being deemed of immediate importance, takes effect upon enactment.**

*Item veto; see message at end of the Act

DIVISION II

Sec. 7. 1992 Iowa Acts, Senate File 2355,* section 24, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may adopt emergency rules relating to eligibility, services, and reimbursement rates in implementing the provisions of this section.

Sec. 8. 1992 Iowa Acts, Senate File 2355,* section 25, subsection 1, unnumbered paragraph 4, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

The mental health, and mental retardation, ~~and developmental disabilities~~ commission shall adopt emergency rules pursuant to chapter 17A describing the services listed in subparagraphs (1) through (5) and other necessary rules relating to services for brain injury for the purposes of this subsection. For the purposes of this subsection, "brain injury" means clinically evident brain damage or spinal cord injury resulting from trauma which permanently impairs an individual's physical or cognitive functions and causes the individual to meet the federal criteria for a person with a developmental disability except for age of onset of the disability.

The poverty guideline required to be used under this subsection and subsection 7 shall be based upon the poverty guideline utilized for the social services block grant in fiscal year 1991-1992.

The funding provided to a county under this subsection shall be utilized in accordance with the plan for provision of mental health, mental retardation, and developmental disabilities services developed by the county's mental health and mental retardation coordinating board. However, the board of supervisors shall revise the plan for fiscal year 1992-1993, if necessary, to provide contemporary services in accordance with the requirements of this subsection and the revisions shall be submitted to the mental health and mental retardation commission by October 15, 1992.

Sec. 9. 1992 Iowa Acts, Senate File 2355,* section 25, subsection 4, paragraph a, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

a. ~~Provision of funding~~ Funding provided to a county under subsection 1 shall be distributed in quarterly payments and distribution of the second and succeeding quarterly payments is contingent upon ~~counties establishing~~ the county participating as a member of a mental illness, mental retardation, developmental disabilities, and brain injury (MI/MR/DD/BI) planning ~~councils~~ council. The counties shall meet in consultation with service providers, consumers, and advocates, the department, and other interested parties in establishing the planning councils. A planning council's planning area shall, to the extent possible, utilize the borders of the county clusters as established pursuant to section 217.42, if enacted in Senate File 2342,** and shall include a population of at least 40,000 and include counties with a historical pattern of cooperation in providing MI/MR/DD/BI services. The councils shall be established on or before September 1, 1992.

Sec. 10. 1992 Iowa Acts, Senate File 2355,* section 25, subsection 7, paragraph b, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

b. The funds allocated in this subsection shall be expended by counties in accordance with eligibility guidelines established in the department's rules outlining general provisions for service administration. Services eligible for payment with funds allocated in this subsection are limited to any of the following which are provided in accordance with the department's administrative rules for the services: community supervised apartment living arrangements, residential services for adults, sheltered work, supported employment, supported work training, transportation, ~~and~~ work activity, administrative support for volunteers, adult day care, adult support, and family-centered services.

*Chapter 1241 herein

**Chapter 1079 herein

Sec. 11. 1992 Iowa Acts, Senate File 2355,* section 25, subsection 7, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. The county of residence shall pay for services provided under this subsection. That county may seek reimbursement from the county of legal settlement in accordance with applicable law. If a person receiving services under this subsection has no county of legal settlement, the state shall pay for the services. The rate of payment for services provided under this subsection shall be in accordance with the department's rules for purchase of services and law relating to reimbursement of social services providers.

Sec. 12. 1992 Iowa Acts, Senate File 2355,* section 27, subsection 6, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

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 or a planning council established pursuant to section 25, subsection 4, of this Act may change the provider of individual case management services at any time. However, once a planning council is established, the authority to change the provider and responsibility for providing notification shall be assumed by the planning council in place of the coordinating board. If the current or proposed contract is with the department, the coordinating board or planning council 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~~ November 15 in the fiscal year which precedes the fiscal year in which the change will take effect.

Sec. 13. 1992 Iowa Acts, Senate File 2355,* section 33, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The provisions of subsection 5 do not revise in any manner the maximum reimbursement rates paid to social services providers in the fiscal year beginning July 1, 1991.

Sec. 14. NEW SECTION. 217.41 PRIVATE AGENCY CONTRACTS.

Notwithstanding the provisions of section 11.36, the auditor of state shall not require a private agency awarded a grant, contract, or purchase of service contract through the department of human services to obtain a certification from the auditor of state pursuant to section 11.36.

Sec. 15. Section 225C.27, unnumbered paragraph 1, Code 1991, as amended by 1992 Iowa Acts, Senate File 2355,* section 65, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

Sections 225C.25 through 225C.28B shall be liberally construed and applied to promote their purposes and the stated rights and service quality standards. The ~~division~~ commission, in coordination with appropriate agencies, shall adopt rules to implement the purposes of section 225C.28B, subsections 3 and 4, which include, but are not limited to, the following:

Sec. 16. Section 225C.27, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. Encouraging activities to ensure that recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa, or the Constitution of the United States solely on account of the receipt of the services.

Sec. 17. Section 225C.29, Code 1991, as amended by 1992 Iowa Acts, Senate File 2355,* section 68, is amended to read as follows:

*Chapter 1241 herein

225C.29 COMPLIANCE.

Except for a violation of section 225C.28B, subsection 2, the sole remedy for violation of a rule adopted by the ~~division~~ commission to implement sections 225C.25 through 225C.28B shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the division. Any rules adopted by the ~~division~~ commission to implement sections 225C.25 through 225C.28B do not create any right, entitlement, property or liberty right or interest, or private cause of action for damages against the state or a political subdivision of the state or for which the state or a political subdivision of the state would be responsible. Any violation of section 225C.28B, subsection 2, shall solely be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7.

Sec. 18. RIGHTS AND SERVICE QUALITY STANDARDS – RULES REQUIRED. The mental health and mental retardation commission shall act to ensure that rules relating to sections 225C.27 and 225C.28A shall be filed as a notice of intended action by July 1, 1994.

Sec. 19. REPEAL. Sections 225C.18 and 225C.19, Code 1991, are repealed effective July 1, 1993.

Sec. 20. NONASSISTANCE CHILD SUPPORT RECOVERY CASES – LIMITATION OF AMOUNT OF ADDITIONAL FEES. The additional fee established by the department of human services pursuant to section 252B.4, subsection 2, if enacted and amended by 1992 Iowa Acts, Senate File 2316,* section 101, for the fiscal year beginning July 1, 1992, and ending June 30, 1993, shall not exceed $10.65.

DIVISION III

Sec. 21. There is appropriated from the general fund of the state to the GAAP deficit reduction account within the department of management for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the purpose designated:

For reducing the state deficit as determined under generally accepted accounting principles, as defined by the governmental accounting standards board:

..... $ 28,800,000

Sec. 22. Contingent upon the enactment of Senate File 2034** by the Seventy-fourth General Assembly, 1992 Session, there is appropriated from the increase in use tax revenues collected pursuant to section 423.7, as a result of the increase in the sales and use tax rate, prior to deposit in accordance with section 423.24 in the fiscal year beginning July 1, 1992, to the GAAP deficit reduction account within the department of management for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the purpose designated:

For reducing the state deficit as determined under generally accepted accounting principles, as defined by the governmental accounting standards board:

..... $ 31,200,000

Sec. 23. The amounts appropriated in sections 21 and 22 of this division shall be reduced by any amount deposited into the cash reserve account created in section 8.56, as provided in 1992 Iowa Acts, House File 2465,*** if enacted by the Seventy-fourth General Assembly, and any amounts otherwise appropriated for purposes of reducing the state GAAP deficit. The order of reduction shall be the appropriation in section 21 and then the appropriation in section 22.

*Chapter 1195 herein
**Vetoed by Governor
***Chapter 1246 herein

Sec. 24. MEDICAL ASSISTANCE SUPPLEMENTAL APPROPRIATION. There is appropriated from the general fund of the state to the department of human services 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 purposes designated:

For medical assistance, in addition to the funds appropriated for this purpose in Senate File 2355,* section 3, if enacted by the Seventy-fourth General Assembly, 1992 Session:

..... $ 25,000,000

***Sec. 25.* *Section 422.43, subsection 13, paragraph a, unnumbered paragraph 1, as enacted by 1992 Iowa Acts, Senate File 2116, section 404, as amended by 1992 Iowa Acts, Senate File 2346, section 4, is amended to read as follows:*

A tax of ~~four~~ five *percent is imposed upon the gross receipts from the sales, furnishing, or service of solid waste collection and disposal service.***

Sec. 26. RECOMMENDATIONS OF THE GOVERNOR'S COMMITTEE ON GOVERNMENT SPENDING REFORM. The general assembly encourages and authorizes the governor to implement the following recommendations of the governor's committee on government spending reform:

1. Consolidate and provide for common management of state data processing centers.
2. Provide through the state department of transportation for renewal of drivers' licenses by mail.
3. Establish state collection standards and policy.
4. Identify unrecognized receivables owed the state.
5. Review personal computer acquisitions by the state.
6. Initiate local government coordination of information systems, subject to approval of the legislative council.
7. Consolidate state printing facilities.
8. Eliminate the state aircraft pool or consolidate the Iowa state university aircraft pool.
9. Develop a uniform financial reporting and accounting system.
10. Develop a statewide system for delivery of state-offered services.
11. Implement a system for management of federal funds.
12. Expand the use of voice mail telephone answering systems.
13. Establish an enterprise plan for technology.

In addition the governor shall submit to the general assembly by February 1, 1993, a status report delineating the implementation status of all of the recommendations of the governor's committee on government spending and reform.

Sec. 27.* *Section 25 of this division is contingent upon the enactment of Senate File 2034 by the Seventy-fourth General Assembly, 1992 Session. If Senate File 2034 is enacted, section 25 of this division takes effect June 1, 1992. This section, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV

Sec. 28. Section 35A.8, Code 1991, as amended by 1992 Iowa Acts, Senate File 2011,*** section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Except for the employment duties and responsibilities assigned to the commandant for the Iowa veterans home, the executive director shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the commission. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter 19A.

Sec. 29. Section 219.14, as enacted by 1992 Iowa Acts, Senate File 2011,*** section 31, is amended by adding the following new unnumbered paragraph before unnumbered paragraph 1:

*Chapter 1241 herein
**Item veto; see message at end of the Act
***Chapter 1140 herein

NEW UNNUMBERED PARAGRAPH. The commandant or the commandant's designee, shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the commandant. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter 19A.

DIVISION V

Sec. 30. Section 422.7, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Subtract, to the extent included, payments received by an individual providing unskilled in-home health-related care services pursuant to section 249.3, subsection 2, paragraph "a", subparagraph (2), to a member of the individual caregiver's family. For purposes of this subsection, a member of the individual caregiver's family includes a spouse, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, lineal ancestor, or lineal descendant, and such persons by marriage or adoption. A health care professional licensed by an examination board designated in section 147.13, subsections 1 through 10, is not eligible for the exemption authorized in this subsection.

Sec. 31. Notwithstanding section 422.73, subsection 2, a claim for credit or refund of the state individual income tax paid for a tax year beginning in the 1988 calendar year, is considered timely filed if the claim is filed with the department of revenue and finance before April 30, 1993, and the claim is based upon the deduction allowed in section 30 of this Act.

**Sec. 32. 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, for the purpose designated:*

AUDIT AND COMPLIANCE

To supplement funds already appropriated, for administration of the increase in the rate of the sales and use tax:

..... *$ 129,000**

**Sec. 33. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, or so much thereof as is necessary, for the purpose designated:*

In addition to the funds appropriated for the operation of the Iowa veterans home in 1992 Iowa Acts, Senate File 2355, section 18, if enacted by the Seventy-fourth General Assembly, 1992 Session:

..... *$ 10,000**

**Sec. 34. GENERAL FUND APPROPRIATION FOR COVERED EMPLOYEES FOR FISCAL YEAR 1992.*

1. 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 for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, $15,100,000, or so much thereof as may be necessary, to fund the annual pay adjustments, expense reimbursements, and related benefits for state employees covered by a collective bargaining agreement.

*2. Notwithstanding section 8.33, moneys appropriated in subsection 1 that remain unencumbered or unobligated on June 30, 1992, shall not revert to the general fund but shall remain available for expenditure to fund the annual pay adjustments, expense reimbursements, and related benefits for state employees for the fiscal year beginning July 1, 1992.**

**Sec. 35. 1992 Iowa Acts, House File 2490, section 1, unnumbered paragraph 1, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:*

*Item veto; see message at end of the Act

*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 for the fiscal year beginning July 1, 1992, and ending June 30, 1993, the following amount, ~~$101,009,928~~ $85,909,928, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:**

Sec. 36. 1992 Iowa Acts, Senate File 2345,** section 1, unnumbered paragraph 3, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

For basic and in-service training relating to public offenses perpetrated due to a victim's protected class status, as provided in section 80B.11, subsection 3, if and as amended by the Seventy-fourth General Assembly, 1992 Session:

..... $ 10,000

Sec. 37. 1992 Iowa Acts, Senate File 2345,** section 11, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

SEC. 11. There is appropriated from moneys, other than federal moneys, deposited in the victim compensation fund established under section 912.14 to the department of justice 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 use by the prosecuting attorneys training coordinator in implementing a course of instruction relating to public offenses perpetrated due to a victim's protected class status, as provided in section ~~80B.11, subsection 3~~ 729A.4, if and as amended by the Seventy-fourth General Assembly, 1992 Session:

..... $ 10,000

Sec. 38. 1992 Iowa Acts, Senate File 2345,** section 12, if enacted by the Seventy-fourth General Assembly, 1992 Session, is amended to read as follows:

SEC. 12. The state department of transportation shall place a moratorium on the placement of tourist-oriented directional signs within the territorial limits of the Amana colonies and the Amana colonies land use district shall not initiate any action regarding the removal of any existing tourist-oriented directional sign until such time as a comprehensive signing program has been established within the area. The moratorium shall go into effect as of the effective date of this ~~Act~~ section.

Sec. 39. Sections 30 and 31 of this division apply retroactively to January 1, 1988, for tax years beginning on or after that date.

Sec. 40. Sections 32, 34, and 35 of this division, being deemed of immediate importance, take effect upon enactment.

DIVISION VI

Sec. 41. The department of economic development may transfer $25,000 during the fiscal year beginning July 1, 1992, and ending June 30, 1993, from the loan repayments under the rural community 2000 program prior to the transfer of the funds to the Iowa finance authority housing improvement fund for purchase of land for a welcome center project based on the department's prioritization report, dated December 1991. Moneys used for the welcome center project require a dollar-for-dollar match.

DIVISION VII

Sec. 42. 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 under section 426.1 for the fiscal year beginning July 1, 1992, the sum of $41,198,736 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.

*Item veto; see message at end of the Act
**Chapter 1238 herein

Sec. 43.

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, 1992, the sum of $59,250,060.

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, 1992, for purposes of implementing the extraordinary property tax and reimbursement division of chapter 425, shall not exceed $11,363,156. The director shall pay, in full, all claims to be paid during the fiscal year beginning July 1, 1992, 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, 1992, exceed the amount remaining after payment to renters the director of revenue and finance shall prorate the payments to the counties for the 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, 1993, shall be eligible to be paid in full during the fiscal year ending June 30, 1993, and those claims filed on or after May 1, 1993, shall be eligible to be paid during the fiscal year beginning July 1, 1993, and the director is not required to make payments to counties for the property tax credit before June 15, 1993.

Sec. 44. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 1992, 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. To reimburse counties for the loss of property tax revenues as follows:

a. Homestead tax credit under section 425.1:

..... $ 98,498,125

b. Military service tax credit under section 426A.1:

..... $ 2,969,258

c. Machinery and computer equipment tax replacement under section 427B.13:

..... $ 0

If the amounts of calculated county reimbursement exceed the amount specified in this subsection the director of revenue and finance shall prorate the amount available.

2. For payment of franchise tax allocations to cities and counties under section 422.65:

..... $ 9,279,677

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.

3. For the payment of claims of public school districts for transportation services to nonpublic school pupils under section 285.2:

..... $ 5,888,729

4. 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:

..... $ 3,097,606

Sec. 45. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, notwithstanding 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, and notwithstanding the appropriations and allocations in section 99E.34, all lottery revenues received during the fiscal year beginning July 1, 1992, and ending June 30, 1993, after deductions for expenses as provided in section 99E.10, subsection 1, and as appropriated under any Act of the 74th General Assembly, 1992 Session, shall not be transferred to and deposited into the CLEAN fund but shall be transferred and credited to the general fund of the state.

Sec. 46. Section 234.38, subsection 1, Code 1991, as amended by 1992 Iowa Acts, House File 2480,* section 26, is amended to read as follows:

~~1.~~ The department of human services shall make reimbursement payments directly to foster parents for services provided to children pursuant to section 234.6, subsection 6, paragraph "b", or section 234.35. ~~For each of the following~~ In any fiscal ~~years~~ year, the reimbursement rate shall be based upon ~~the indicated percentage~~ sixty-five percent of the United States department of agriculture estimate of the cost to raise a child in the calendar year immediately preceding the ~~indicated~~ fiscal year: ~~1992 1993, sixty-five percent; 1993 1994, seventy-five percent; and 1994 1995 and subsequent fiscal years, eighty percent~~. The department may pay an additional stipend for a child with special needs.

Sec. 47. Section 257.6, subsection 1, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Resident pupils receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to chapter 299A shall be counted as six-tenths of one pupil.

NEW PARAGRAPH. f. Resident pupils receiving competent private instruction under dual enrollment pursuant to chapter 299A shall be counted as one-tenth of one pupil.

Sec. 48. Section 299A.2, Code Supplement 1991, is amended to read as follows:

299A.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 as provided in section 257.6. Sections 299A.3 through 299A.7 do not apply to competent private instruction provided by a licensed practitioner under this section.

Sec. 49. Section 299A.8, Code Supplement 1991, is amended to read as follows:

299A.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~~ section 257.6 ~~and shall be counted as one pupil~~.

Sec. 50. 1992 Iowa Acts, Senate File 2320,** section 11, if enacted by the Seventy-fourth General Assembly, 1992 Session, is repealed.

Sec. 51. Sections 47, 48, 49, and 50 of this Act, being deemed of immediate importance, take effect upon enactment 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, 1992.

DIVISION VIII

Sec. 52. There is appropriated from the general fund of the state to the office of the governor 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:

*Chapter 1229 herein

**Chapter 1230 herein

In addition to funds appropriated in 1992 Iowa Acts, House File 2459,* section 7, if enacted by the Seventy-fourth General Assembly, 1992 Session, for salaries, support, maintenance, and miscellaneous purposes for the general office of the governor:
..... $ 50,000

Sec. 53. There is appropriated from the general fund of the state to the department of management 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 purposes designated:
In addition to the funds appropriated in 1992 Iowa Acts, House File 2459,* section 9, if enacted by the Seventy-fourth General Assembly, 1992 Session, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 35,000

Approved June 3, 1992, except the items which I hereby disapprove and which are designated as Sections 1, 2, 3, 4, 5, and 6 in their entirety; Section 25 in its entirety; Section 27 in its entirety; and Sections 32, 33, 34, and 35 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 House File 2486, an Act relating to certain statutory appropriations made from the general fund of the state and the lottery fund, budgetary revenues and expenditures, and other budgetary matters, for the fiscal year beginning July 1, 1992.

House File 2486 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 through 6, 25, 27 and 32, in their entirety. These provisions amend Senate File 2034 which provides for the sales tax increase. With the disapproval of Senate File 2034, these items cannot be approved.

I am unable to approve the item designated as Section 33, in its entirety. This appropriation provides an additional $10,000 for the Iowa Veterans Home. In view of the $26.5 million appropriation for the Iowa Veterans Home in Senate File 2355, this supplemental appropriation is not needed.

I am unable to approve the items designated as Section 34 and Section 35, in their entirety. These provisions amend House File 2490, which relates to public employee compensation and benefits. Pursuant to the letter of agreement between the State of Iowa and the state employee bargaining units, payment of back compensation to state employees will be made in fiscal year 1993.

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 2486 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

*Chapter 1243 herein

CHAPTER 1248

PROPOSED CONSTITUTIONAL AMENDMENT – DUELING
Second Time Passed H.J.R. 4

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa removing the disqualification from office for parties to a duel.

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:
1. Section 5 of Article I of the Constitution of the State of Iowa is repealed.

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 1249

PROPOSED CONSTITUTIONAL AMENDMENT – FISH AND GAME PROTECTION FUNDS
First Time Passed H.J.R. 2010

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to restrict the expenditure of license fees and excise taxes received from hunting, fishing, and trapping activities or equipment, and other public or private funds appropriated, allocated, or given for fish, game, and wildlife protection purposes.

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:
Article VII of the Constitution of the State of Iowa is amended by adding the following new section:
FISH AND GAME PROTECTION FUNDS. SEC. 9. The revenue from all license fees from hunting, fishing, and trapping activities and excise taxes from hunting, fishing, and trapping weapons, munitions, and equipment, and any public or private funds appropriated, allocated, or given for fish, game, or wildlife protection purposes, shall be used exclusively for activities related to the propagation, management, harvest, and protection of fish, game, and wildlife resources.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly and the Secretary of State is directed to cause it to be published for three consecutive months before the date of the election as provided by law.

CHAPTER 1250

NULLIFICATION OF ADMINISTRATIVE RULE – MEDICAL ASSISTANCE SERVICES

H.J.R. 2015

A JOINT RESOLUTION to nullify an administrative rule of the department of human services relating to the imposition of copayments for certain medical assistance services, and providing an effective date.

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

Section 1. The amendments to 441 Iowa administrative code, rule 79.1, subrule 13, paragraphs a, b, c, and d, as published in Iowa administrative bulletin, Vol. XIV, No. 1 (7/10/91), item 4, p. 69, ARC 2091A, are nullified.

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

Effective April 30, 1992

CHAPTER 1251

NULLIFICATION OF ADMINISTRATIVE RULE – COSMETOLOGY

S.J.R. 2006

A JOINT RESOLUTION to nullify administrative rules relating to nail technology adopted by the board of cosmetology examiners and providing an effective date.

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

Section 1. Iowa administrative bulletin (IAB) Vol. XIV, No. 15 (January 22, 1992), pp. 1280-1281, ARC 2712A, is nullified and the administrative code editor shall remove it from the Iowa administrative code.

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

Effective April 2, 1992

Approved April 13, 1992*

CHAPTER 1252

ANNUAL MEETING OF COUNCIL OF STATE GOVERNMENTS

S.J.R. 2009

A JOINT RESOLUTION authorizing the temporary use and consumption of alcoholic beverages in the State Capitol in conjunction with the 1992 annual meeting of the Council of State Governments.

WHEREAS, for the first time in the 60-year history of the Council of State Governments, the state of Iowa has the honor of having been selected to host the 1992 Annual Meeting of the Council of State Governments in Des Moines from December 3-6, 1992; and

WHEREAS, this prestigious national meeting offers an opportunity for the nation's key leaders of both the public and private sectors to address the major issues facing state government in the 1990s and beyond; and

*Effective upon final passage; see § 3.7

WHEREAS, social events are held in conjunction with the business sessions of this annual meeting, and Iowa's unique State Capitol is an optimal location for one of the social events for this national meeting; and

WHEREAS, wine and other alcoholic beverages with an alcohol content of more than five percent by weight are customarily served as an accompaniment to the food and entertainment provided at such social events; and

WHEREAS, under 401 IAC 1.6(6), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine and other alcoholic beverages at social events in the State Capitol; NOW THEREFORE,

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

Section 1. Notwithstanding 401 IAC 1.6(6) and any contrary provisions of chapter 123, alcoholic beverages may be used and consumed within the State Capitol at a social event, to be held between December 3, 1992, and December 5, 1992, organized in whole or in part by the Iowa Commission on Interstate Cooperation established in section 28B.1, if the person holding a contract with the Iowa Commission on Interstate Cooperation for providing food and beverages at the social event possesses the appropriate valid liquor control license.

Approved May 14, 1992

CHAPTER 1253

SERVICE ON SUNDAY

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: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1991 REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning Iowa Rule of Civil Procedure 57. Iowa Rule of Civil Procedure 57 is hereby stricken.

Pursuant to Iowa Code section 602.4202(2), this change is to take effect July 1, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
November 20, 1991

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 24th day of December, 1991, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Al Sturgeon

Chair of the Senate Judiciary Committee

CHAPTER 1254

JURY FEES

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: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1991 REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning Iowa Rule of Civil Procedure 174. Iowa Rule of Civil Procedure 174 is hereby stricken.

Pursuant to Iowa Code section 602.4202(2), this change is to take effect January 2, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
October 4, 1991

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 5th day of February, 1991, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

CHAPTER 1255

SUMMARY JUDGMENTS

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: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1991 REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning amendments to Iowa Rules of Civil Procedure 237 and 238 as shown in the attached Exhibits "A" and "B".

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect January 2, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
July 15, 1991

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 19th day of July, 1991, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

EXHIBIT "A"

(D) Summary judgments

237. On what claims. Summary judgment may be had under the following conditions and circumstances:

c. Motion and proceedings thereon. The motion shall be filed ~~at least ten days before the time fixed for the hearing~~ not less than forty-five days prior to the date the case is set for trial, unless otherwise ordered by the court. ~~The adverse party prior to the day of hearing may file opposing affidavits.~~ Any party resisting the motion shall file within ten days from the time when a copy of the motion has been served a resistance; statement of disputed facts, if any; and memorandum of authorities supporting the resistance. If affidavits supporting the resistance are filed, they must be filed with the resistance. Notwithstanding the provisions of R.C.P. 117, the time fixed for hearing or nonoral submission shall be not less than twenty days after the filing of the motion, unless a shorter time is ordered by the court. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. If summary judgment is rendered on the entire case, R.C.P. 179 "b" shall apply.

EXHIBIT "B"

238. Procedure. Motions and affidavits relating to any claim under R.C.P. 237 shall be filed and copies delivered as provided in R.C.P. 82 ~~and hearing shall be had thereon as provided in R.C.P. 117~~.

CHAPTER 1256

PROCEEDINGS BEFORE MAGISTRATE; ARRAIGNMENT AND PLEA; PRESENCE OF DEFENDANT

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CRIMINAL PROCEDURE } REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1992 REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning amendments to Iowa Rules of Criminal Procedure 2, 8, and 25 which are attached as Exhibit "A", Exhibit "B", and Exhibit "C" respectively.

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect July 1, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
April 20, 1992

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 11th day of May, 1992, the Report of the Supreme Court pertaining to the Iowa Rules of Criminal Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

EXHIBIT "A"

Rule 2. Proceedings before the magistrate.

1. Initial appearance of defendant. An officer making an arrest with or without a warrant shall take the arrested person without unnecessary delay before a committing magistrate as provided by ~~law~~ Iowa Rule of Criminal Procedure 25.

EXHIBIT "B"

Rule 8. Arraignment and plea.

1. Conduct of arraignment. Arraignment shall be conducted ~~in open court~~ as soon as practicable.

2. Pleas to the indictment or information.

a. In general. A defendant may plead guilty, not guilty, or former conviction or acquittal. If the defendant fails or refuses to plead at arraignment, or if the court refuses to accept a guilty plea, the court shall enter a plea of not guilty. At any time before judgment, the court may permit a guilty plea to be withdrawn and a not guilty plea substituted.

b. Pleas of guilty. The court may refuse to accept a plea of guilty, and shall not accept a plea of guilty without first determining that the plea is made voluntarily and intelligently and has a factual basis. Before accepting a plea of guilty, the court must address the defendant personally in open court and inform the defendant of, and determine that the defendant understands, the following:

(1) The nature of the charge to which the plea is offered.

(2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.

(3) That the defendant has the right to be tried by a jury, and at trial has the right to assistance of counsel, the right to confront and cross-examine witnesses against the defendant, the right not to be compelled to incriminate oneself, and the right to present witnesses in the defendant's own behalf and to have compulsory process in securing their attendance.

(4) That if the defendant pleads guilty there will not be a further trial of any kind, so that by pleading guilty the defendant waives the right to a trial.

The court may, in its discretion and with the approval of the defendant, waive the above procedures in a plea of guilty to a serious or aggravated misdemeanor.

EXHIBIT "C"

Rule 25. Presence of defendant; regulation of conduct by the court.

1. Felony or misdemeanor. In felony cases the defendant shall be present personally or by interactive audiovisual closed circuit system at the initial appearance, arraignment and plea, unless a written arraignment form as provided in R.Cr.P. 8(1) is filed, and pretrial proceedings, and shall be personally present at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. In other cases the defendant may appear by counsel.

CHAPTER 1257

SUBPOENAS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CRIMINAL PROCEDURE } REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1992 REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning amendments to Iowa Rule of Criminal Procedure 14 which is attached as Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), this change is to take effect July 1, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
April 20, 1992

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 11th day of May, 1992, the Report of the Supreme Court pertaining to the Iowa Rules of Criminal Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

EXHIBIT "A"

Rule 14. Subpoenas.

1. For witnesses. A magistrate in a criminal action before ~~him or her~~ the magistrate, and the clerk of court in any criminal action pending therein, shall issue blank subpoenas for witnesses, signed by ~~him or her~~ the magistrate or clerk, with the seal of the court if by the clerk, and deliver as many of them as requested to the defendant or the defendant's attorney or the attorney for the state.

2. For production of documents—duces tecum. A subpoena may contain a clause directing the witness to bring with ~~him or her~~ the witness any book, writing, or other thing under the witness' control which ~~he or she~~ the witness is bound by law to produce as evidence. The court on motion may dismiss or modify the subpoena if compliance would be unreasonable or oppressive.

3. Service. A subpoena may be served in any part of the state. It may be served by any adult person. A peace officer making service in a criminal case must serve without delay in ~~his or her~~ the peace officer's county or city any subpoena delivered to ~~his or her~~ the peace officer for service and make a written return stating the time, place, and manner of service. When service is made by a person other than a peace officer, proof thereof shall be by affidavit. Service upon an adult witness is made by showing the original to the witness and delivering a copy to ~~him or her~~ the witness. Service upon a minor witness shall be as provided for personal service of an original notice in a civil case pursuant to R.C.P. 56.1(b).

4. Depositions. An order to take a deposition authorizes the clerk of the court for the county in which the deposition is to be taken to issue subpoenas for the persons named or described therein.

5. Sanctions for refusing to appear or testify. Disobedience to a subpoena, or refusal to be sworn or to answer as a witness, may be punished by the court or magistrate as a contempt. The attendance of a witness who so fails to appear may be coerced by warrant.

CHAPTER 1258

AMOUNT IN CONTROVERSY

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF APPELLATE PROCEDURE } REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1991 REGULAR SESSION OF THE SEVENTY-FOURTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning an amendment to Iowa Rule of Appellate Procedure 3 as shown in the attached Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), this change is to take effect January 2, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
October 11, 1991

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 24th day of October, 1991, the Report of the Supreme Court pertaining to the Iowa Rules of Appellate Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

EXHIBIT "A"

Rule 3. Amount in controversy. Except where the action involves an interest in real estate, no appeal shall be taken in any case, not originally tried as a small claim, where the amount in controversy, as shown by the pleadings, is less than ~~three~~ five thousand dollars unless the supreme court or a justice thereof certifies that the cause is one in which appeal should be

allowed. An application to certify an appeal shall comply with ~~rule 16"b,"~~ Iowa Rrules~~s~~ of Aappellate Pprocedure 16(b), be filed with the clerk of the supreme court and served pursuant to ~~rule 30,~~ Iowa Rrules~~s~~ of Aappellate Pprocedure 30, and, unless otherwise ordered by the supreme court or a justice or the clerk thereof, may be resisted and will be ruled upon pursuant to ~~rules 22"c" and 22"d,"~~ Iowa Rrules of Aappellate Pprocedure 22(c) and (d). The right of appeal is not affected by any remission of any part of the verdict or judgment. An action originally tried as a small claim may be reviewed by the supreme court only as provided in Iowa Code section 631.16 and ~~rules 201 to 203,~~ Iowa Rrules of Aappellate Pprocedure 201 to 203.

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446	1112	2174	1038	2290	1174
460	1169	2179	1078	2293	1118
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242	1196	2262	1066	2408	1122
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646	1130	2275	1095	2415	1033
681	1214	2276	1031	2417	1217
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2008	1045	2285	1096	2426	1054
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2025	1179	2292	1183	2435	1188
2028	1106	2298	1082	2436	1072
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2080	1107	2308	1165	2449	1189
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2097	1007	2326	1084	2454	1220
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